



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE ASSISTANT SECRETARY OF WAR
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2026-O0039

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Class Deviation—Revolutionary Federal Acquisition Regulation (FAR) Overhaul
Part 41, Defense FAR Supplement (DFARS) Part 241

Effective February 1, 2026, contracting officers shall use—

- The revised FAR Part 41, Acquisition of Utility Services published on the Revolutionary FAR Overhaul web page at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-41> in lieu of the text codified at 48 CFR chapter 1 (<https://www.ecfr.gov>).
- The attached DFARS Part 241, Acquisition of Utility Services, in lieu of the text codified at 48 CFR chapter 2; and
- The attached DFARS Procedures, Guidance, and Information (PGI) 241, Acquisition of Utility Services, in lieu of the PGI text published on the Defense Pricing, Contracting, and Acquisition Policy web page at <https://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>.

This class deviation implements the following:

- Section 2 of E.O. 14275, Restoring Common Sense to Federal Procurement, which establishes 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.

- Section 4(a) of E.O. 14265, Modernizing Defense Acquisitions and Spurring Innovation in the Defense Industrial Base which requires the Secretary of War to eliminate or revise any unnecessary supplemental regulations or any other internal guidance, such as relevant parts of the Financial Management Regulation and Defense Federal Acquisition Regulation Supplement.
- The Office of Management and Budget memorandum, M-25-26 issued on May 2, 2025, titled, Overhauling the Federal Acquisition Regulation, which provided additional guidance to federal agencies regarding the FAR overhaul.

This class deviation remains in effect until rescinded or incorporated into the FAR, DFARS, and DFARS PGI. Inquiries regarding this class deviation can be addressed to osd.pentagon.ousd-a-s.mbx.dfars@mail.mil.

John M. Tenaglia
Principal Director,
Defense Pricing, Contracting, and
Acquisition Policy

Attachments:
As stated

PART 241—ACQUISITION OF UTILITY SERVICES

SUBPART 241.1—GENERAL

241.101 Definitions.

As used in this part—

“Independent regulatory body” means the Federal Energy Regulatory Commission, a state-wide agency, or an agency with less than state-wide jurisdiction when operating pursuant to state authority. The body has the power to fix, establish, or control the rates and services of utility suppliers.

“Nonindependent regulatory body” means a body that regulates a utility supplier which is owned or operated by the same entity that created the regulatory body, e.g., a municipal utility.

“Regulated utility supplier” means a utility supplier regulated by an independent regulatory body.

“Service power procurement officer” means for the—

Army, the Chief of Engineers;
Navy, the Commander, Naval Facilities Engineering Command;
Air Force, the head of a contracting activity; and
Defense Logistics Agency, the head of a contracting activity.

241.102 Applicability.

(a) This part applies to purchases of utility services from nonregulated and regulated utility suppliers. It includes the acquisition of liquefied petroleum gas as a utility service when purchased from regulated utility suppliers.

(b)(3) This part may be used for any purchased utility services directly resulting from third party financed projects, including those authorized by—

(A) 10 U.S.C. 2922 for energy, fuels, and energy production facilities for periods not to exceed 30 years;

(B) 10 U.S.C. 2992a for renewable energy for periods not to exceed 30 years;

(C) 10 U.S.C. 2917 for geothermal resources that result in energy production facilities;

(D) 10 U.S.C. 2809 for potable and waste-water treatment plants for periods not to exceed 32 years; and

(E) 10 U.S.C. 2812 for lease/purchase of energy production facilities for periods not to exceed 32 years.

241.103 Statutory and delegated authority.

(1) Contracting officers may enter into—

(i) Utility service contracts related to the conveyance of a utility system for a period not to exceed 50 years (10 U.S.C. 2688(d)(2)) and;

(ii) Energy savings contracts under 10 U.S.C. 2913 for a period not to exceed 25 years.

(2) See 217.103-174 for authority to enter into multiyear contracts for electricity from renewable energy sources.

(3) See PGI 241.103 for more information on statutory authorities and maximum contract periods for utility and energy contracts.

SUBPART 241.2—ACQUIRING UTILITY SERVICES

241.201 Policy.

(1) DoD generally complies with current regulations, practices, and decisions of independent regulatory bodies. This policy does not extend to nonindependent regulatory bodies.

(2) Purchases of utility services outside the United States may use—

(i) Formats and technical provisions consistent with local practice; and

(ii) Dual language forms and contracts.

(3) Rates established by an independent regulatory body—

(i) Are considered “prices set by law or regulation”;

(ii) Are sufficient to set prices without obtaining certified cost or pricing data (see FAR subpart 15.4); and

(iii) Are a valid basis on which prices can be determined fair and reasonable.

(4) Compliance with the regulations, practices, and decisions of independent regulatory bodies is not a substitute for the procedures at FAR 41.202(a).

241.202 Procedures.

(1) *Connection and service charges.* Follow the procedures at PGI 241.202(1) for connection and service charges associated with acquiring utility services.

(2) *Construction and labor requirements.* Follow the procedures at PGI 241.202(2) for construction and labor requirements associated with connection and service charges.

241.205 Separate contracts.

Follow the procedures at PGI 241.205 when acquiring utility services by separate contract.

SUBPART 241.5—SOLICITATION PROVISION AND CONTRACT CLAUSES

241.501 Solicitation provision and contract clauses.

(d)(1) Insert a clause substantially the same as the clause at FAR 52.241-7, Change in Rates or Terms and Conditions of Service for Regulated Services, when the utility services to be provided are subject to an independent regulatory body.

(2) Insert a clause substantially the same as the clause at FAR 52.241-8, Change in Rates or Terms and Conditions of Service for Unregulated Services, when the utility services to be provided are not subject to a regulatory body or are subject to a nonindependent regulatory body.

241.501-70 Additional clauses.

(a) If the Government must execute a superseding contract and capital credits, connection charge credits, or termination liability exist, insert the clause at 252.241-7000, Superseding Contract.

(b) Insert the clause at 252.241-7001, Government Access, when the clause at FAR 52.241-5, Contractor's Facilities, is used.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBPART 252.2—TEXT OF PROVISIONS AND CLAUSES

252.241-7000 Superseding Contract.

As prescribed in 241.501-70(a), use the following clause:

SUPERSEDING CONTRACT (DEC 1991)

This contract supersedes contract No. _____, dated _____ which provided similar services. Any capital credits accrued to the Government, any remaining credits due to the Government under the connection charge, or any termination liability are transferred to this contract, as follows:

CAPITAL CREDITS: (List years and accrued credits by year and separate delivery points.)

OUTSTANDING CONNECTION CHARGE CREDITS: (List by month and year the amount credited and show the remaining amount of outstanding credits due the Government.)

TERMINATION LIABILITY CHARGES: (List by month and year the amount of monthly facility cost recovered and show the remaining amount of facility cost to be recovered.)

(End of clause)

252.241-7001 Government Access.

As prescribed in 241.501-70(b), use the following clause:

GOVERNMENT ACCESS (DEC 1991)

Authorized representatives of the Government may have access to the Contractor's on-base facilities upon reasonable notice or in case of emergency.

(End of clause)

PGI 241—ACQUISITION OF UTILITY SERVICES

PGI 241.1--GENERAL

PGI 241.103 Statutory and delegated authority.

Summary of Statutory Authority for Utility/Energy Purchases

Acquisition Type	Authority	Maximum Term (years)
Energy Commodities (purchased as supplies) (natural gas & electricity) *	10 U.S.C. 3501/ 10 U.S.C. 2829	5 (4) **
Utility Service Contracts (in support of privatization)	10 U.S.C. 2688(d)(2)	50
Utility Service Contracts *** (when not in support of privatization)	10 U.S.C. 3201-3205 40 U.S.C. 113(e)(3)	10
* Section 8093 of Public Law 100-202 specifically precludes the Federal Government from expending appropriated funds to purchase electricity in a manner inconsistent with State law and regulation.		
** 5 years in support of facilities and installations (10 U.S.C. 3501) and 4 years for military family housing (10 U.S.C. 2829).		
*** GSA has delegated to DoD its authority, under 40 U.S.C. 501(b), to enter into utility service contracts for periods not exceeding 10 years. Absent this authority, the length of DoD utility service contracts in support of facilities and installations would be limited to 5 years (10 U.S.C. 3531) and, for military family housing, would be limited to 4 years (10 U.S.C. 2829).		

PGI 241.2--ACQUIRING UTILITY SERVICES

PGI 241.202 Procedures.

(1) *Connection and service charges.* The Government may pay a connection charge when required to cover the cost of the necessary connecting facilities. A connection charge based on the estimated labor cost of installing and removing the facility must not include salvage cost. A lump-sum connection charge must be no more than the agreed cost of the connecting facilities less net salvage. The order of precedence for contractual treatment of connection and service charges is—

(i) No connection charge.

(ii) Termination liability. Use when an obligation is necessary to secure the required services. The obligation must be not more than the agreed connection charge, less

any net salvage material costs. Use of a termination liability instead of a connection charge requires the approval of the service power procurement officer or designee.

(iii) Connection charge, refundable. Use a refundable connection charge when the supplier refuses to provide the facilities based on lack of capital or published rules which prohibit providing up-front funding. The contract should provide for refund of the connection charge within five years unless a longer period or omission of the refund requirement is authorized by the service power procurement officer or designee.

(iv) Connection and service charges, nonrefundable. The Government may pay certain nonrefundable, nonrecurring charges including service initiation charges, a contribution in aid of construction, membership fees, and charges required by the supplier's rules and regulations to be paid by the customer. If possible, consider sharing with other than Government users the use of (and costs for) facilities when large nonrefundable charges are required.

(2)(A) Do not use the connection charge provisions for the installation of Government-owned distribution lines and facilities. The acquisition of such facilities must be authorized by legislation and accomplished in accordance with FAR Part 36. Also, do not use the connection charge provisions for the installation of new facilities related to the supplier's production and general "backbone" system unless authorized by legislation.

(B) Construction labor standards ordinarily do not apply to construction accomplished under the connection charge provisions of this part. However, if installation includes construction of a public building or public work per FAR 36.102, construction labor standards may apply.

PGI 241.205 Separate contracts.

(1) Definitions. As used in this section—

"Definite term contract" means a contract for utility services for a definite period of not less than one nor more than ten years.

"Indefinite term contract" means a month-to-month contract for utility services that may be terminated by the Government upon proper notice.

(2) Requests for proposals must state the anticipated service period in terms of months or years. If the period extends beyond the current fiscal year, evaluate offers of incentives for a definite term contract.

(3) The solicitation may permit offerors the choice of proposing on the basis of—

(i) A definite term not to exceed the anticipated service period; or

(ii) An indefinite term contract.

(4) If the expected service period is less than the current fiscal year, the solicitation must be on the basis of an indefinite term contract.

(5) Contracts for utility services for leased premises must identify the lease document on the face of the contract.

(6) Use an indefinite term utility service contract when it is considered to be in the Government's best interest to—

(i) Have the right to terminate on a 30-day (or longer) notice. A notice of up to one year may be granted by an installation if needed to obtain a more favorable rate, more advantageous conditions, or for other valid reasons; or

(ii) Grant the supplier the right to terminate the contract when of benefit to the Government in the form of lower rates, larger discounts, or more favorable terms and conditions.