



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF FINANCE AND OPERATIONS

September 18, 2025

ACQUISITION ALERT 2025-29

TO: Heads of Contracting Activities

CALVIN

FROM: Calvin J. Mitchell Jr. MITCHELL

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Senior Procurement Executive

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Date: 2025.09.18 11:45:02 -04'00'

SUBJECT: FAR Class Deviation for FAR Part 33

- 1. Purpose.** This Acquisition Alert (AA) adopts a class deviation to Federal Acquisition Regulation (FAR) Part 33 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR Part 33.
- 2. Background.** On April 15, 2025, the 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." On May 31, 2025, the enclosed class deviation was issued for the use of all Revolutionary FAR Overhaul (RFO) model deviation texts and corresponding EDAR deviations.
- 3. Summary of Changes.** 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

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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

	<p>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 at 4 CFR Part 21, "Bid Protest Regulations", instead of repeating them in the FAR.</p> <ul style="list-style-type: none"> • 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.

This table is not an exhaustive list.

4. Instructions.

- The Department of Education's acquisition workforce shall follow the RFO Part 33 and corresponding 52 model deviation text instead of FAR Part 33 and 52 as codified at 48 CFR Chapter 1. The Council's RFO Part 33 model deviation text is available at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far->

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[overhaul-part-33](#) and is incorporated into this class deviation. A separate Acquisition Alert will be issued for any corresponding changes to the EDAR.

- For new solicitations or contracts, when using any provisions or clauses that have been revised, utilize the RFO model deviation language at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-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.
 - Review templates and related standard operating procedures to align with this deviation and remove unnecessary processes and steps.
5. **Training.** Acquisition Professionals are highly encouraged to complete “Practitioner Album: FAR Part 33 - Protests, Disputes, and Appeals” at https://www.acquisition.gov/sites/default/files/practitioner_albums/far-part-33-protests-disputes-and-appeals/content/index.html#/ within 30 days. Please complete the Practitioner Album and mark “yes” under the completion attestation within FAI CSOD.
6. **Effective Date.** This class deviation to FAR Part 33 is effective November 3, 2025 and remains in effect until rescinded or incorporated into the FAR.
7. **Points of Contact.** Direct questions regarding this class deviation to your respective policy points of contact.
8. **Enclosure.** Determination and Findings - Class Deviation for the Revolutionary FAR Overhaul

DETERMINATION AND FINDINGS
Department of Education, All Contracting Activities
Class Deviation for the Revolutionary FAR Overhaul

This approves a class deviation to all Federal Acquisition Regulation (FAR) and Department of Education Acquisition Regulation (EDAR) parts for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text.

Findings

On April 15, 2025, the 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.

In explaining the Federal Acquisition System, the RFO FAR Part deviation text establishes bedrock principles. Most centrally, it sets a "mission first" message at the top of the guiding principles. The RFO model deviation also increases the emphasis on the best use of taxpayer dollars and calls out the value of time as another guiding principle. Additionally, it retains a focus on satisfying the customer, maximizing use of commercial products and services, promoting competition, and encouraging innovation.

The FAR Council Deviation guidance allows for agencies to deviate agency acquisition regulation supplements as it relates to the RFO.

Determination

In accordance with FAR 1.404 and EDAR 3401.404, I hereby issue a class deviation for the use of all RFO model deviation texts and corresponding EDAR deviations. The adoption date for each RFO part model deviation text will be the date of the corresponding Acquisition Alert. EDAR deviation texts may be issued in a separate Acquisition Alert. All Department of Education contracting activities must follow the RFO model deviation texts instead of the FAR Parts codified at 48 CFR. Should the language of the RFO FAR contradict any statutorily granted procurement authorities to the Department of Education including the Office of Federal Student Aid, the statutorily granted authorities prevail.

In the unlikely event that the Department wishes to vary from a RFO model deviation text, a separate deviation will be issued. This class deviation will remain in effect until incorporated into the FAR, EDAR or rescinded.

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Richard Lucas

Acting Chief Acquisition Officer (CAO)

Date