



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE ASSISTANT SECRETARY OF WAR
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2026-O0026

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Class Deviation—Revolutionary Federal Acquisition Regulation (FAR) Overhaul
Part 33, Defense FAR Supplement (DFARS) Part 233

Effective February 1, 2026, contracting officers shall use—

- The revised FAR Part 33, Protests, Disputes, and Appeals published on the Revolutionary FAR Overhaul web page at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-33> in lieu of the text codified at 48 CFR chapter 1 (<https://www.ecfr.gov>).
- The attached DFARS Part 233, Protests, Disputes, and Appeals in lieu of the text codified at 48 CFR chapter 2; and
- The attached DFARS Procedures, Guidance, and Information (PGI) 233, Protests, Disputes, and Appeals in lieu of the PGI text published on the Defense Pricing, Contracting, and Acquisition Policy web page at <https://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>.

This class deviation implements the following:

- Section 2 of E.O. 14275, Restoring Common Sense to Federal Procurement, which 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.

- Section 4(a) of E.O. 14265, Modernizing Defense Acquisitions and Spurring Innovation in the Defense Industrial Base which requires the Secretary of War to eliminate or revise any unnecessary supplemental regulations or any other internal guidance, such as relevant parts of the Financial Management Regulation and Defense Federal Acquisition Regulation Supplement.
- The Office of Management and Budget memorandum, M-25-26 issued on May 2, 2025, titled, Overhauling the Federal Acquisition Regulation, which provided additional guidance to federal agencies regarding the FAR overhaul.

This class deviation remains in effect until rescinded or incorporated into the FAR, DFARS, and DFARS PGI. Inquiries regarding this class deviation can be addressed to osd.pentagon.ousd-a-s.mbx.dfars@mail.mil.

John M. Tenaglia
Principal Director,
Defense Pricing, Contracting, and
Acquisition Policy

Attachments:
As stated

PART 233—PROTESTS, DISPUTES, AND APPEALS

SUBPART 233.1—PROTESTS

233.170 Limited information disclosure.

If the Government limits information disclosure under the authority provided at 240.271-6(d), actions taken by the Government under such authority are prohibited from challenge in a bid protest before the Government Accountability Office (GAO) or in any Federal court.

233.105 Protests to GAO.

233.105-370 Postaward.

Except as provided in FAR 33.105-3(b)(2) and (c), contracting officers must immediately suspend performance or terminate the award using the time periods in paragraphs (a) through (d) of this section, whichever is later, in lieu of the time periods in FAR 33.105-3(b)(1) if the agency receives notice of a protest from the GAO.

(a) Ten days after the date of contract award.

(b) Ten days after the date a task order or delivery order is issued, where the value exceeds \$25 million (10 U.S.C. 3406(f)).

(c) Five days after a debriefing date offered to the protestor under a timely debriefing request in accordance with FAR 15.301 regardless of whether the protestor rejected the offered debriefing date, unless an earlier debriefing date is negotiated as a result.

(d) Five days after a postaward debriefing under FAR 15.301 is concluded in accordance with 215.301-2.

233.170 Protested acquisitions valued at \$1 billion or more.

Follow the procedures at PGI 233.170 for protested acquisitions valued at \$1 billion or more.

233.171 Reporting requirement for protests of solicitations or awards.

Follow the procedures at PGI 233.171 for reporting information on protests involving the same contract award or proposed award that have been filed at both the GAO and the U.S. Court of Federal Claims.

SUBPART 233.2—DISPUTES AND APPEALS

233.205 Postaward

233.205-70 Limitations on payment.

See 10 U.S.C. 3862 for limitations on Congressionally directed payment of a claim under 41 U.S.C. chapter 71 (Contract Disputes), a request for equitable adjustment to contract terms, or a request for relief under Public Law 85-804.

233.205-5 Contracting officer's authority.

See PGI 233.205-5 for guidance on reviewing a contractor's claim.

233.205-70 Disputes clause.

Use Alternate I of the clause at FAR 52.233-1, Disputes, when—

(a) The acquisition is for—

- (1) Aircraft;
- (2) Spacecraft and launch vehicles;
- (3) Naval vessels;
- (4) Missile systems;
- (5) Tracked combat vehicles; or
- (6) Related electronic systems; or

(b) The contracting officer determines that continued performance is—

- (1) Vital to the national security, or
- (2) Vital to the public health and welfare; or

(c) The head of the contracting activity determines that continued performance is necessary pending resolution of any claim that might arise under or be related to the contract.

233.205-71 Additional contract clause.

Insert the clause at 252.233-7001, Choice of Law (Overseas), in solicitations and contracts when contract performance will be outside the United States and its outlying areas, unless otherwise provided for in a government-to-government agreement.

PART 252— SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBPART 252.2—TEXT OF PROVISIONS AND CLAUSES

252.233-7001 Choice of Law (Overseas).

As prescribed in 233.205-71, use the following clause:

CHOICE OF LAW (OVERSEAS) (JUN 1997)

This contract shall be construed and interpreted in accordance with the substantive laws of the United States of America. By the execution of this contract, the Contractor expressly agrees to waive any rights to invoke the jurisdiction of local national courts where this contract is performed and agrees to accept the exclusive jurisdiction of the United States Armed Services Board of Contract Appeals and the United States Court

Attachment A1
DARS Tracking Number: 2026-00026
Revolutionary Federal Acquisition Regulation (FAR) Overhaul Part 33
Defense FAR Supplement (DFARS) Part 233

of Federal Claims for the hearing and determination of any and all disputes that may arise under the Disputes clause of this contract.

(End of clause)

PGI 233.1—PROTESTS

PGI 233.170 Protested acquisitions valued at \$1 billion or more.

If a protest is filed against a competitively awarded Major Defense Acquisition Program or an acquisition of services valued at \$1 billion or more, the agency involved will brief the Principal Director, Defense Pricing, Contracting, and Acquisition Policy, within 10 days of the filing. The briefing must outline—

- (a) The basis of the protest;
- (b) The agency's position; and
- (c) Any other information the agency deems relevant to the protest.

PGI 233.171 Reporting requirement for protests of solicitations or awards.

(a) The Protest Tracker on the Procurement Integrated Enterprise Environment (PIEE) (accessible at <https://piee.eb.mil/>) is the bid protest data repository required by Section 822(c) of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232).

(b) When protests involving the same contract or proposed award, valued at any amount, have been filed at both the Government Accountability Office and the U.S. Court of Federal Claims (COFC), the contracting officer will report the protest information required in the Protest Tracker no later than 10 days after the outcome of the protest at the COFC.

(c) Instructions for reporting protest information in the Protest Tracker are available on the PIEE webpage.

PGI 233.2—DISPUTES AND APPEALS

PGI 233.205-5 Contracting officer's authority.

When reviewing a claim, the contracting officer should obtain information on the contractor's previous claims. This history can reveal claim patterns and accuracy, and settlement outcomes. Potential sources of information include legal counsel, other contracting activities, and the Defense Contract Audit Agency.