

MKU-DEV-2025-45

**MEMORANDUM FOR MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION (UDALL FOUNDATION)
CONTRACTING ACTIVITIES**

DATE: December 1, 2025

SUBJECT: Class Deviations for FAR Part 22 in support of Executive Order 14275, *Restoring Common Sense to Federal Procurement*

FROM: David P. Brown, Executive Director

1. **Purpose.** This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) Part 22 for purposes of implementing the Federal Acquisition Regulatory Council's ("the Council's" or "RFO") model deviation text to FAR Part 22.
2. **Background.** On April 15, 2025, President Trump signed Executive Order (E.O.) 14275, "Restoring Common Sense to Federal Procurement" to reform the Federal Acquisition Regulation (FAR). This E.O. further advances the intent of E.O. 14192, "Unleashing Prosperity Through Deregulation," signed on January 31, 2025, which established that the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds and to alleviate unnecessary regulatory burdens placed on the American people. E.O. 14275 orders the Administrator of the Office of Federal Public Procurement Policy (OFPP), in coordination with the other members of the Federal Acquisition Regulatory Council (FAR Council), the heads of agencies, and appropriate senior acquisition and procurement officials from agencies, to amend the FAR to ensure that it contains only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests. This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative.

On May 2, 2025, the Office of Management and Budget (OMB) released Memorandum M-25-26, "Overhauling the Federal Acquisition Regulation," that directs all agencies to "Generally issue individual or class deviations to implement the FAR Council's deregulated coverage within 30 days after the Council releases its model deviation text [and] Provide copies of class deviations to the FAR Secretariat at gsaregsec@gsa.gov for public posting on Acquisition.gov."

Also on May 2, 2025, the Acting Administrator for Federal Procurement Policy at OMB released a Memorandum, "Deviation Guidance to Support the Overhaul of the Federal Acquisition Regulation." This Memorandum advises that agencies using the RFO model class deviation text do not need to further coordinate with the Council; class deviations that differ from the RFO model text require Council approval unless the difference is necessary to address agency-specific statutory direction.

On September 30, 2025, the FAR Council issued completed revisions for FAR Part 22, Application of Labor Laws to Government Acquisitions, and FAR Part 52 provisions and clauses. The updated text 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 requirements and presidential directives retained in the RFO FAR part 22 model deviation include, but may not be 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

Change	Description
Retained	<ul style="list-style-type: none"> • 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

	<p>provisions and clauses are not listed. Updated and deleted provisions and clauses are listed below.</p>
<p>Moved/Updated</p>	<ul style="list-style-type: none"> • 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. <ul style="list-style-type: none"> ○ 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.

	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> ○ 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: <ul style="list-style-type: none"> ○ 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
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	<ul style="list-style-type: none"> ○ Successorship with incumbent contractor collective bargaining agreement ○ All possible places of performance not identified
Removed	<ul style="list-style-type: none"> ● 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, <i>Ending Illegal Discrimination and Restoring Merit-Based Opportunity</i>. ● 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: <ul style="list-style-type: none"> ○ 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), Preadward 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

This table is not an exhaustive list.

3. **Determination.** To fully comply with E.O. 14275, OMB implementation guidance, and direction related to use of model deviations, and the model deviations for revised FAR Part 22, the Udall Foundation shall follow the RFO Part 22 model deviation text instead of FAR Part 22 as codified at 48 CFR Chapter 22. The FAR Council’s RFO Part 22 model deviation text is available at Acquisition.gov, under the “FAR Overhaul” link. This deviation applies to all solicitations and new contracts as of the date of the Memorandum. This deviation does not apply to contracts signed and executed on or before the date of this Memorandum.
4. **Instructions.** The Udall Foundation acquisition workforce shall follow the RFO Part 22 model deviation text instead of FAR Part 22 as codified at 48 CFR Chapter 22 and the RFO Part 52 model deviation text of FAR Part 52 as codified at 48 CFR Chapter 52. The Council’s RFO Parts 22 and 52 model deviation text are available at Acquisition.gov, under the “FAR Overhaul” link, and are incorporated into this class deviation.

For new solicitations or contracts, when using any provisions or clauses that have been revised, the Udall Foundation acquisition workforce shall use the RFO model deviation language at RFO FAR part 52.

For open solicitations or awarded contracts, the contracting officer has discretion regarding the need to enforce or amend the provisions or 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.

The Udall Foundation acquisition workforce shall review templates and related standard operating procedures to align with this deviation and remove unnecessary processes or steps.

A copy of this Class Deviation will be provided to the FAR Secretariat at gsaregsec@gsa.gov.

5. **Applicability.** This class deviation applies to all Udall Foundation procurements.
6. **Authority.** This class deviation is issued under the authority of E.O. 14275, OMB Memo M-25-26, and 48 CFR 1.4, and RFO FAR 1.304.
7. **Effective Date.** This class deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR.

Points of Contact. Questions regarding this class deviation may be directed to the Udall Foundation General Counsel, Gwendolyn Franks, at franks@udall.gov.