



Pension Benefit Guaranty Corporation  
445 12th St, SW, Washington, DC 20024

Class Deviation PBGC-2026-0049

## MEMORANDUM FOR PBGC ACQUISITION WORKFORCE

**Date:** February 23, 2026  
**From:** Damon Q. McClure, Senior Procurement Executive  
**Subject:** FAR Class Deviation for FAR Part 33 in Support of Executive Order on Restoring Common Sense to Federal Procurement

**1. Purpose:** This class deviation is issued in accordance with FAR 1.304 and pursuant to the Office of Federal Procurement Policy memorandum entitled, “Deviation Guidance to Support the Overhaul of the Federal Acquisition Regulation,” to provide contracting officers with revised FAR Part 33 language and implement the FAR Council’s model deviation to FAR Part 33.

**2. 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- Remove duplicative or outdated language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 the 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.

**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

Change	Description
<p><b>Added</b></p>	<ul style="list-style-type: none"> <li>• New <b>purpose statement</b> at 33.100, “Purpose of the Bid Protest System”. The new purpose statement sets forth the <b>objectives</b> of the bid protest process (e.g., promote integrity in the process, deter abuse of the bid protest process), and emphasizes that it <b>is not intended</b> to serve as a way for offerors to get additional insight or be used by incumbents to delay contract transition.</li> <li>• <b>Processes</b> within the types of protests are broken down into <b>pre-award and post-award actions</b> for ease of the reader.</li> <li>• New requirements applicable to “<b>Protests to the Agency</b>”. <ul style="list-style-type: none"> <li>○ 33.104-4(a)(4)(ii) - Contracting <b>officers are required to report protests to the head of contracting activity (HCAs)</b> as soon as practicable after filing.</li> <li>○ 33.104-4(a)(5)(ii) - Protesters electing independent review at a level above the CO <b>must be provided</b> a redacted copy of the source selection decision, and be provided an opportunity to submit a supplemental statement to the independent review official.</li> <li>○ These new requirements are expected to <b>increase confidence in the agency protest process</b>, 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.</li> </ul> </li> </ul>
<p><b>Retained</b></p>	<ul style="list-style-type: none"> <li>• Most of the “<b>Definitions</b>” 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.</li> <li>• “<b>Protests to the Agency</b>”, now at section 33.104 is retained, with key changes: <ul style="list-style-type: none"> <li>○ The section is completely reorganized into four distinct subsections for improved clarity and usability.</li> <li>○ 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.</li> <li>○ The section retains the requirement for parties to attempt resolution through “<b>open and frank discussions</b>” before filing a formal protest.</li> </ul> </li> <li>• “<b>Protests to GAO</b>”, 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 at 4 CFR Part 21, “Bid Protest Regulations”, instead of repeating them in the FAR.</li> <li>• Numerous procedural sections have been consolidated into a single, <b>overarching section titled “Postaward”</b> 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</li> </ul>

	<p>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.</p> <ul style="list-style-type: none"> <li>• All <b>clauses and provisions</b> for this part are retained, with plain language and streamlining updates. <ul style="list-style-type: none"> <li>○ 52.233-1 Disputes, revised to now describe what a defective certification means.</li> <li>○ 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.</li> <li>○ 52.233-3 Protest After Award, revised to describe steps for protests post award, such as stop work orders.</li> <li>○ 52.233-4 Applicable Law for Breach of Contract Claim, remains the same that U.S. law will be applied to address breach.</li> </ul> </li> </ul>
<b>Removed</b>	<ul style="list-style-type: none"> <li>• Section 33.212, “<b>Contracting Officer's Duties Upon Appeal</b>”, 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.</li> </ul>

This table is not an exhaustive list

#### 4. Instructions:

- The PBGC acquisition workforce 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](https://www.acquisition.gov/far-overhaul) and is incorporated into this class deviation.
- For new solicitations or contracts, when using any provisions or clauses that have been revised, utilize 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 of 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.
- Contracting activities must review templates and related standard operating procedures to align with this class deviation and remove unnecessary processes and steps.

**5. Applicability:** This deviation applies to all Pension Benefit Guaranty Corporation solicitations and new contracts.

**6. Authority:** This class deviation is issued under the authority of Executive Order (E.O.) 14275, [OMB M-25-26](#), 48 CFR Subpart 1.4, and FAR RFO 1.304.

**7. Effective Date:** This class deviation remains in effect until the changes described herein are incorporated in the FAR, superseded, or otherwise rescinded.

**8. Point of Contact:** Questions or comments on this class deviation may be sent to Jeff Gangi at [gangi.jeffrey@pbgc.gov](mailto:gangi.jeffrey@pbgc.gov).