DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

JAN 9 2012

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Change 08-10 to the Navy Marine Corps Acquisition Regulation Supplement (NMCARS)

The attached document provides changes to Subpart 5201.6, Career Development, Contracting Authority, and Responsibilities, which are incorporated in the April 2008 edition of NMCARS. These changes are effective immediately.

Change 08-10 institutionalizes assigned contracting responsibilities and unique procurement authorities of all designated contracting activities for the Department of the Navy (DON). It establishes the minimum requirements contracting activities must consider before delegating contracting authority or issuing contracting officer warrants, and includes specific guidance on termination of warrants. There is sufficient flexibility in these policies and procedures to allow the Heads of Contracting Activities to establish collaborative agreements between DON contracting activities to ensure efficient execution of assigned contracting missions.

The online version of NMCARS is expected to reflect these changes by mid-January. The point of contact for NMCARS is Evelyn Ortiz at telephone (703) 614-9640 or email evelyn.ortiz@navy.mil.

A. H. Coetzee
RDML, SC, USN
Executive Director
DASN(AP)

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NMCARS Change 08-10

Incorporate the following changes into the April 2008 NMCARS:

1. Under SUBPART 5201.6—CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES, effect the following revisions:

a. Section 5201.601 General, subsection 5201.601-90 Department of the Navy authorities and responsibilities is revised in its entirety to set forth the general responsibilities of HCAs for effective management and oversight of delegated contracting authority and to identify contracting authorities, responsibilities and, where applicable, limitations for assigned acquisition programs of all designated Department of the Navy (DON) contracting activities, as follows:

SUBPART 5201.6—CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES

5201.601 General.

5201.601-90 Department of the Navy contracting authorities and responsibilities.

(a) *General.* HCAs are responsible for establishing adequate and effective internal controls to carefully manage and closely oversee the execution of delegated contracting authority for assigned contracting mission functions. This includes proactively working with requirements and program personnel during acquisition planning to facilitate the timely submission of requirements to the appropriate contracting activity for contract action in a manner which promotes and permits maximum competition. In conjunction with executing assigned contracting missions, there are certain types of procurements for which authority resides solely with the HCA as described in paragraph (b) below, unless authority is delegated in writing to another HCA to execute those procurements. At a minimum, HCAs shall address the following requirements in the contracting activity's procedures for delegation of contracting authority and issuance of contracting officer warrants:

(1) Identify all organizations to which contracting authority has been delegated and specify any limitations on their contracting authority.

(2) Specify who (by position/title/office) in the contracting chain of command may delegate contracting authority to qualified individuals within the contracting activity's cognizance and specify authority delegation limits.

(3) Document the rationale supporting a delegation of the HCA's contracting authority in excess of the micro-purchase threshold to a non-HCA cognizant organization, or the issuance of a contracting officer warrant to an individual that is not within the HCA cognizance, as being necessary for the efficient and proper administration of the HCA's contracting operations. Delegation of contracting authority applies only to Department of the Navy (DON) activities, and the issuance of contracting officer warrants applies only to personnel working under the authority of the DON/DOD.

(i) Activities should notify DASN(AP) 30 days, or as early as practicable, before granting a delegation of contracting authority or issuing a contracting officer warrant to a non-HCA cognizant organization or individual.

(ii) Except where a DON activity is designated HCA for a joint-contracting operation, if there is a need to issue a warrant to a non-DON employee, an HCA must submit a waiver request to DASN(AP) for approval, provided the individual is a civilian or military member of the DOD and meets applicable requirements commensurate to the proposed warrant level per 10 U.S.C.§1724.

(iii) Activities shall use the templates in Annex 11, Delegation of Contracting Authority--Organization not within HCA Cognizance and Annex 12, Delegation of Contracting Authority—DON/DOD Employee not within HCA Cognizance, as applicable, to provide the required advance notification or submit the required waiver for DASN(AP) approval.

(4) Ensure contracting authority delegations are made, in writing, only to qualified DON organizations and DON employees (or DOD employees in a joint-contracting operation). Delegations to individuals shall be commensurate with the training and experience-level of the employees receiving the authority and in accordance with the requirements in DFARS 201.603. Delegations to DON organizations must also consider the anticipated workload and available resources to ensure effective execution and management of the delegated authority.

(5) Manage and oversee contracting authority delegations to ensure the delegated contracting authority is being executed and administered in accordance with the delegation of authority and contracting regulations, rules, and procedures.

(b) *HCA unique contracting authorities, responsibilities, and limitations.* Each HCA is solely responsible for executing its delegated contracting authority for assigned acquisition programs and cognizant areas of responsibilities subject to any established limitation. An HCA has authority to procure supplies and services to support all organic requirements, such as those set forth in SECNAVINST 5400.15, unless such procurements fall within the scope of unique contracting responsibilities assigned to another HCA. An HCA may not award or administer a contract (including a task order/delivery order) for an acquisition program or contracting area of responsibility assigned to another HCA, unless the cognizant HCA grants a delegation of authority in accordance with subparagraph (a)(3) of this section. The assigned responsibilities of the DON contracting activities are as follows:

(1) *Deputy Assistant Secretary of the Navy (Acquisition and Procurement)(DASN(AP))* is responsible for providing advice and staff support to ASN(RD&A), who serves as the Navy Acquisition Executive and Senior Procurement Executive. DASN(AP) exercises plenary contracting authority on behalf of the Department. DASN(AP) has the following overarching responsibilities:

(i) Develop overarching policies and procedures for the acquisition of Navy and Marine Corps weapon systems, supplies, services, construction, research and development, and other mission requirements in accordance with law and regulation.

(ii) Manage and oversee the performance of the DON contracting/procurement system.

(iii) Facilitate and improve the DON acquisition system through innovative processes, tools and best practices.

(iv) Serve as the DON Competition Advocate General.

(v) Appoint Navy Contract Adjustment Board members and conduct Contract Adjustment Board proceedings under Public Law 85-804.

(2) *Installations and Logistics, Headquarters, U.S. Marine Corps (HQMC, I&L)* is responsible for the award and administration of contracts for supplies and services to support installation and logistics requirements of the Marine Corps Operating Forces and supporting establishments.

(3) *Marine Corps Systems Command (MARCORSYSCOM)* is responsible for awarding and administering contracts for assigned Marine Corps programs, assigned IT systems programs or components, and relevant professional, research and engineering services, except for naval aviation programs.

(4) *Military Sealift Command (MSC)* is responsible for awarding and administering contracts for services of ocean-going ships, craft, floating dry docks, and other repair facilities, for purposes such as oceanographic research and survey, underwater research, cable laying, and range instrumentation; and contracts for the maintenance, conversion, and modernization of assigned vessels. MSC's unique contracting responsibilities include contracts for services of ferries and tugs, but exclude contracts for (i) pilot services; and (ii) ferries and tugs used for husbanding services, including water taxi contracts awarded outside the continental United States under husbanding services contracts. MSC transportation responsibilities are identified in the Defense Transportation Regulation.

(5) *Naval Air Systems Command (NAVAIRSYSCOM)* is responsible for awarding and administering contracts for naval aviation programs and efforts supported by the Naval Air Warfare Centers, to include relevant logistics, training and professional, research and engineering services. In addition, NAVAIRSYSCOM unique contracting responsibilities include designing, developing, procuring, and supporting naval aviation systems used by the Navy and Marine Corps.

(6) *Naval Facilities Engineering Command (NAVFACENGCOM)* is responsible for awarding and administering contracts for all architect-engineer, construction, utilities, energy, facilities support, and assigned weapon and IT system programs or components associated with Navy expeditionary forces.

(i) NAVFACENGCOM's unique contracting responsibilities include:

(A) Facility engineering and construction, including capital improvements;

(B) Utilities, including sales and privatization;

(C) Shore Energy, including renewable, conservation, Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs), and sales;

(D) Environmental remediation, cultural resources (on DoD installations only), historical research, natural resources conservation studies (on and off DoD installations), execution of the Defense Environmental Restoration Program (DERP),

delegated caretaker functions at military installations to be closed under the Defense Base Closure and Realignment Act of 1990, and any amendments thereto;

(E) Public works, including maintenance of buildings, grounds, roads and other infrastructure;

(F) Guard services;

(G) Anti-Terrorism Force Protection (ATFP) infrastructure (ashore);

(H) Contingency engineering, expeditionary and construction training systems and equipment;

(I) Logistics-over-the-shore, near shore, and ocean facilities infrastructure systems;

(J) Navy expeditionary equipment, infrastructure, and IT related systems;

(K) Procurement and lease (over 120 days) of Navy (excludes USMC) civil engineer support equipment, including railway, construction and weight-handling equipment;

(L) Procurement and maintenance of automotive vehicles used by DON; and

(M) Lease (over 60 days) of automotive vehicles used by DON.

In addition, NAVFACENGCOM is responsible for contract administration functions associated with construction work under contracts awarded by other DON contracting activities that contain any construction work.

(ii) Procedures.

(A) If an HCA other than NAVFACENGCOM intends to award a contract, and the contract scope contains any element of construction work, contracting officers shall consult with NAVFACENGCOM, as early as practicable in the acquisition planning process, to ensure HCA solicitations and contracts containing any construction work are properly structured, and the construction work under the contract is administered, in accordance with Davis-Bacon Act (DBA) requirements and DON policy.

(B) NAVFACENGCOM will determine whether the extent of construction activities to be performed under an HCA contract triggers the application of FAR Subpart 22.4, Labor Standards for Contracts Involving Construction. If the labor standards apply, NAVFACENGCOM will determine whether to delegate contracting and/or contract administration authority.

(C) The Commander, NAVFACENGCOM may delegate to a contracting officer from another contracting activity one-time authority to perform construction contract administration functions under an HCA contract for supplies, equipment, services, or research and development that contains any construction work. The delegation of authority is contingent on the contracting officer's written request for authority demonstrating that the contracting activity has assigned contracting and technical/program personnel properly trained in construction contract administration and DBA requirements for the proposed contract action.

(7) *Naval Sea Systems Command (NAVSEASYSCOM)* is responsible for awarding and administering contracts for ships and submarines, assigned weapon systems and platforms, and relevant professional, research and engineering services. NAVSEASYSCOM unique contracting responsibilities include awarding and

administering contracts for construction, maintenance and modernization of ships and submarines, nuclear propulsion, water craft, submersibles, equipage for towing, diving and salvage, and University Affiliated Research Centers.

(8) *Naval Supply Systems Command (NAVSUPSYSCOM)* is responsible for awarding and administering contracts in support of assigned logistics support functions. NAVSUPSYSCOM's unique contracting responsibilities include procuring supplies and services for all non-contracting Navy activities, offices or commands for which no other HCA is delegated authority. NAVSUPSYSCOM is the DON Executive Agent for the policy areas identified in paragraphs (i) through (iv) below. NAVSUPSYSCOM shall coordinate with DASN(AP) before issuing overarching policy in any of these areas:

(i) AbilityOne (Javits-Wagner-O'Day Act) acquisitions as defined in FAR Part 8.

(ii) Contract Reporting.

(iii) Government purchase card program.

(iv) Simplified acquisition procedures as defined in FAR Part 13, except that NAVFACENGCOM may promulgate other procedures for construction, architect-engineer services, and facilities support service contracts.

(9) *Office of Naval Research (ONR)* is responsible for awarding and administering contracts and other instruments for assigned DON Science and Technology (S&T) research. ONR unique contracting responsibilities include the award and administration of contracts to the Navy's Federally Funded Research Development Center (FFRDC).

(10) *Space and Naval Warfare Systems Command (SPAWARSYSCOM)* is responsible for awarding and administering contracts in the information dominance domain, including assigned programs in the areas of research and development, systems engineering and development, and other relevant professional services associated with production, installation and sustainment for Command, Control, Communications, Computers, Intelligence Surveillance, and Reconnaissance Systems (C4ISR); Joint Tactical Radios Systems (JTRS), Space Systems; Enterprise Information Systems (EIS); and Navy Chief Information Officer (CIO) supported information technology initiatives.

(11) *Strategic Systems Programs (SSP)* is responsible for awarding and administering contracts in support of the development, production, and life-cycle support of the TRIDENT Strategic Weapon System, and other assigned programs under the cognizance of the Director, SSP (DIRSSP).

b. Under section 5201.603 Selection, appointment, and termination of appointment, new subsections 5201.603-2 (DFARS 201.603-2) Selection and 5201.603-4 Termination are added to establish specific notification requirements on warrants issued pursuant to waivers or exceptions, and to provide warrant termination guidance, as follows:

5201.603 (DFARS 201.603) Selection, appointment and termination of appointment
5201.603-2 (DFARS 201.603-2) Selection.

(90) Notification requirements. Submit copies of waivers authorized pursuant to DFARS 201.603-2(3) and warrants issued pursuant to the exception at DFARS 201.603-2(2)(ii) to DASN(AP) at RDAPolicy@navy.mil within five days of issuance.

5201.603-4 Termination.
A Contracting Officer appointment shall be terminated in writing when the individual is transferred from the position due to reassignment or permanent change of station/duty; the need for a contracting officer function no longer exists; the individual retires, resigns or the Agency terminates his/her employment; or the individual fails to comply with laws and regulations governing the procurement process, including the delegated warrant authority and responsibilities. Warrants issued specifically for a contingency operation are only valid for the period during which the individual is assigned to support the contingency office and shall be terminated in writing upon detachment from that office.

2. Under the ANNEX section of NMCARS, Annex 11 titled "Delegation of Contracting Authority—Organization not within HCA Cognizance" and Annex 12 titled "Delegation of Contracting Authority—DON/DOD Employee not within HCA Cognizance" are added to reflect changes effected to subsection 5201.601-90, Department of the Navy authorities and responsibilities, as follows:

ANNEX 11--Delegation of Contracting Authority—Organization not within HCA Cognizance

In accordance with NMCARS 5201.601-90(a)(3), HCAs or their authorized designees shall notify DASN(AP) of a planned delegation of contracting authority to a DON organization or office that is not within its cognizance. The notification must address the following information:

I. Identify Proposed DON Organization to be Delegated Contracting Authority

a. Organization Name
b. DODAAC
c. Mission
d. Identify Senior DON Employee in Charge of the Organization
e. Name
f. Position
g. Grade/Rank
h. Qualifications (Education, Specialized Experience, Relevant Training, Certifications)

II. Describe Extent of Contracting Authority to be Delegated

a. Dollar Threshold
b. Type of work/products/services authorized for procurement
c. Limitations

III. Provide Rationale to Support Delegation of Contracting Authority

a. Explain why this delegation is necessary, to include why the delegating office cannot support the activity, and how it results in a more efficient execution and administration of the HCAs contracting operations.
b. Identify the anticipated workload and available resources at the Organization.
c. Describe the internal controls at the Organization to ensure efficient and effective execution and management of delegated authority.
d. Describe the oversight and management that will be performed by the delegating office to ensure compliance with all statutes, regulations, and policies.

ANNEX 12--Delegation of Contracting Authority—DON/DOD Employee not within HCA Cognizance

In accordance with NMCARS 5201.601-90(a)(3), HCAs or their authorized designees shall notify DASN(AP) of a planned delegation of contracting authority to a DON employee of an organization that is not within its cognizance, or shall submit a waiver requesting DASN(AP) approval of a delegation of contracting authority to a non-DON employee, except when a DON activity is designated HCA for a joint-contracting operation. The notification and/or waiver request must address the following information:

I. Identify DON/DOD Employee to be Delegated Contracting Authority

a. Name of Nominee (as it will appear on the SF 1402, Certificate of Contracting Officer Appointment)
b. Grade/Series or Military Rank
c. Position/Title
d. Description of Duties
e. Activity Name/DODAAC

II. Describe How the Qualifications of the Nominee Meet the Requirements for the Recommended Level of Delegation

a. Education*
b. Specialized Experience

c. Relevant Training*
d. Other Qualifications (*e.g.* DAWIA Career Field Certifications, Defense Acquisition Corps Membership)*

Note: Submit documentation to substantiate credentials/education completed.

III. Describe Extent of Contracting Authority to be Delegated

a. Type of Appointment (*e.g.* PCO, ACO, Ordering Officer)
b. Dollar Threshold (*e.g.* Unlimited, Limited to Specific Dollar Value)
c. Type of work/products/services nominee will be authorized to procure or administer
d. Limitations (e.g. Contract Type; Competitive or Non-Competitive Actions, etc.)
e. Appointment Term

IV. Provide Rationale to Support Delegation of Contracting Authority

a. Explain why this delegation is necessary and how it results in a more efficient execution and administration of the HCAs contracting operations.
b. Identify the anticipated workload to support the type of appointment, including the available resources at the Nominee's Organization.
c. Describe the internal controls that are or will be in place at the Nominee's Organization and at the HCA/delegating office to ensure efficient and effective execution and management oversight of delegated authority.