



**U.S. Department
of Transportation**

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

Office of the Secretary
of Transportation

SUBJECT: Class Deviation No. 2025-25 from the Federal Acquisition Regulation for FAR Part 33 in Support of Executive Order 14275 on Restoring Common Sense to Federal Procurement

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TO: Department of Transportation Chiefs of the Contracting Offices

- I. Purpose:** This class deviation (CD) is issued under Federal Acquisition Regulation (FAR) part 1 and Transportation Acquisition Regulation (TAR) part 1201 and authorizes a class deviation to FAR part 33 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR part 33.
- II. Effective Date:** Immediately.
- III. Background:** On April 15, 2025, [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 - Remove duplicative or outdated language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 33, Protests, Disputes, and Appeals, has been updated to reflect administration priorities to reduce protests and resolve protests at the lowest level possible. The update represents a significant and deliberate modernization of a critical component of the federal procurement system and is aimed at increasing efficiency, clarity, and fairness in federal acquisitions.

Statutory requirements and presidential directives retained in the RFO FAR part 33 model deviation include, but may not be limited to, the following:

- 5 U.S.C. §§ 571 et seq, Administrative Dispute Resolution Act (ADRA)
- 31 U.S.C. § 1558, Availability of Funds Following Resolution
- 31 U.S.C. §§ 3551 et seq, Procurement Protest System
- 41 U.S.C. §§ 7101 et seq, Contract Disputes
- E.O. 12979, Agency Procurement Protests

The following table is not an exhaustive list but includes notable updates to FAR part 33.

Change	Description
Added	<ul style="list-style-type: none"> • New purpose statement at 33.100, “Purpose of the Bid Protest System”. The new purpose statement sets forth the objectives of the bid protest process (e.g., promote integrity in the process, deter abuse of the bid protest process), and emphasizes that it is not intended to serve as a way for offerors to get additional insight or be used by incumbents to delay contract transition. • Processes within the types of protests are broken down into pre-award and post-award actions for ease of the reader. • New requirements applicable to “Protests to the Agency”. <ul style="list-style-type: none"> ○ 33.104-4(a)(4)(ii) - Contracting officers are required to report protests to the head of contracting activity (HCAs) as soon as practicable after filing. ○ 33.104-4(a)(5)(ii) - Protesters electing independent review at a level above the CO must be provided a redacted copy of the source selection decision and be provided an opportunity to submit a supplemental statement to the independent review official. ○ These new requirements are expected to increase confidence in the agency protest process, capture more data at the agency level on protests filed with contracting officers, allow for agency management to respond to procurement issues raised in protests, and resolve more protests at the agency level since protesters will have more information available to them.
Retained	<ul style="list-style-type: none"> • Most of the “Definitions” now at section 33.102 are retained with only minor, non-substantive wording changes. Only the definition of “Protest venue” was removed, as it is unnecessary considering other changes within the part. • “Protests to the Agency”, now at section 33.104 is retained, with key changes:

	<ul style="list-style-type: none"> ○ The section is completely reorganized into four distinct subsections for improved clarity and usability. ○ The distinct subsections logically separate the rules for pre-award and post-award protests, which were previously intermingled in paragraphs (e) and (f) of section 33.103. ○ The section retains the requirement for parties to attempt resolution through "open and frank discussions" before filing a formal protest. ● "Protests to GAO", now at 33.105, is retained and significantly streamlined. The previous content on protests to GAO was a lengthy, detailed section that essentially summarized many of the procedural rules found in GAO's own regulations. This section now removes this duplication and points contracting officers to the GAO procedures 4 CFR Part 21, "Bid Protest Regulations", instead of repeating them in the FAR. ● Numerous procedural sections have been consolidated into a single, overarching section titled "Postaward" at 33.205. Separate sections on initiation of a claim (former 33.206), contractor certification (former 33.207), interest on claims (former 33.208), the contracting officer's decision (former 33.211), and Alternative Dispute Resolution (former 33.214), among others, are now reorganized as subsections under 33.205, creating a more intuitive, step-by-step guide to the post-award claims process. ● All clauses and provisions for this part are retained, with plain language and streamlining updates. <ul style="list-style-type: none"> ○ 52.233-1 Disputes, revised to now describe what a defective certification means. ○ 52.233-2 Service of Protest, revised to require protests to be shared with the contracting office within one day of filing with the GAO. ○ 52.233-3 Protest After Award, revised to describe steps for protests post award, such as stop work orders. ○ 52.233-4 Applicable Law for Breach of Contract Claim, remains the same that U.S. law will be applied to address breach.
Removed	<ul style="list-style-type: none"> ● Section 33.212, "Contracting Officer's Duties Upon Appeal", is removed. The section created a general obligation for the contracting officer to provide data, documentation, information, and support to the agency Boards of Contract Appeals (BCA) upon appeal. The contracting officer's requirements are dictated by the procedural rules of the adjudicative body and do not need to be stated in the FAR.

- IV. Required Actions:** 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) per TAR 1201.104(d) shall follow the [RFO part 33 model deviation text](#) instead of FAR part 33 as codified at 48 CFR chapter 1. The Council's RFO part 33 model deviation text is available at [Acquisition.gov/far-overhaul](#) and is incorporated by reference into this CD. A line-out version of the changes may also be found [here](#) for reference.

Heads of the Contracting Activities (HCAs) must ensure this deviation is disseminated to the acquisition workforce and ensure compliance with the requirements in the revised FAR part 33 guidance.

- V. Applicability:** This CD applies to all DOT OAs, OST, and OIG, excluding the FAA in accordance with TAR 1201.104(d).
- VI. Expiration Date:** This CD will remain in effect until it is incorporated into the FAR or is otherwise rescinded, whichever occurs first.
- VII. Point of Contact:** Questions or comments regarding this deviation may be directed to DOTAcquisitionPolicy@dot.gov.