



## U.S. Department of Justice

### Justice Management Division

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*Washington, D.C. 20530*

#### **MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS**

**FROM:** William N. Taylor II  
Deputy Assistant Attorney General  
for Management and Compliance  
Senior Procurement Executive

**SUBJECT:** Class Deviation from the Federal Acquisition Regulation (FAR) Part 23 in support of Executive Order 14275 on Restoring Common Sense to Federal Procurement

#### **1. PURPOSE**

This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) Part 23 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR Part 23 available at [acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-23](https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-23).

#### **2. BACKGROUND**

Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement, signed April 15, 2025, mandates a comprehensive review and simplification of the FAR. 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

This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative. This initiative will make the FAR more concise, understandable, and focused on core procurement requirements.

### **3. SUMMARY OF CHANGES**

FAR Part 23, Sustainable Acquisition, Material Safety, and Pollution Prevention, has been revised to enhance clarity and efficiency, and to ensure compliance with current statutory requirements. The updated FAR part maintains existing statutory mandates for energy efficiency, biobased products, energy savings performance contracts, hazardous material identification, and pollution prevention. Requirements related to clean energy and waste reduction, previously driven by the now-revoked E.O. 14057, have been removed.

Statutory requirements retained in the RFO FAR part 23 model deviation include, but may not be limited to, the following:

- 7 U.S.C. § 8102, Biobased Markets Program
- 42 U.S.C. § 6361, Federal Energy Conservation Programs
- 42 U.S.C. § 6962, Resource Conservation and Recovery Act of 1976
- 42 U.S.C. § 8259b, Federal Procurement of Energy Efficient Products
- 42 U.S.C. §§ 7671 et seq, Stratospheric Ozone Protection
- 42 U.S.C. §§ 13101 et seq, Pollution Prevention Act of 1990

The following provisions and clauses are retained:

- The following provision and clauses are retained (or remain reserved) with no changes:
  - 52.223-4 (Provision), Recovered Material Certification
  - 52.223-5 (Clause), Pollution Prevention and Right-to Know Information
  - 52.223-6 remains reserved
  - 52.223-8 remains reserved
  - 52.223-9 (Clause), Estimate of Percentage of Recovered Material Content for EPA-Designated Items
  - 52.223-13 through 52.223-18 remain reserved

The following items are moved/updated:

- Section 23.000, “Scope of Part,” is updated to align with the new Part title. It removes references to “environment,” replaces “sustainable products and services” with “sustainable acquisition,” and adds the phrase “preventing pollution.”
- Subpart 23.1, “Sustainable Products,” is updated to remove “and Services” from the subpart title. The “Scope of Part” at 23.100 is streamlined and removes redundant references to content covered in FAR Part 12.
- Section 23.101, “Definitions” is updated to include:
  - New definitions:
    - Energy-efficient product
    - Low standby power device
    - Sustainable product
  - Definitions updated for clarity:
    - EPA-designated item

- USDA-designated product category
- Sections 23.102, “Policy,” 23.103, “Procedures,” and 23.104, “Priorities,” streamline and consolidate former sections in this subpart.
  - 23.102 presents a clear mandate that agencies must procure sustainable products to the maximum extent practicable.
  - 23.103 outlines three direct steps for the Contracting Officer when procuring sustainable products.
  - 23.104 provides clear priorities for acquisition teams when procuring sustainable products.
- Section 23.106, “Restrictions,” provides improved clarity on products the Contracting Officer is prohibited from purchasing.
- Subpart 23.2, “Energy Savings Performance Contracts”, is updated for clarity and efficiency.
- Section 23.201, “Definition” is added to provide a formal definition for “Energy savings performance contract.”
- Subpart 23.3, “Material Safety,” updates its title from “Hazardous Material Identification, Material Safety Data, and Notice of Radioactive Materials.”
- The content is updated for clarity, streamlining and/or to remove outdated content.
- Subpart 23.4, “Pollution Prevention,” updates its title from “Pollution Prevention, Environmental Management Systems, and Waste Reduction.” The content is updated for clarity, streamlining, and/or to remove outdated content.
  - 23.401, “Definitions,” is updated to remove definition of “Federal agency” and add definitions for:
    - “Pollution prevention”
    - “Toxic chemical” (from 23.001)
- The following provision and clauses are updated for clarity, to mirror updates made throughout the Part, and/or to update cross-references or remove outdated content:
  - 52.223-1 (Provision), Biobased Product Certification
  - 52.223-2 (Clause), Reporting of Biobased Products Under Service and Construction Contracts
  - 52.223-3 (Clause), Hazardous Material Identification and Safety Data
  - 52.223-7 (Clause), Notice of Radioactive Materials
  - 52.223-11 (Clause), Ozone-Depleting Substances
  - 52.223-12 (Clause), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners
  - 52-223-23 (Clause), Sustainable Products
- The FAR Companion is expected to include best practice and guidance on the following:
  - Energy Savings Performance Contracts (ESPCs)
  - Resources for Statutory Environmental Purchasing Programs

The following items have been removed:

- The definitions of “Environmental” and “Greenhouse gas,” previously at 23.001, are deleted, as they were primarily relevant to the now-deleted subpart 23.5.
- “Environmental management systems,” formerly section 23.404 is deleted. This deletion is based on the revocation of E.O. 14057.

- “Waste reduction program,” formerly section 23.405 is deleted. This deletion is based on the revocation of E.O. 14057.
- “Greenhouse Gas Emissions,” formerly subpart 23.5 is deleted. This deletion is based on the revocation of E.O. 14057.
- The following provision and clauses are removed and marked reserved based on the revocation of E.O. 14057 or because they are not required by statute or otherwise essential to sound procurement:
  - 52.223-10 (Clause), Waste Reduction Program
  - 52.223-19 (Clause), Compliance with Environmental Management Systems
  - 52.223-20 (Clause), Aerosols
  - 52.223-21 (Clause), Foams
  - 52.223-22 (Provision), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.

#### **4. AUTHORITY**

This class deviation is issued under the authority of [E.O. 14275](#), [OMB M-25-26](#), and RFO FAR 1.304.

#### **5. DEVIATION**

The DOJ acquisition workforce must follow the RFO Part 23 model deviation text instead of FAR Parts 23 and 52 as codified at 48 CFR Chapter 1. The Council’s RFO Part 23 model deviation text is available at [acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-23](https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-23).

Where applicable, include the revised Part 23 provision and clause deviations, at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52> in lieu of the standard versions. For open solicitations or awarded contracts, the Contracting Officer has discretion regarding the need to enforce or amend the provisions and clauses. Note that without some of the removed provisions or clauses, the contracting officer may be required to separately address certain aspects in the contract.

Bureaus must review templates and related standard operating procedures to align with this class deviation and remove unnecessary processes and steps.

#### **6. EFFECTIVE DATE AND EXPIRATION**

This class deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR.

#### **7. SCOPE AND APPLICABILITY**

This class deviation applies to all DOJ procurements.

**8. ADDITIONAL INFORMATION**

If you have questions, please contact [DOJAcquisitionPolicy@usdoj.gov](mailto:DOJAcquisitionPolicy@usdoj.gov).

**9. ATTACHMENTS**

None.