

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 29 – TAXES**

Findings

1. The objective of this class deviation is to implement the Federal Acquisition Regulatory Council’s model deviation text to the Federal Acquisition Regulation (FAR) Part 29 - Taxes, and applicable section of FAR Part 52 - Solicitation Provisions and Contract Clauses.
2. On April 15, 2025, President Donald J. Trump issued Executive Order (E.O.) 14275, *Restoring Common Sense to Federal Procurement*. Section 2 of the E.O. established the policy that the FAR “should only contain provisions required by statute or essential to sound procurement, and any FAR provisions that do not advance these objectives should be removed.”
3. On May 2, 2025, the Office of Management and Budget (OMB) issued memorandum M-25-26, *Overhauling the Federal Acquisition Regulation*, initiating a major overhaul of the FAR (Revolutionary FAR Overhaul, or “RFO”), in coordination with the other members of the Federal Acquisition Regulatory Council – i.e., the General Services Administration (GSA), the Department of Defense (DOD), and the National Aeronautics and Space Administration (NASA) and federal buying agencies. The goal is refocusing the FAR on its statutory roots. To that end, the FAR is being updated to:
 - Eliminate non-statutory language
 - Remove redundant or obsolete language
 - Enhance clarity through plain language
 - Align with the new FAR framework
 - Preserve essential governmentwide acquisition standards

The OMB memorandum M-25-26 established a two phased approach to implementing enterprise deregulation as follows: Phase one, FAR Council deviation guidance, and phase two, formal rulemaking. Phase one involves the FAR Council issuing guidance on a rolling basis with clear, plain language model deviation text organized by FAR part. The goal is streamlining the regulation by aligning it more closely to its statutory base. According to the memorandum, agencies should adopt this model deviation text within 30 days by issuing individual or class deviations.

4. On May 2, 2025, the FAR Council issued further implementing guidance in a memorandum titled *Deviation Guidance to Support the Overhaul of the Federal Acquisition Regulation*. Pursuant to the FAR Council’s memorandum, “agencies that adopt the Council’s RFO class deviation text without change, or require different text only to address statutory direction unique to the agency, do not need to coordinate with the Council.”

5. On July 17, 2025, the FAR Council issued model deviation text for FAR Part 29 and the corresponding clauses at FAR Part 52. FAR Part 29 - Taxes has been updated to be more direct, active, and accessible. The main objective was to rewrite the complex tax requirements in plain language, leading to an approximate 20% reduction in word count. Statutory requirements retained in the RFO FAR Part 29 model deviation include, but are not limited to, the following:

- 26 U.S.C. § 4041, Imposition of tax
- 26 U.S.C. § 4053, Exemptions
- 26 U.S.C. § 4064, Gas guzzler tax
- 26 U.S.C. § 4221, Certain tax-free sales
- 26 U.S.C. § 4293 and § 4483, Tax exemptions
- 26 U.S.C. § 5000C, Imposition of tax on certain foreign procurement
- 10 U.S.C. § 402, Transportation of humanitarian relief supplies to foreign countries
- 10 U.S.C. § 404, Foreign disaster assistance
- 10 U.S.C. § 2557, Domestic emergency assistance
- 10 U.S.C. § 2561, Humanitarian assistance

Other key changes include, but are not limited to the following:

Retained:

- Revisions made to the “Scope of Part” at 29.000 are minor plain language adjustments. The substantive scope of the part remains.
- Subpart 29.1 - Guidance for resolving tax problems is retained at 29.101; however, contracting officers are now required to request assistance from assigned legal counsel when tax issues arise. It was previously encouraged, but not required.
- Subpart 29.2 - Federal Excise Taxes is retained; however, contracting officers are now required to request offers on a tax-exclusive basis when the law exempts the Government from federal excise taxes, unless inappropriate for the circumstances. It was previously encouraged, but not required.
- Subpart 29.3 - The language governing application of State and Local Taxes has been logically reorganized and renumbered. This restructuring improves the flow of information, making the subpart more intuitive for users. For instance, the specific rules for the North Carolina Sales and Use Tax Act, previously located in a sub-paragraph, have been elevated to a standalone section, increasing their visibility and usability.
- Subpart 29.4 - Most of the solicitation provisions, contract clauses, and prescriptions are retained because they are tied to specific tax law.
- Clauses and provisions retained are:
 - 52.229-1, State and Local Taxes
 - 52.229-2, North Carolina State and Local Sales and Use Tax
 - 52.229-3, Federal, State, and Local Taxes
 - 52.229-4, Federal, State, and Local Taxes (State and Local Adjustments)
 - 52.229-5, Remains “Reserved”

- 52.229-6, Taxes-Foreign Fixed-Price Contracts
- 52.229-7, Taxes-Fixed-Price Contracts with Foreign Governments
- 52.229-8, Taxes-Foreign Cost-Reimbursement Contracts
- 52.229-9, Taxes-Cost-Reimbursement Contracts with Foreign Governments
- 52.229-10, State of New Mexico Gross Receipts and Compensating Tax
- 52.229-11, Tax on Certain Foreign Procurements Notice and Representation
- 52.229-12, Tax on Certain Foreign Procurements

Removed:

- Definitions of North Atlantic Treaty Organization (NATO) Forces, and U.S. Forces in Afghanistan have been removed.
- Information in Section 29.304, Matters requiring special consideration has been removed or relocated, as appropriate.
- Subsection 29.402-4, prescribing tax requirements for foreign contracts in Afghanistan has been removed in its entirety, along with the following clauses prescribed in that section:
 - 52.229-13, Taxes Foreign Contracts in Afghanistan
 - 52.229-14, Taxes Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement)

Determination

In accordance with FAR 1.304 *Class deviations* and Department of Energy Acquisition Regulation (DEAR) 901.404 *Class deviations*, to fully comply with the requirement of E.O. 14275 and the revised FAR Parts 29 and 52, it is hereby determined that a class deviation is appropriate pursuant to OMB memorandum M-25-26 (Attachment 1) and the FAR Council memorandum (Attachment 2) issued on May 2, 2025, using the RFO model deviation text for Part 29 and the applicable section of Part 52 (Attachment 3). Specifically, DOE/NNSA will follow the RFO model deviation text for Part 29 in lieu of 48 Code of Federal Regulations (CFR) Part 29, and the RFO model deviation text for the applicable sections of Part 52 in lieu of the corresponding applicable sections of 48 CFR Part 52. Once approved, the Department will share the deviation widely among its workforce to ensure full awareness of and compliance with the revisions to the affected regulations. This class deviation is effective upon issuance, and will remain effective until cancelled or incorporated into the FAR.

Janella Davis
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Janella Davis,
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William J. Quigley,
 Deputy Associate Administrator
 Office of Partnership and Acquisition Services
 Senior Procurement Executive
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Attachments:

OMB Memorandum M-25-26, *Overhauling the Federal Acquisition Regulation*

FAR Council Memorandum, *Deviation Guidance to Support the Overhaul of the Federal Acquisition Regulation*

RFO Parts 29 and 52 Model Deviation Text