



Homeland
Security

MEMORANDUM FOR: Heads of Contracting Activities

FROM: Paul Courtney
Chief Procurement Officer

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SUBJECT: FAR Class Deviation (Number 25-05) for FAR Part 34 in Support of
Executive Order on Restoring Common Sense to Federal Procurement

- 1. Purpose.** This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) part 34 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR part 34.
- 2. Background.** On April 15, 2025, the [Executive Order \(E.O.\) 14275 on Restoring Common Sense to Federal Procurement](#) was signed. Section 2 of the E.O. 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."

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- Remove duplicative or outdated language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.

This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative.

FAR part 34 describes acquisition policies and procedures for use in acquiring major systems consistent with OMB Circular No. A-109; and the use of an Earned Value Management System in acquisitions designated as major acquisitions consistent with OMB Circular A-11, part 7.

The RFO part 34 model deviation text retains FAR subparts 34.1 and 34.2. Subpart 34.1 deals with statutory requirements tied to 50 U.S.C. 4531 et seq. Subpart 34.2 deals with Earned Value Management requirements tied to OMB Circular A-11. Non-statutory requirements removed from FAR part 34 include the general guidance provided in sections 34.001 through 34.005.

- 3. Instructions.** The Department of Homeland Security (DHS) acquisition workforce shall follow the RFO Part 34 deviation text instead of FAR Part 34 as codified at 48 CFR Chapter 34. The Council's RFO Part 34 model deviation text is available at <https://www.acquisition.gov/far->

[overhaul/far-part-deviation-guide/far-overhaul-part-34](#), and is incorporated as attachment 1 to this deviation.

4. **Applicability.** This class deviation applies to all DHS procurements.
5. **Authority.** This class deviation is issued under the authority of [E.O. 14275](#), [OMB M- 25-25](#), and 48 CFR 1.4.
6. **Effective Date.** This class deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR.
7. **Points of Contact.** Questions regarding this class deviation may be directed to Acquisition Policy and Legislation Branch at Acquisition.Policy@hq.dhs.gov.

Attachments:

1. FAR Part 34 Line Out Text¹
2. FAR Part 34 Solicitation Provisions and Contract Clauses Revisions

¹ The line-out does not indicate what was added or moved. See <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-34> for conformed text.

PART 34—MAJOR SYSTEM ACQUISITION

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

34.000 Scope of part.

~~This part describes acquisition policies and procedures for use in acquiring major systems consistent with OMB Circular No. A-109; and the use of an Earned Value Management System in acquisitions designated as major acquisitions consistent with OMB Circular A-11, Part 7.~~

34.001 Definition.—

~~*Effective competition*, as used in this part, is a market condition that exists when two or more contractors, acting independently, actively contend for the Government's business in a manner that ensures that the Government will be offered the lowest cost or price alternative or best technical design meeting its minimum needs.~~

34.002 Policy.

~~The policies of this part are designed to ensure that agencies acquire major systems in the most effective, economical, and timely manner. Agencies acquiring major systems shall—~~

~~(a) Promote innovation and full and open competition as required by part 6 in the development of major system concepts by (1) expressing agency needs and major system acquisition program objectives in terms of the agency's mission and not in terms of specified systems to satisfy needs, and (2) focusing agency resources and special management attention on activities conducted in the initial stage of major programs; and~~

~~(b) Sustain effective competition between alternative system concepts and sources for as long as it is beneficial.~~

34.003 Responsibilities.

~~(a) As required by A-109, the agency head or designee shall establish written procedures for its implementation.~~

~~(b) The agency procedures shall identify the key decision points of each major system acquisition and the agency official(s) for making those decisions.~~

~~(c) Systems acquisitions normally designated as major are those programs that, as determined by the agency head, (1) are directed at and critical to fulfilling an agency mission need, (2) entail allocating relatively large resources for the particular agency, and (3) warrant special management attention, including specific agency head decisions. The agency procedures may establish additional criteria, as specified in A-109, for designating major programs system acquisitions.~~

34.004 Acquisition strategy.

The program manager, as specified in agency procedures, shall develop an acquisition strategy tailored to the particular major system acquisition program. This strategy is the program manager's overall plan for satisfying the mission need in the most effective, economical, and timely manner. The strategy shall be in writing and prepared in accordance with the requirements of subpart 7.1, except where inconsistent with this part, and shall qualify as the acquisition plan for the major system acquisition, as required by that subpart.

34.005 General requirements.

34.005-1 Competition.

(a) The program manager shall, throughout the acquisition process, promote full and open competition and sustain effective competition between alternative major system concepts and sources, as long as it is economically beneficial and practicable to do so. Notice of the proposed acquisition shall be given the broadest and most effective circulation practicable throughout the business, academic, and Government communities. Foreign contractors, technology, and equipment may be considered when it is feasible and permissible to do so.

(b) The contracting officer should time solicitation issuance and contract award to maintain continuity of concept development during the transition from withdrawing concept proposer to new contractor.

34.005-2 Mission-oriented solicitation.

(a) Before issuing the solicitation, whenever practicable and consistent with agency procedures, the contracting officer should take the actions outlined in subparagraphs (1) and (2):

——— (1) Advance notification of the acquisition should be given the widest practicable dissemination, including publicizing through the Governmentwide point of entry (see subpart 5.2) and should be sent to as wide a selection of potential sources as practicable, including smaller and newer firms, Government laboratories, federally funded research and development centers, educational institutions and other not-for-profit organizations, and, if it would be beneficial and is not prohibited, foreign sources.

——— (2) If appropriate, hold a presolicitation conference (see 15.201) and/or send copies of the proposed solicitation to all prospective offerors for their comments. After evaluation of these comments, the solicitation should be revised, if appropriate.

(b) The contracting officer shall send the final solicitation to all prospective offerors. It shall —

——— (1) Describe the nature of the need in terms of mission capabilities required, without reference to any specific systems to satisfy the need;

——— (2) Indicate, and explain when appropriate, the schedule, capability, and cost objectives and

~~any known constraints in the acquisition;~~

~~(3) Provide, or indicate how access can be obtained to, all Government data related to the acquisition;~~

~~———— (4) Include selection requirements consistent with the acquisition strategy; and~~

~~———— (5) Clearly state that each offeror is free to propose its own technical approach, main design features, subsystems, and alternatives to schedule, cost, and capability goals.~~

~~(6) Require the use of an Earned Value Management System that complies with the guidelines of Electronic Industries Alliance Standard 748 (EIA-748) (current version at time of solicitation). See 34.201 for earned value management systems and reporting requirements.~~

~~(c) To the extent practicable, the solicitation shall not reference or mandate Government specifications or standards, unless the agency is mandating a subsystem or other component as approved under agency procedure.~~

~~34.005-3 Concept exploration contracts.~~

~~Whenever practicable, contracts to be performed during the concept exploration phase shall be for relatively short periods, at planned dollar levels. These contracts are to refine the proposed concept and to reduce the concept's technical uncertainties. The scope of work for this phase of the program shall be consistent with the Government's planned budget for the phase. Follow-on contracts for such tasks in the exploration phase shall be awarded as long as the concept approach remains promising, the contractor's progress is acceptable, and it is economically practicable to do so.~~

~~34.005-4 Demonstration contracts.~~

~~Whenever practicable, contracts for the demonstration phase should provide for contractors to submit, by the end of the phase, priced proposals, totally funded by the Government, for full-scale development. The contracting officer should provide contractors with operational test conditions, performance criteria, life cycle cost factors, and any other selection criteria necessary for the contractors to prepare their proposals.~~

~~34.005-5 Full-scale development contracts.~~

~~Whenever practicable, the full-scale development contracts should provide for the contractors to submit priced proposals for production that are based on the latest quantity, schedule, and logistics requirements and other considerations that will be used in making the production decision.~~

~~34.005-6 Full production.~~

~~Contracts for full production of successfully tested major systems selected from the full-scale development phase may be awarded if the agency head (a) reaffirms the mission need and program objectives and (b) grants approval to proceed with production.~~

Note: The line-out does not indicate what was added or moved. See <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-34> for conformed text.

Subpart 34.1—Testing, Qualification and Use of Industrial Resources Developed Under Title III, Defense Production Act

34.100 Scope of subpart.

This subpart prescribes policies and procedures for the testing, qualification, and use of industrial resources manufactured or developed with assistance provided under ~~section 301, 302, or 303 of the~~ Defense Production Act (50 U.S.C. App. 2091-2093). Title III of the Defense Production Act authorizes various forms of Government assistance to encourage expansion of production capacity and supply of industrial resources essential to national defense.

34.101 Definitions.

Item of supply, as used in this subpart, means any individual part, component, subassembly, assembly, or subsystem integral to a major system, and other property which may be replaced during the service life of the system. The term includes spare parts and replenishment parts, but does not include packaging or labeling associated with shipment or identification of an “item.”

34.102 Policy.

It is the policy of the Government, ~~as required by section 126 of Public Law 102-558~~, to pay for any testing and qualification required for the use or incorporation of the industrial resources manufactured or developed with assistance provided under Title III of the Defense Production Act of 1950.

34.103 Testing and qualification.

(a) Contractors receiving requests from a Title III project contractor for testing and qualification of a Title III industrial resource shall refer such requests to the contracting officer. The contracting officer shall evaluate the request in accordance with agency procedures to determine whether: (1) the Title III industrial resource is being or potentially may be used in the development or manufacture of a major system or item of supply; and (2) for major systems in production, remaining quantities to be acquired are sufficient to justify incurring the cost of testing and qualification. In evaluating this request, the contracting officer shall consult with the Defense Production Act Office, Title III Program, located at Wright Patterson Air Force Base, Ohio 45433-7739.

(b) If the determination at 34.103(a) is affirmative, the contracting officer shall modify the contract to require the contractor to test the Title III industrial resource for qualification.

(c) The Defense Production Act Office, Title III Program, shall provide to the contractor the industrial resource produced by the Title III project contractor in sufficient amounts to meet testing needs.

34.104 Contract clause.

Insert the clause at 52.234-1, Industrial Resources Developed under Defense Production Act, Title III, in all contracts for major systems and items of supply.

Subpart 34.2—Earned Value Management System

34.201 Policy.

(a) An Earned Value Management System (EVMS) is required for major acquisitions for development, in accordance with OMB Circular A-11. The Government may also require an EVMS for other acquisitions, in accordance with agency procedures.

(b) If the offeror proposes to use a system that has not been determined to be in compliance with the Electronic Industries Alliance Standard 748 (EIA-748), the offeror shall submit a comprehensive plan for compliance with these EVMS standards. Offerors shall not be eliminated from consideration for contract award because they do not have an EVMS that complies with these standards.

(c) As a minimum, contracting officers shall require contractors to submit EVMS monthly reports for those contracts for which an EVMS applies.

(d) EVMS requirements will be applied to subcontractors using the same rules as applied to the prime contractor.

(e) When an offeror is required to provide an EVMS plan as part of its proposal, the contracting officer will determine the adequacy of the proposed EVMS plan prior to contract award.

34.202 Integrated Baseline Reviews.

(a) When an EVMS is required, the Government will conduct an Integrated Baseline Review (IBR).

(b) The purpose of the IBR is to verify the technical content and the realism of the related performance budgets, resources, and schedules. It should provide a mutual understanding of the inherent risks in offerors'/contractors' performance plans and the underlying management control systems, and it should formulate a plan to handle these risks.

(c) The IBR is a joint assessment by the offeror or contractor, and the Government, of the—

(1) Ability of the project's technical plan to achieve the objectives of the scope of work;

(2) Adequacy of the time allocated for performing the defined tasks to successfully achieve the project schedule objectives;

(3) Ability of the Performance Measurement Baseline (PMB) to successfully execute the project and attain cost objectives, recognizing the relationship between budget resources, funding, schedule, and scope of work;

(4) Availability of personnel, facilities, and equipment when required, to perform the defined

tasks needed to execute the program successfully; and

(5) The degree to which the management process provides effective and integrated technical/schedule/cost planning and baseline control.

(d) The timing and conduct of the IBR shall be in accordance with agency procedures. If a pre-award IBR will be conducted, the solicitation must include the procedures for conducting the IBR and address whether offerors will be reimbursed for the associated costs. If permitted, reimbursement of offerors' pre-award IBR costs is governed by the provisions of FAR Part 31.

34.203 ~~Solicitation provisions and contract clause.~~

~~(a) The contracting officer shall insert a provision that is substantially the same as the provision at FAR 52.234-2, Notice of Earned Value Management System—Preaward Integrated Baseline Review, in solicitations for contracts that require the contractor to use an Earned Value Management System (EVMS) and for which the Government requires an Integrated Baseline Review (IBR) prior to award.~~

~~(b) The contracting officer shall insert a provision that is substantially the same as the provision at 52.234-3, Notice of Earned Value Management System—Postaward Integrated Baseline Review, in solicitations for contracts that require the contractor to use an Earned Value Management System (EVMS) and for which the Government requires an Integrated Baseline Review (IBR) after contract award.~~

(c) The contracting officer shall insert a clause that is substantially the same as the clause at FAR 52.234-4, Earned Value Management System, in solicitations and contracts that require a contractor to use an EVMS.

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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Subpart 52.2—Text of Provisions and Clauses

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52.234-1 Industrial Resources Developed Under Title III, Defense Production Act.

As prescribed at 34.105, insert the following clause:

Industrial Resources Developed Under Title III Of The Defense Production Act (MAY 2025) (DEVIATION 25-05)

(a) Definitions.

Title III industrial resource means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) established or maintained under the authority of Title III of the Defense Production Act (50 U.S.C. 4531 et seq.).

Title III project contractor means a contractor that has received assistance for the development or manufacture of an industrial resource under Title III of the Defense Production Act (50 U.S.C. 4531 et seq.).

(b) The Contractor must refer any request from a Title III project contractor for testing and qualification of a Title III industrial resource to the Contracting Officer.

(c) The Contracting Officer will modify the contract to—

(1) Authorize testing and qualification of the Title III industrial resource; and

(2) Provide an equitable adjustment for the costs to test and qualify the Title III industrial resource.

(d) Upon receipt of a contract modification and the Title III industrial resources, the Contractor must—

(1) Test the Title III industrial resources for qualification; and,

(2) Provide the test results to the Defense Production Act Office, Title III Program, located at Wright Patterson Air Force Base, Ohio 45433-7739.

(e) The Contractor agrees to insert the substance of this clause, including paragraph (e), in every subcontract issued in performance of this contract.

(End of clause)

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52.234-2 [Reserved (MAY 2025) (DEVIATION 25-05)]

52.234-3 [Reserved (MAY 2025) (DEVIATION 25-05)]

52.234-4 Earned Value Management System.

As prescribed in 34.203, insert the following clause:

Earned Value Management System (MAY 2025) (DEVIATION 25-05)

(a) The Contractor must use an earned value management system (EVMS) that has been determined by the Cognizant Federal Agency (CFA) to be compliant with the guidelines in Electronic Industries Alliance Standard 748 (EIA-748) (current version at the time of award) to manage this contract. If the Contractor's current EVMS has not been determined compliant at the time of award, see paragraph (b) of this clause. The Contractor must submit EVMS reports as required by the contract.

(b) If the Contractor's EVM System is not compliant with the requirements in paragraph (a) of this clause, or the Contractor's existing cost/schedule control system is not compliant with the guidelines in EIA-748 (current version at time of award), the Contractor must—

(1) Apply the current system to the contract; and

(2) Take necessary actions to meet the milestones in the Contractor's approved EVMS plan.

(c) When an EVMS is required, the Government will conduct an Integrated Baseline Reviews (IBR). Agencies may require an additional IBR at—

(1) Exercise of significant options; or

(2) Incorporation of major modifications.

(d) Unless the CFA grants a waiver, Contractor-proposed EVMS changes require CFA approval prior to implementation.

(1) The CFA will notify the Contractor of its acceptance or rejection of the proposed EVMS changes within 30 days of receipt.

(2) If the CFA waives the advance approval requirements, the Contractor must disclose EVMS changes to the CFA at least 14 days prior to the effective date of implementation.

(e) The Contractor must provide the Government access to all pertinent records and data necessary to conduct surveillance and validate that the EVMS complies with the requirements in paragraph (a) of this clause for the duration of the contract.

(f) The Contractor must require the subcontractors specified below to comply with the requirements of this clause: [Insert list of applicable subcontractors.]

(End of clause)

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