U.S. Department of Transportation

1200 New Jersey Ave., S.E.
Washington, DC 20590

Office of the Secretary of Transportation

SUBJECT: Class Deviation No. 2026-16 from the Transportation Acquisition Regulation for TAR Part 1216 in Support of Executive Order 14275, Restoring Common Sense to Federal Procurement

FROM: Chrishaun Jones
Senior Procurement Executive
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Date: 2026.10.27 17:50:43 -04'00'

TO: Department of Transportation Chiefs of the Contracting Offices

I. Purpose: This memorandum approves a class deviation to the Transportation Acquisition Regulation (TAR) part 1216 for the purpose of implementing, in the TAR, Federal Acquisition Regulation (FAR) Class Deviation (CD) (No. 2026-14) for FAR part 16 in support of Executive Order (E.O.) 14275, "Restoring Common Sense to Federal Procurement."

II. Effective Date: Immediately.

III. Background: On April 15, 2025, Executive Order (E.O.) 14275, 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 Revolutionary FAR Overhaul (RFO) initiative will make the FAR more concise, understandable, and focused on core procurement requirements. This also applies to agency supplements to the FAR.

Under this initiative, 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- Remove duplicative or outdated language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.

The RFO FAR part 16 model deviation text upon which this RFO TAR part 1216 deviation is based, establishes bedrock principles. The Department of Transportation (DOT) issued FAR CD 2026-14 for FAR part 16 on October 27, 2025.

To ensure alignment with issued E.O.s and the RFO FAR part CD, it is necessary to issue this RFO TAR CD in advance of a proposed rule to implement these requirements to ensure DOT policies and procedures align with these requirements. DOT intends on conducting further analysis and developing a rule for publication in the Federal Register for public comment after the release of this CD, and after FAR proposed and final rules are published.

IV. Summary of Changes: The following table is not an exhaustive list but includes notable updates to TAR part 1216:

Change	Description
New/Retained/ Updated	General – Retained as the coverage directly implements a specific statute. Updated TAR content and headings to align with RFO FAR Part 16-- **TAR Part 1216—Types of Contracts** • **TAR subpart 1216.2—Fixed-Price Contracts.** Retained and revised. o 1216.203, Fixed-price contracts with economic price adjustment. ▪ Contains title/header with no text. o 1216.203-470, Solicitation provision. Updated prescription to new RFO FAR drafting style. • **TAR subpart 1216.4—Incentive Contracts** o 1216.402-70, Award-fee contract clauses. ▪ Updated numbering and title to align with the FAR. ▪ Updated prescriptions to align with RFO FAR drafting style. • **TAR subpart 1216.5—Indefinite-Delivery Contracts** o 1216.507-2, Fair opportunity procedures. New. ▪ Moved text from existing 1216.505, Ordering to this new designation to align with RFO FAR part 16.507-2. ▪ Revised text under paragraph (b). Removed internal procedures more appropriate to internal agency guidance. • **TAR subpart 1216.6— Time-and-Materials, Labor-Hour, and Letter Contracts** o 1216.603, Letter contracts. Retained as a title/header with no text. o 1216.603-4, Contract clauses. ▪ Revised prescription to comport with RFO FAR drafting style guidance and aligns with the new format. Updates and revises the following solicitation provisions and contract clauses to reflect new RFO FAR drafting style and updated citations for clarity: • **TAR provision 1252.216-70, Evaluation of Offers Subject to an Economic Price Adjustment Clause**. [(SEP 2026) (RFO DEVIATION)] • **TAR clause 1252.216-71, Determination of Award Fee.** [(SEP 2026) (RFO DEVIATION)] • **TAR clause 1252.216-72, Award Fee Plan.** [(SEP 2026) (RFO DEVIATION)] • **TAR clause 1252.216-73, Distribution of Award Fee.** [(SEP 2026) (RFO DEVIATION)] • **TAR clause 1252.216-74, Settlement of Letter Contract**. [(SEP 2026) (RFO DEVIATION)]

Removed	General – Text has been revised/deleted in the subpart/section below to remove non-statutory guidance.
	
	• **TAR subpart 1216.2—Fixed-Price Contracts.** Removed one section with a title/header and no text:
	  o 1216.203-4, Contract clauses.
	• **TAR subpart 1216.5—Indefinite-Delivery Contracts.** Removed one section that no longer contains the Task-order and delivery-order ombudsman requirements in the FAR as it was moved.
	  o 1216.505, Ordering. Content moved to new 1216.507-2, Fair opportunity procedures.

V. Required Actions: Contracting Officers shall follow the RFO TAR part 1216 deviation text, including the corresponding part 1252 deviation text, in lieu of TAR part 1216 and part 1252 as codified at 48 CFR, chapter 12. The RFO TAR deviation text is shown in the Attachment including any cognizant TAR part 1252 solicitation provisions or contract clauses prescribed in TAR part 1216.

Chiefs of the Contracting Offices (COCOs) must ensure this deviation is disseminated to the acquisition workforce and ensure compliance with the requirements in the CD.

For new solicitations, contracts or orders:

- Include applicable deviated provisions and clauses (marked **(SEP 2026)(RFO Deviation)**) as attached.

For open solicitations:

- 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 an awarded contract.

For existing contracts and orders:

- No action required for the clause associated with this class deviation.

VI. Applicability: This CD applies to all DOT Operating Administrations (OAs), the Office of the Secretary of Transportation (OST), and the Office of the Inspector General (OIG), excluding the Federal Aviation Administration (FAA) in accordance with RFO TAR 1201.103-70(b).

VII. Authority: This CD is issued under the authority of RFO FAR 1.304, Class deviations; TAR 1201.404, Class deviations; and the revised citation based on this CD at RFO TAR 1201.304, for the purpose of implementing policy in the TAR to comply with requirements of certain E.O.s, statutes, and other directives in DOT FAR CD No. 2026-14.

VIII. Expiration Date: This CD will remain in effect until it is incorporated into the TAR, superseded, or is otherwise rescinded, whichever occurs first.

IX. Point of Contact: Questions or comments regarding this deviation may be directed to DOTAcquisitionPolicy@dot.gov.

Attachment:

A. RFO TAR Part 1216 & Applicable Part 1252 Deviation Text – Bold/Bracketed/Line-in Line-Out (BB-LILO)

Transportation Acquisition Regulation (TAR) Class Deviation (CD) No. 2026-16

Attachment A

RFO TAR Part 1216 and 1252 Deviation Text

TAR Text Baseline is 48 CFR chapter 12 as of June 22, 2026.

Additions are shown as **[bolded and bracketed]** and deletions are shown in strikethrough ~~deletions~~. TAR Text unchanged shown as asterisks.

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Part 1216—Types of Contracts [(RFO Deviation)]

Subpart 1216.2—Fixed-Price Contracts
1216.203 Fixed-price contracts with economic price adjustment.
~~1216.203-4 Contract clauses.~~
1216.203-470 Solicitation provision.

Subpart 1216.4—Incentive Contracts
~~1216.406-70 DOT contract clauses.~~
[1216.402-70 Award-fee contract clauses.]

Subpart 1216.5—Indefinite-Delivery Contracts
~~1216.505 Ordering.~~
[1216.507-2 Fair opportunity procedures.]

Subpart 1216.6—Time-and-Materials, Labor-Hour, and Letter Contracts
1216.603 Letter contracts.
1216.603-4 Contract clauses.

~~**Subpart 1237.1 Service Contracts General**~~
~~1237.110-70 Contract clauses.~~

[Subpart 1237.8—Other Service Considerations
1237.802-70 Key personnel.
1237.802-570 Contract clauses.]

Subpart 1237.70—Procedures for Acquiring Training Services
1237.7000 Policy.
1237.7001 Certification of data.
1237.7002 Applicability.
1237.7003 Solicitation provision and contract clause.

Authority: 5 U.S.C. 301; 41 U.S.C. 1121(c)(3); **[and]** 41 U.S.C. 1702~~; and 48 CFR 1.301 through 1.304~~.

PART 1216—TYPES OF CONTRACTS [RFO DEVIATION)]

Subpart 1216.2—Fixed-Price Contracts

1216.203 Fixed-price contracts with economic price adjustment.

~~**1216.203-4 Contract clauses.**~~

1216.203-470 Solicitation provision.

~~The contracting officer shall i~~**[I]**nsert the provision at 1252.216-70, Evaluation of Offers Subject to an Economic Price Adjustment Clause, in solicitations containing an economic price adjustment clause.

Subpart 1216.4—Incentive Contracts

~~**1216.406-70**~~ **[1216.402-70]** ~~**DOT**~~**[Award-fee] contract clauses.**

(a) ~~As authorized by FAR 16.406(e), the contracting officer shall i~~**[I]**nsert the clause at 1252.216-71, Determination of Award Fee, in all cost-plus-award-fee solicitations and contracts.

(b) ~~The contracting officer shall i~~**[I]**nsert the clause at 1252.216-72, Award Fee Plan, in all cost-plus-award-fee solicitations and contracts.

(c) ~~The contracting officer shall i~~**[I]**nsert the clause at 1252.216-73, Distribution of Award Fee, in all cost-plus-award-fee solicitations and contracts.

Subpart 1216.5—Indefinite-Delivery Contracts

~~**1216.505 Ordering.**~~

~~(b)~~

[1216.507-2 Fair opportunity procedures.]

[(b)]~~(8)~~ ***Task-order and delivery-order ombudsman.*** ~~Unless otherwise designated by the Head of the Operating Administration, t~~**[T]**he Advocate for Competition for **[each]**~~the~~ Operating Administration (OA) is designated as the OA Task and Delivery Order Ombudsman. ~~If any corrective action is needed after reviewing complaints from contractors on task and delivery order contracts, the OA Ombudsman shall provide a written determination of such action to the contracting officer.~~ Issues that cannot be resolved within the OA shall be forwarded to the DOT Task and Delivery Order Ombudsman for review and

resolution. The DOT Task and Delivery Order Ombudsman is ~~located~~ in the Office of the Senior Procurement Executive.

Subpart 1216.6—Time-and-Materials, Labor-Hour, and Letter Contracts

1216.603 Letter contracts.

1216.603-4 Contract clauses.

~~The contracting officer shall i~~**[I]**nsert the clause at 1252.216-74, Settlement of Letter Contract, in all definitized letter contracts.

Part 1252 – Solicitation Provisions and Contract Clauses (RFO Deviation)

Subpart 1252.2—Text of Provisions and Clauses

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1252.216-70 Evaluation of Offers Subject to an Economic Price Adjustment Clause. **[(SEP 2026) (RFO DEVIATION)]**
1252.216-71 Determination of Award Fee. **[(SEP 2026) (RFO DEVIATION)]**
1252.216-72 Award Fee Plan. **[(SEP 2026) (RFO DEVIATION)]**
1252.216-73 Distribution of Award Fee. **[(SEP 2026) (RFO DEVIATION)]**
1252.216-74 Settlement of Letter Contract. **[(SEP 2026) (RFO DEVIATION)]**

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Subpart 1252.2—Text of Provisions and Clauses

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1252.216-70 Evaluation of Offers Subject to an Economic Price Adjustment Clause.

As prescribed in 1216.203-470, insert the following provision:

Evaluation of Offers Subject to an Economic Price Adjustment Clause (~~NOV 2022~~[SEP 2026]) [(RFO DEVIATION)]

Offers ~~shall~~ **[will]** be evaluated without an amount for an economic price adjustment being added. Offers will be rejected that—(1) increase the ceiling stipulated; (2) limit the downward adjustment; or (3) delete the economic price adjustment clause. If the offer stipulates a ceiling lower than that included in the solicitation, the lower ceiling will be incorporated into any resulting contract.

(End of provision)

1252.216-71 Determination of Award Fee.

As prescribed in ~~1216.406-70(a)~~**[1216.402-70(a)]**, insert the following clause:

Determination of Award Fee (~~NOV 2022~~[SEP 2026]) [(RFO DEVIATION)]

(a) The Government ~~shall~~**[will]** evaluate Contractor performance at the end of each specified evaluation period to determine the amount of award. The contractor agrees that the amount of award and the award fee determination methodology are unilateral decisions to be made at the sole discretion of the Government.

(b) Contractor performance ~~shall~~ **[will]** be evaluated according to the Award Fee Plan. The Contractor **shall[will]** be periodically informed of the quality of its performance and areas in which improvements are expected.

(c) The contractor ~~shall~~**[will]** be promptly advised, in writing, of the determination and reasons why the award fee was or was not earned. The Contractor may submit a performance self-evaluation for each evaluation period. The amount of award is at the sole discretion of the Government, but any self-evaluation received within___(*insert number*) days after the end of the current evaluation period will be given such consideration, as may be deemed appropriate by the Government.

(d) The amount of award fee that can be awarded in each evaluation period is limited to the amounts set forth at___(*identify location of award fee amounts*). Award fee that is not earned in an evaluation period cannot be reallocated to future evaluation periods.

(End of clause)

1252.216-72 Award Fee Plan.

As prescribed in ~~1216.406-70(b)~~**[1216.402-70(b)]**, insert the following clause:

Award Fee Plan (~~NOV 2022~~[SEP 2026])[(RFO DEVIATION)]

(a) An Award Fee Plan ~~shall~~ **[will]** be unilaterally established by the Government based on the criteria stated in the contract and used for the determination of award fee. This plan ~~shall~~ **[will]** include the criteria used to evaluate each area and the percentage of award fee, if any, available for each area. A copy of the plan ~~shall~~**[will]** be provided to the Contractor___(*insert number*) calendar days prior to the start of the first evaluation period.

(b) The criteria contained within the Award Fee Plan may relate to: (1) Technical (including schedule) requirements, if appropriate; (2) Management; and (3) Cost.

(c) The Award Fee Plan may, consistent with the contract, be revised unilaterally by the Government at any time during the period of performance. Notification of such changes ~~shall~~**[will]** be provided to the Contractor___(*insert number*) calendar days prior to the start of the evaluation period to which the change will apply.

(End of clause)

1252.216-73 Distribution of Award Fee.

As prescribed in ~~1216.406-70(c)~~**[1216.402-70(c)]**, insert the following clause:

Distribution of Award Fee (~~NOV 2022~~[SEP 2026])[(RFO DEVIATION)]

(a) The total amount of award fee available under this contract is assigned according to the following evaluation periods and amounts—

Evaluation Period:

Available Award Fee:

[*Contracting Officer insert appropriate information*]

(b) After the Contractor has been paid 85 percent of the base fee and potential award fee, the Government may withhold further payment of the base fee and award fee until a reserve is set aside in an amount that the Government considers necessary to protect its interest. This reserve shall not exceed 15 percent of the total base fee and potential award fee or $150,000, whichever is less. Thereafter, base fee and award fee payments may continue.

(c) In the event of contract termination, either in whole or in part, the amount of award fee available ~~shall~~ **[will]** represent a pro-rata distribution associated with evaluation period activities or events as determined by the Government.

(d) The Government will promptly make payment of any award fee upon the submission by the Contractor to the Contracting Officer's Representative, of a public voucher or invoice in the amount of the total fee earned for the period evaluated. Payment may be made without using a contract modification.

(End of clause)

1252.216-74 Settlement of Letter Contract.

As prescribed in 1216.603-4, insert the following clause:

Settlement of Letter Contract (~~NOV 2022~~[SEP 2026])[(RFO DEVIATION)]

(a) This contract constitutes the definitive contract contemplated by issuance of letter contract___[*insert number*] dated___[*insert effective date*]. It supersedes the letter contract and its modification number(s)___[*insert number(s)*] and, to the extent of any inconsistencies, governs.

(b) The cost(s) and fee(s), or price(s), established in this definitive contract represents full and complete settlement of letter contract___[*insert number*] and modification number(s)___[*insert*

number(s)]. Payment of the agreed upon fee or profit withheld pending definitization of the letter contract may commence immediately at the rate and times stated within this contract.

(End of clause)