



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(RESEARCH, DEVELOPMENT AND ACQUISITION)
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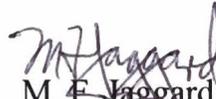
MEMORANDUM FOR DISTRIBUTION

SUBJECT: Change 08-4 to the Navy Marine Corps Acquisition Regulation Supplement
(NMCARS)

Encl: (1) NMCARS Change 08-4

The changes identified in enclosure (1) are incorporated in the April 2008 NMCARS and are effective immediately. The online NMCARS will reflect these changes.

The point of contact for NMCARS is Evelyn Ortiz at telephone (703) 614-9640 or email evelyn.ortiz@navy.mil.


M. F. Jaggard
Chief of Staff/Policy
for DASN (A&LM)

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SUBJECT: Change 08-4 to the Navy Marine Corps Acquisition Regulation Supplement
(NMCARS)

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Incorporate the following changes into the April 2008 NMCARS:

1. Under SUBPART 5201.6, CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES, section 5201.602 Contracting officers, subsection 5201.602-3 (FAR 1.602-3) Ratification of unauthorized commitments, effect an editorial change to the last reporting month at (S90)(h)(2), as follows:

SUBPART 5201.6--CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES

5201.602-3 (FAR 1.602-3) Ratification of unauthorized commitments.

(S-90) *DoN Guidance.*

(h) Reports.

(1) A copy of all ratifications of unauthorized commitments must be submitted to the Senior Contracting Leader within the HCA.

(2) Within 30 days following the end of each fiscal quarter (30 October, 30 January, 30 April, 30 July), HCAs should provide a report via e-mail to RDAPolicy@navy.mil with the subject "Ratifications by COMMAND NAME during the X Quarter FYXX" using the format at Annex 4. That information includes:

- (a) Ratification Amount
- (b) Name of Contracting Officer Recommending Ratification
- (c) Name of Ratifying Official
- (d) Date of Ratification approval
- (e) Description of Supplies/Services bought

2. Under PART 5203 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST, SUBPART 5203.1—SAFEGUARDS, add section **5203.170 Business practices** to reflect DFARS Change Notice 20090115 and add **SUBPART 5203.10—CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT**, section **5203.1003 Requirements**, to establish additional notification requirements, as follows:

5203.170 (DFARS 203.170) Business practices.

(a) To support the certification required, the senior individual in charge of contracting for each contracting activity shall confirm compliance with DFARS 203.170(a). Submit confirmation to DASN(A&LM) via electronic mail address RDAPolicy@navy.mil no later than November 30th of each even numbered year. Properly identify in the subject line "DFARS 203.170--SENIOR LEADER COMPLIANCE NOTICE."

SUBPART 5203.10—CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT

5203.1003 (FAR 3.1003) Requirements.

(b) *Notification of possible contractor violation.* In addition to the actions required by FAR 3.1003(b), the contracting officer shall provide a copy of the notice, within 10 days of receipt, to the Acquisition Integrity Office, Office of the General Counsel, Department of the Navy, 720 Kennon Street, RM 214, Washington DC 20374-5012 or by electronic mail address aio@ogc.law.navy.mil.

3. Under PART 5209 CONTRACTOR QUALIFICATIONS, add **SUBPART—5209.1 RESPONSIBLE PROSPECTIVE CONTRACTORS**, section **5209.104-1 (DFARS 209.104-1) General standards**, and subsection (g)(i) *Ownership or control by the government of a terrorist country*, to reflect DFARS Change Notice 20090115, as follows:

SUBPART 5209.1--RESPONSIBLE PROSPECTIVE CONTRACTORS

5209.104-1 (DFARS 209.104-1) General standards.

(g)(i) *Ownership or control by the government of a terrorist country.*

(C) Submit the information to DASN(A&LM) via electronic email address RDAPolicy@navy.mil. Properly identify in the subject line "DFARS 209.104-1(g)(i)—OWNERSHIP/CONTROL NOTICE"

4. Under PART 5212 ACQUISITION OF COMMERCIAL ITEMS, SUBPART 5212.4—UNIQUE REQUIREMENTS REGARDING TERMS AND CONDITIONS FOR COMMERCIAL ITEMS, effect editorial changes to section **5212.403 Termination**, subsection (c) *Termination for cause*, as follows:

5212.403 (PGI 212.403) Termination.

(c) *Termination for cause.*

(i) and (ii) Submit the required report on all contracts terminated for cause, including changes in status of terminations, in the format provided at Annex 5, to DASN(A&LM) via electronic mail address RDAJ&As@navy.mil within 5 calendar days after issuing the notice of the termination or the change in termination status. Properly identify in the subject line "T4CAUSE" followed by the contract number.

5. Under SUBPART 5216.5—INDEFINITE-DELIVERY CONTRACTS, add section **5216.504 (DFARS 216.504) Indefinite-quantity contracts** and coverage under (c) (1)(ii) (D) *Limitation on single award contracts*, to reflect DFARS Change Notice 20090115; add supplemental subsection **5216.504-90 Limitation on single award task or delivery order contracts at or below \$100M** to reflect recent Navy policy, as follows:

5216.504 (DFARS 216.504) Indefinite-quantity contracts.

(c) (1) (ii) (D) *Limitation on single award contracts.*

(1) Only the Navy Senior Procurement Executive is authorized to make the determination authorized in FAR 16.504(c)(1)(ii)(D)(I)(iv).

(3) Submit determinations over \$100M to DASN(A&LM) via electronic email address RDAJ&As@navy.mil. Properly identify in the subject line "DFARS 216.504—SINGLE AWARD" followed by the contract/task/delivery order number.

5216.504-90 Limitation on single award task or delivery order contracts valued at or below \$100M

(a) **Policy.** Unless exempted by (b) below, single awards of task or delivery order contracts valued at or below \$100M require HCA approval.

(b) **Exemptions.** The following categories of contracts are exempt from the requirement for HCA approval for single awards of task or delivery order contracts:

(1) Competitively awarded contracts which provide only for firm fixed unit price task or delivery order contracts for products or services where unit prices are established in the contract;

(2) Only one qualified offer received under a competitive solicitation (the circumstances for award must be addressed in the business clearance);

(3) Contracts for Foreign Military Sales awarded to a directed source;

(4) Requirements contracts supported by approved acquisition plans/strategies;

(5) Contracts supported by a sole source Justification and Approval under FAR Part 6;

(6) Sole source contracts awarded under Section 8(a) of the Small Business Act; and

(7) Contracts with a total estimated value less than \$5.5 million.

(c) **Combination contracts.** For contracts where the only products or services to be acquired by issuance of task or delivery orders are incidental to the overall effort under the contract, and the overwhelming preponderance of the work is defined and priced at the outset, the threshold for approval is based on the estimated value of the incidental services

6. Under PART 5217, SPECIAL CONTRACTING METHODS, add **SUBPART—5217.74 UNDEFINITIZED CONTRACT ACTIONS** and section **5217.7490 Semi-annual reporting requirements**, as follows:

SUBPART 5217.74—UNDEFINITIZED CONTRACT ACTIONS

5217.7490 Semi-annual reporting requirements.

(a) HCAs shall submit by April 15 and October 15 a semi-annual consolidated undefinitized contract action (UCA) report for UCAs, with an estimated value of more than \$5 million, for actions awarded during the period of October 1 – March 31 and April 1 to September 30.

(b) Submit the required reports to DASN(A&LM) via electronic mail address RDAJ&As@navy.mil in the format prescribed at Annex 6. Properly identify in the subject line of both the email and the reports “UCA REPORT” followed by the applicable reporting period/year (i.e. UCA REPORT—October 1, 2008 – March 31, 2009).

7. Under SUBPART 5233.1—PROTESTS, add section **5233.170 Briefing requirement for protested acquisitions valued at \$1 billion or more**, to reflect DFARS Change Notice 20081112, as follows:

5233.170 (PGI 233.170) Briefing requirement for protested acquisitions valued at \$1 billion or more.

Submit the required protest notice to DASN(A&LM) via electronic mail address RDAJ&As@Navy.Mil within 5 days of receipt of protest. Properly identify in the subject line "PROTEST" followed by the solicitation or contract number, as appropriate.

8. Under PART 5249—TERMINATION OF CONTRACTS, SUBPART 5249.4 TERMINATION FOR DEFAULT, effect editorial changes to section **5249.470 Reporting of termination for default**, as follows:

5249.470 (PGI 249.470) Reporting of termination for default.

(1) and (2) Submit the required report on all contracts terminated for default, including changes in status of terminations, using the format provided at Annex 5, to DASN(A&LM) via electronic mail address RDAJ&As@Navy.Mil within 5 calendar days after issuing the notice of the termination or the change in termination status. Properly identify in the subject line "T4D" followed by the contract number.

9. Under SUBPART 5250.1—EXTRAORDINARY CONTRACTUAL ACTIONS, section 5250.102 Delegation of and limitations on exercise of authority, effect an editorial change in the title of **5250.102-1-70, Delegation of authority**, as follows:

5250.102-1-70 Delegations.

(a) *Military departments.* Subject to the restrictions on delegations of authority in DFARS Part 250 and FAR 50.102-1 and 50.102-3, HCAs may exercise and redelegate the authority contained in the Act and Executive Order for amounts not exceeding \$55,000.

(i) HCAs may deny any request, regardless of dollar value.

(ii) Requests to obligate the Government in excess of \$55,000 shall be submitted to ASN(RD&A) for approval.

10. Add a new Annex titled “**ANNEX 6--CONSOLIDATED UNDEFINITIZED CONTRACT ACTION (UCA) MANAGEMENT REPORT,**” to standardize submission of the semi-annual UCA reports set forth in NMCARS 5217.74-90, as follows:

ANNEX 6 – CONSOLIDATED UNDEFINITIZED CONTRACT ACTION (UCA) MANAGEMENT REPORT

In accordance with NMCARS 5217.7490, each contracting activity shall submit a Consolidated UCA Management Report which provides the following information:

Activity name

Reporting period

Contract number (including Task Order/Delivery Order or Modification numbers)

Date UCA awarded

Reason for UCA

Amount obligated

Percentage (%) of not-to-exceed

Date of scheduled definitization

Number of days past scheduled definitization date

Date of definitization modification

Date qualifying proposal received

Comments

To standardize report submissions, use the UCA reporting template available at [http://acquisition.navy.mil/policy and guidance/nmcars](http://acquisition.navy.mil/policy_and_guidance/nmcars)