

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 22 – APPLICATION OF
LABOR LAWS TO GOVERNMENT ACQUISITIONS**

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 22 – Application of Labor Laws to Government Acquisitions, and applicable sections 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 September 30, 2025, the FAR Council issued model deviation text for RFO FAR Part 22 – Application of Labor Laws to Government Acquisitions, and the corresponding clauses at FAR Part 52 – Solicitation Provisions and Contract Clauses. RFO FAR Part 22 is restructured to align with the stages of the acquisition lifecycle. This reorganization will help acquisition teams apply the labor requirements during the correct stage of the procurement. The part is now shorter, with many sections combined to remove redundancy and duplicative language.

Importantly, the fundamental protections for workers remain the same. For example, contractors are still required to:

- Pay the correct prevailing wages for construction and service work
- Provide safe and sanitary working conditions
- Ensure equal opportunity for veterans
- Pay overtime correctly

Subpart 22.11, “Professional Employee Compensation” was not based on statute. This part, and the provision in 52.222-46, “Evaluation of Compensations for Professional Employees” has been removed.

The model deviation text for this part does not cover the rescission of Executive Order (E.O.) 14026, addressing minimum wage for federal contractors, made by E.O. 14236. For information on the rescission of E.O. 14026, see the Department of Labor’s website at <https://www.dol.gov/agencies/whd/government-contracts/eo14026>.

Statutory and other requirements retained in the RFO FAR Part 22 model deviation include, but are not limited to, the following:

- 8 U.S.C. § 1324a, Unlawful Employment of Aliens
- 18 U.S.C. § 874, Kickbacks from Public Works Employees
- 22 U.S.C. §§ 7101 et seq, Trafficking Victims Protection
- 29 U.S.C. §§ 201 et seq, Fair Labor Standards
- 29 U.S.C. § 793, Employment Under Federal Contracts
- 38 U.S.C. § 4212, Veterans’ Employment Emphasis Under Federal Contracts
- 40 U.S.C. §§ 3141 et seq, Wage Rate Requirements
- 40 U.S.C. §§ 3701 et seq, Contract Work Hours and Safety Standards
- 41 U.S.C. § 6502, Required Contract Terms
- 41 U.S.C. §§ 6701 et seq, Service Contract Labor Standards
- E.O. 11755, Relating to Prison Labor, as amended by E.O.s 12608 and 12943
- E.O. 13126, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor
- E.O. 13496, Notification of Employee Rights Under Federal Labor Laws
- E.O. 13706, Establishing Paid Sick Leave for Federal Contractors
- E.O. 14063, Use of Project Labor Agreements for Federal Construction Projects

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

Retained:

- Subpart 22.7 remains reserved.
- Subpart 22.12 remains reserved.
- Subpart 22.20 remains reserved.
- Numerous provisions and clauses are retained (or remain reserved) with no changes. For readability of this document, all retained provisions and clauses are not listed. Updated and deleted provisions and clauses are listed below.

Moved/Updated:

- Section 22.001, “Definitions”, is updated to centralize definitions that were previously scattered throughout the part, make conforming edits to existing definitions to reflect the new part structure, and make other updates to modernize or streamline the definitions as appropriate.
 - The definition of “Administrator” is revised to remove the full mailing address
 - The definition of “Normal workweek” is relocated from the former subsection 22.103-1.
 - The definition of “Secretary” is relocated from section 22.1601 in order to standardize the term’s usage throughout the part.
 - The definition of “Service contract” is updated to align the citations with the changes made to the part.
- All subparts, unless otherwise noted, are updated and restructured. Content from former sections has been consolidated and relocated into new sections that reflect the acquisition lifecycle (e.g., Presolicitation, Evaluation and Award, Postaward).
- Subsection 22.201-1, “General”, streamlines the detailed explanatory text from Executive Order 11755, which was quoted at length in the former 22.201. The section now simply states that the Executive Order “does not prohibit the contractor... from employing certain persons as stated in paragraph (b) of the clause at 52.222-3, Convict Labor”. This change streamlines the regulation by relying on the text of the contract clause itself to provide the specific requirements, rather than repeating them in the FAR text.
- Section 22.401, “Definitions”, revises and harmonizes the definition of “Laborers or mechanics” with the definition used in Subpart 22.3. The updated definition in this section explicitly includes “firefighters, fireguards, and workmen who perform services in connection with dredging or rock excavation in rivers or harbors” and excludes “any employee employed as a seaman”. This creates greater consistency across related subparts.
- Paragraph (d) under subsection 22.402-3, “Construction Wage Rate Requirements Statute” retains the direction (previously at 22.404-2(c)(5)) for contracting officers to seek assistance from the Administrator of the Wage and Hour Division in cases of doubt as to the proper application of wage rate schedules. The detailed guidance for selecting the proper schedule of wage rates (e.g., Building, Residential, Highway, Heavy) has been removed.

- Section 22.1303, “Evaluation and Award”, under subpart 22.13, “Equal Opportunity for Veterans”, removes the option to contact VETS-4212 customer support (previously at 22.1304(b)) to verify if a proposed contractor is current with its VETS-4212 Report. Now, contracting officers must query the VETS-4212 database.
- The following provisions and clauses are updated for clarity, to mirror updates made throughout the part, and/or to update cross-references or remove outdated content:
 - 52.222-4 (Clause), Contract Work Hours and Safety Standards—Overtime Compensation
 - 52.222-6 (Clause), Construction Wage Rate Requirements
 - 52.222-11 (Clause), Subcontracts (Labor Standards)
 - 52.222-19 (Clause), Child Labor—Cooperation with Authorities and Remedies
 - 52.222-20 (Clause), Contracts for Materials, Supplies, Articles, and Equipment
 - 52.222-35 (Clause), Equal Opportunity for Veterans
 - 52.222-36 (Clause), Equal Opportunity for Workers with Disabilities
 - 52.222-37 (Clause), Employment Reports on Veterans
 - 52.222-48 (Provision), Exemption From Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification
 - Alternate I to 52.222-50 (Clause), Combating Trafficking in Persons
 - 52.222-52 (Provision), Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification
 - 52.222-53 (Clause), Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements
 - 52.222-54 (Clause), Employment Eligibility Verification
- The FAR Companion is expected to include best practices and guidance on the following:
 - Definitions not included in the deviated text
 - Department of Labor regulations involving construction
 - Construction Wage Rate Requirements statute wage determinations
 - Types of wage determinations
 - Wage determinations, general requirements
 - Notification of improper wage determination before award
 - Examinations of payrolls and payroll statements
 - Disposition of disputes concerning construction contract labor standards enforcement
 - Requirement to obtain wage determinations
 - Administrative limitations, variations, tolerances, and exemptions
 - Examples of contracts covered by the Service Contract Labor Standards statute
 - Repair distinguished from remanufacturing of equipment
 - Department of Labor responsibilities and regulations
 - Obtaining wage determinations

- Successorship with incumbent contractor collective bargaining agreement
- All possible places of performance not identified

Removed:

- The definitions of “Wage and Hour Division” and “Wage Determination” formerly at section 22.1001, are removed and expected to be included in the FAR Companion.
- Subpart 22.8, “Equal Employment Opportunity”, is removed and marked reserved to comply with E.O. 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity.
- Subpart 22.11, “Professional Employee Compensation” is removed and marked reserved. This subpart was not based on statute.
- The following provisions and clauses are removed and marked reserved to comply with E.O. 14173 or because they are not required by statute or essential to sound procurement:
 - 52.222-21 (Clause), Prohibition of segregated facilities
 - 52.222-22 (Provision), Previous Contracts and Compliance Reports
 - 52.222-23 (Provision), Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity for Construction
 - 52.222-24 (Provision), Preaward On-Site Equal Opportunity Compliance Evaluation
 - 52.222-25 (Provision), Affirmative Action Compliance
 - 52.222-26 (Clause), Equal Opportunity
 - 52.222-27 (Clause), Affirmative Action Compliance Requirements for Construction
 - 52.222-29 (Clause), Notification of Visa Denial
 - 52.222-38 (Provision), Compliance with Veterans’ Employment Reporting Requirements
 - 52.222-46 (Provision), Evaluation of Compensation for Professional Employees

Determination

In accordance with FAR 1.304 *Class deviations* (as implemented by DOE/NNSA class deviation) 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 22 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 22 and the applicable sections of Part 52 (Attachment 3). Specifically, DOE/NNSA will follow the RFO model deviation text for Part 22 in lieu of 48 Code of Federal Regulations (CFR) Part 22, and the RFO model deviation text for the applicable sections of Part 52 in lieu of the corresponding applicable sections of 48 CFR Part 52.222-1 through 52.222-62. 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 22 and 52 Model Deviation Text