

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 11 – DESCRIBING AGENCY
NEEDS**

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 11 – Describing Agency Needs, 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”). The memorandum tasked the Office of Federal Procurement Policy (OFPP) with leading the 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:
 - Remove language that is not required by statute
 - Remove duplicative or outdated language
 - Clarify or provide more plain language
 - Revise language for the new FAR framework
 - Retain language necessary for 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 either 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 June 18, 2025, the FAR Council issued model deviation text for FAR Part 11 and corresponding clauses at FAR Part 52. FAR Part 11 outlines acquisition policies and procedures that federal agencies must follow to describe their needs clearly, promote competition, and align with commercial practices. The RFO Part 11 model deviation text retains statutory requirements including, but not limited to: Planning and Solicitation Requirements (41 U.S.C. § 3306(a) and 10 U.S.C. § 3206(a)); Preference for Commercial Products and Commercial Services (41 U.S.C. § 3307 and 10 U.S.C. § 3453), and Additional Powers (15 U.S.C. § 637(d)(4)(F)) (requirements related to liquidated damages). Retained clauses and provisions for Part 11 include the following:

- 52.211-5, Material Requirements
- 52.211-11, Liquidated Damages-Supplies, Services, or Research and Development
- 52.211-12, Liquidated Damages-Construction
- 52.211-13, Time Extensions
- 52.211-14, Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use
- 52.211-15, Defense Priority and Allocation Requirements

Non-statutory requirements removed from FAR Part 11 include requirements related to identification and availability of specifications, prescriptive procedures such as requirements to include ecolabels in specifications based on information in the Green Procurement Compilation, requirements for brand name or equal purchase descriptions. Twelve (12) clauses and provisions are removed, as follows:

- 52.211-1, Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29
- 52.211-2, Availability of Defense Specifications, Standards, and Data Item Descriptions in the Acquisition Streamlining and Standardization Information System (ASSIST) Website
- 52.211-3, Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions
- 52.211-4, Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions
- 52.211-6, Brand Name or Equal
- 52.211-7, Alternatives to Government-Unique Standards
- 52.211-8, Time of Delivery
- 52.211-9, Desired and Required Time of Delivery
- 52.211-10, Commencement, Prosecution, and Completion of Work (for construction contracts only)
- 52.211-16, Variation in Quantity
- 52.211-17, Delivery of Excess Quantities

- 52.211-18, Variation in Estimated Quantity

The RFO Part 52 model deviation text revises clauses 52.211-5, Material Requirements by deleting definitions for new and virgin material and retaining the definition for reconditioned and remanufactured.

Determination

In accordance with RFO 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 11 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 11 and applicable sections of Part 52 (Attachment 3). Specifically, DOE/NNSA will use the RFO model deviation text for Part 11 in lieu of 48 Code of Federal Regulations (CFR) Part 11, and the RFO model deviation text for the applicable sections of Part 52 in lieu of 48 CFR 52.211-1, 52.211-2, 52.211-3, 52.211-4, 52.211-5, 52.211-6, 52.211-7, 52.211-8, 52.211-9, and 52.211-10. 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.

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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 11 and 52 Model Deviation Text