

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 35 – RESEARCH AND
DEVELOPMENT CONTRACTING**

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 35 – Research and Development Contracting.
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 - Remove duplicative or outdated language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 July 29, 2025, the FAR Council issued model deviation text for FAR Part 35. The updated FAR Part 35 moves away from a prescriptive, specialized regulatory framework for research and development (R&D) contracting to a streamlined structure that empowers acquisition professionals and makes the federal R&D environment more attractive for innovative commercial firms. The Part is streamlined from 25 to 20 components (subparts, sections, subsections) that are reorganized in a more logical flow of the procurement lifecycle. This significant update improves the usability of the content.

Statutory requirements retained in the RFO FAR Part 35 model deviation include, but are not limited to, the following:

- 31 U.S.C. § 6303, Using Procurement Contracts
- 10 U.S.C. § 4126, Use of Federally Funded Research and Development Centers

The following provides a non-exhaustive list of requirements retained or removed from Part 35:

Retained:

- The section titled “Policy” (moved from 35.003 to 35.002) has been streamlined to remove the reference to “Recoupment.”
- New subparts 35.1, Presolicitation, 35.2, Evaluation and Award, and 35.3, Postaward, create logical organization with the acquisition lifecycle.
- Policies and procedures for “Federally Funded Research and Development Centers” (moved from 35.017 to 35.4) are retained with plain language improvements.

Removed:

- The definition of “Recoupment” at 35.001 and the relocated recoupment information to a FAR Companion Guide.
- Requirements in FAR 35.005 (work statement) will be moved to a FAR Companion Guide.
- Sections (like 35.006, “Contracting Methods and Contract Type”, 35.011, “Data”, and 35.009, “Subcontracting research and development”) that duplicated content found in other FAR parts.
- Section 35.015, “Contracts for research with education institutions and non-profit organizations”. However, educational institutions should be considered during evaluation for award at 35.201.
- Requirements for Standard Form 298, Report Documentation Page, providing more flexibility to complete reports in the best manner for the R&D effort.

There are no corresponding provisions or clauses associated with Part 35. Therefore, this class deviation does not affect any corresponding provisions or clauses at Part 52.

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 Part 35, 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 35 (Attachment 3). Specifically, DOE/NNSA will follow the RFO model deviation text for Part 35 in lieu of 48 Code of Federal Regulations (CFR) Part 35. 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,

Acting Director, Office of Acquisition Management
Senior Procurement Executive
Department of Energy

William J. Quigley,

Deputy Associate Administrator
Office of Partnership and Acquisition
Services
Senior Procurement Executive
National Nuclear Security Administration

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 Part 35 Model Deviation Text