

PART 1233 - PROTESTS, DISPUTES, AND APPEALS

Authority: 5 U.S.C. 301; 41 U.S.C. 418b; (FAR) 48 CFR 1.3.

Source: 70 FR 6507, Feb. 7, 2005, unless otherwise noted.

Subpart 1233.1 - Protests

1233.103 Protests to the agency.

1233.104 Protests to GAO.

Subpart 1233.2 - Disputes and Appeals

1233.211 Contracting officer's decision.

1233.214 Alternative dispute resolution (ADR).

Parent topic: SUBCHAPTER E - GENERAL CONTRACTING REQUIREMENTS

Subpart 1233.1 - Protests

1233.103 Protests to the agency.

(c) DOT Operating Administrations (OAs) shall consider the use of Alternate Dispute Resolution (ADR) in all agency protest actions.

1233.104 Protests to GAO.

The protest process at the Government Accountability Office (GAO) may include ADR assistance by GAO. The contracting officer shall, with advice of counsel, explore the possibility of using ADR for all GAO protests.

Subpart 1233.2 - Disputes and Appeals

1233.211 Contracting officer's decision.

For DOT contracts, the Board of Contract Appeals (BCA) referenced at (FAR) 48 CFR 33.211 is the Department of Transportation Board of Contract Appeals (S-20), 400 7th Street, SW., Washington, DC 20590. The DOTBCA Rules of Procedure are contained in 48 CFR chapter 63, part 6301.

1233.214 Alternative dispute resolution (ADR).

(c) The Administrative Dispute Resolution Act (ADRA) of 1990, Public Law 101-552, as reauthorized by the Administrative Dispute Resolution Act (ADRA) of 1996, Public Law 104-320, authorizes and encourages agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, either before or after appeal, and for other purposes. ADR procedures may be used when:

(1) There is mutual consent by the parties to participate in the ADR process (with consent being obtained either before or after an issue in controversy has arisen);

(2) Prior to the submission of a claim; and

(3) In resolution of a formal claim. Use of ADR shall be coordinated with counsel. For all matters filed with the DOTBCA, the DOTBCA Alternate Dispute Resolution (ADR) procedures contained in 48 CFR Chapter 63, Section 6302.30, ADR Methods (Rule 30), will be distributed to the parties, if ADR procedures are used.

(d) Pursuant to the ADRA, DOT has appointed a Dispute Resolution Specialist, who is responsible for the operations of the Center for Alternative Dispute Resolution, (C-4). The Center may provide an internal DOT neutral agreeable to the parties to conduct any of the alternative means of dispute resolution set forth in the ADRA, 5 U.S.C. 571(3) on a non-reimbursable basis for DOT operating administrations and their contracting partners. Alternative means of dispute resolution include settlement negotiations, conciliation, facilitation, mediation, fact finding, mini-trials, and arbitration, or any combination of these methods. The Center may also arrange for an external public or private neutral at the parties' expense.