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MEMORANDUM FOR USDA CONTRACTING ACTIVITIES

From: Hilary Erickson
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Subject: Federal Acquisition Regulation (FAR) Class Deviation for FAR Part 39 in
Support of Executive Order 14275 on Restoring Common Sense to
Federal Procurement

1. Purpose. This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) Part 39 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR Part 39.

2. Background. [Executive Order \(E.O.\) 14275 on Restoring Common Sense to Federal Procurement](#), signed April 15, 2025, mandates a comprehensive review and simplification of the FAR.

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

This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative. This initiative will make the FAR more concise, understandable, and focused on core procurement requirements.

3. Summary of Changes. FAR Part 39, concerning Acquisition of Information and Communication Technology, has been streamlined to be future forward and emphasize strategies that promote faster acquisition and secure deployment of technology that is new or emerging.

Notably, FAR Part 39 is renamed:

- From:
 - Acquisition of Information Technology
- To:
 - Acquisition of Information and Communication Technology.

Statutory requirements retained in the RFO FAR Part 39 model deviation include, but are not limited to, the following:

- 41 U.S.C. § 2308, Modular Contracting for Information Technology
- 40 U.S.C. § 1461, Procurement Procedures
- 29 U.S.C. § 794d, Electronic and Information Technology

Change	Description
Retained	<ul style="list-style-type: none"> • The applicability of Part 39 to information technology, Internet of Things devices, and operational technology. Importantly, Part 39 clarifies its application to new or emerging technology. • Agencies should continue to use modular contracting for incremental and successive contracts when acquiring IT. • The prohibition on describing minimum experience or educational requirements is now discretionary rather than mandatory. • Accessibility standards, including Section 508 compliance, are still required (with limited exceptions and exemptions) to ensure federal employees and members of the public with disabilities have comparable access and use of information and data. • Information regarding the management of risk has been streamlined. Both the contracting and program office offices are responsible for assessing, monitoring, and controlling risk throughout the acquisition process.
Removed	<ul style="list-style-type: none"> • Reference to OMB Circular No's A-127, Financial Management Systems, and A-130, Management of Federal Information Resources. These Circulars may still be applicable for certain procurements and use of them is more appropriate for a guide. • Redundant prohibitions currently covered at FAR Subparts 4.20, 4.21, 4.22, 4.23, and FAR Part 40 not unique to IT procurements. • Clause 52.239-1, Privacy or Security Safeguards and its prescription.

This table is not an exhaustive list.

4. Instructions.

- The USDA acquisition workforce shall follow the RFO Part 39 model deviation text instead of FAR Part 39 as codified at 48 CFR Chapter 1. The Council's RFO Part 39 model deviation text is available at [Acquisition.gov/far-overhaul](https://www.acquisition.gov/far-overhaul) and is incorporated into this class deviation.
- Do not include the following clause in future solicitations and contracts. For open solicitations or awarded contracts, the Contracting Officer has discretion regarding the need to enforce or amend the clause.
 - 52.239-1, Privacy or Security Safeguards

- Review templates and related standard operating procedures to align with this deviation and remove unnecessary processes and steps.

5. Applicability. This class deviation applies to all USDA procurements.

6. Authority. This class deviation is issued under the authority of [E.O. 14275](#), [OMB M-25-25](#), and 48 CFR 1.4, and RFO FAR 1.304.

7. Effective Date. This class deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR.

8. Points of Contact. Questions regarding this class deviation may be directed to the USDA Procurement Policy Division at procurement.policy@usda.gov.