

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 10 – MARKET RESEARCH**

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 10 – Market Research, 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”), 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. Accompanying the FAR Council memorandum, the FAR Council issued model deviation text for FAR Part 10 and the corresponding clauses at FAR Part 52. FAR Part 10, concerning market research, has been updated to offer acquisition teams more flexibility in their research methods. The FAR no longer lists specific market research considerations or techniques that must be used. Acquisition professionals must still comply with the Competition in Contracting Act (CICA) (41.U.S.C. 3301 et seq.), which may necessitate market research. Acquisition professionals can apply market research concepts to procurements of any size. While FAR clause 52.210-1 Market Research is not required by statute, across Government, it has been retained as essential to the acquisition process.

Statutory requirements retained in the RFO FAR Part 10 model deviation include, but are not limited to, the following:

- 10 U.S.C. 3453, Preference for Commercial Products and Commercial Services
- 41 U.S.C. 3306, Planning and Solicitation Requirements
- 41 U.S.C. 3307, Preference for Commercial Products and Commercial Services
- 41 U.S.C. 1703 note, Effective Communication Between Government and Industry; inclusive of 41 U.S.C. 3301 et seq. and 41 U.S.C. 2101 et seq.

Other key changes include:

Retained:

- Subparts “10.001 Policy” and “10.002 Procedures” are combined and streamlined to remove duplicative and discretionary guidance.
- FAR clause 52.210-1, Market Research, in solicitations and contracts for noncommercial acquisitions over \$6 million.
- Language encouraging exchanges with industry is moved from FAR Part 1 to FAR Part 10.

Removed:

- Requirements to consider various issues in market research, including for consolidation or bundling procurements are removed. Content stemming from 15 U.S.C. 644(e) and 15 U.S.C. 657(q) is mandatory, however the requirement is covered in FAR Part 7.
- Requirements for disaster relief purchasing are removed. Content stemming from 6 U.S.C. 796 is mandatory, however the requirement is covered in FAR Part 26.

Determination

In accordance with FAR 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 10 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 10 and the applicable section of Part 52 (Attachment 3). Specifically, DOE/NNSA will use the RFO model deviation text for Part 10 in lieu of 48 Code of Federal Regulations (CFR) Part

10, and the RFO model deviation text for the applicable section of Part 52 in lieu of 48 CFR 52.210-1. 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 10 and 52 Model Deviation Text