

09/14/12

POLICY ALERT
No. 12-57
Bid Protest and Appeal Authorities

REFERENCES: Federal Register: September 13, 2012 (Volume 77, Number 178), Federal Acquisition Circular 2005-61 dated September 13, 2012, Item IV - Bid Protest and Appeal Authorities ([FAR Case 2012-008](#))

TYPE OF ACTION: Final Rule

EFFECTIVE DATE: September 13 2012

SUMMARY: This final rule amends Federal Acquisition Regulation (FAR) to note that there are other Federal-court related protest authorities and dispute-appeal authorities that are not covered by FAR Part 33 (e.g., 28 United States Code 1491 for Court of Federal Claims jurisdiction). It advises Contracting Officers (COs) to contact their legal counsel when they become aware of any litigation related to their contracts. In addition, the FAR is changed as follows:

“Protest venue” means protests filed with the agency, the Government Accountability Office (GAO), or the U.S. Court of Federal Claims. U.S. District Courts do not have any bid protest jurisdiction.

Without regard to the protest venue, COs shall consider all protests and seek legal advice, whether protests are submitted before or after award and whether filed directly with the agency, the GAO, or the U.S. Court of Federal Claims.

Procedures for protests at the U.S. Court of Federal Claims are set forth in the rules of the U.S. Court of Federal Claims. These rules may be found at <http://www.uscfc.uscourts.gov/rules-and-forms>.

ACTION REQUIRED: No immediate action is required. COs should be aware of these changes

This Policy Alert is effective on the date indicated above, and remains in effect until revised or otherwise rescinded.

You may direct comments/questions on this Policy Alert to the Contract Policy and Pricing Branch at 303-676-3985.