

# APPENDIX B — DISA PLAN FOR CONTROL OF CLAUSES

Defense Information Systems Agency

Procurement Services Directorate (PSD)/Defense Information Technology Contracting Organization (DITCO)

Clause Control Plan

## 1. Purpose

Revised August 2018

This plan establishes procedures and a system of controls for:

a. Review requirements and approval authorities for one-time and class deviations;b.Use of unique or special clauses;c.Review and identification of component level clauses for inclusion in the DISA Acquisition Regulation Supplement (DARS); andd.Identifying all clauses included in solicitations, whether included in the DARS or not, as required by FAR 52.101, 52.103, and DFARS 252.101.

## 2. Definitions

For the purpose of this Plan, the terms “regulation” and “clause” have the following meanings.a.Regulation. Any contracting supplement, policy letter, clause book, automated system, or similar regulatory instrument. b. Clause. Includes provisions and means a term or condition of the type set forth in FAR Part 52/DFARS Part 252. c. Other Key Terms. The following matrix reflects additional key terms along with related FAR and DFARS references.

|   |                                      |
|---|--------------------------------------|
| Deviation   | FAR Subpart 1.4; DFARS Subpart 201.4 |
| Substantially-as-follows, or<br>Substantially-the-same-as | FAR 2.101                            |
| Modification  | FAR 52.101 and 52.104                |
| Alternate   | FAR 52.105                           |
| Solicitation  | FAR 2.101                            |

## 3. Table of Approval Authorities

| Type | Reference | Approval Authority |
|------|-----------|--------------------|
|------|-----------|--------------------|

|   |                                     |  |
|---|-------------------------------------|--|
| Any new requirement for certification by a contractor or offeror unless imposed by statute.   | DFARS 201.304(2)                    | Secretary of Defense (without delegation)  |
| Any policy letter, clause book, policy, procedure, clause, or form that has a significant effect beyond internal operating procedures or poses a significant cost or administrative impact on contractors or offerors.  | DFARS 201.304(1)(i)(A) & (B)        | OUSD(A&S)DPC                               |
| Clause Control Plan   | DFARS 201.304(4)                    | OUSD(A&S)DPC                               |
| Individual or class deviations from FAR/DFARS cited in 201.402(1):<br>(1) FAR 3.104/DFARS 203.104, Procurement Integrity;<br>(2) FAR Subpart 27.4/DFARS Subpart 227.4, Rights in Data and Copyrights;<br>FAR Part 30/DFARS Part 230, CAS Administration;<br>(4) FAR Subpart 31.1/DFARS Subpart 231.1, Applicability (contract cost Principles);<br>(5) FAR Subpart 31.2/DFARS Part 231, Contracts with Commercial Organizations; or<br>(6) FAR Part 32/DFARS 232, Contract Financing (with two exceptions).         | FAR Subpart 1.4<br>DFARS 201.402(1) | OUSD(A&S)DPC                               |
| Individual deviations from FAR/DFARS other than those cited in 201.402(1).  | FAR 1.403<br>DFARS 201.403(1)       | Head of the Contracting Activity           |
| Class deviations other than those described in 201.402(1) that do not –<br>(1) Have a significant effect beyond the internal operating procedures of the department or agency;<br>(2) Have a significant cost or administrative impact on contractors or offerors;<br>(3) Diminish any preference given small business concerns by the FAR or DFARS; or<br>(4) Extend to requirements imposed by statute or by regulations of other agencies such as the Small Business Administration and the Department of Labor. | FAR 1.404<br>DFARS 201.404(b)(ii)   | OUSD(A&S)DPC approves all class deviations |

|  |                            |  |
|--|----------------------------|--|
| Provisions and clauses developed to fulfill a specific and unique requirement of the acquisition, or are a result of negotiations. They do not constitute a deviation from FAR or DFARS or require OUSD(A&S)DPC approval.  | DFARS 201.304              | Head of the Contracting Activity Policy, Quality Assurance & Procedures Division (PL2) |
| Proposed new repetitive use or "substantially the same as" local clauses. They do not constitute a deviation from FAR or DFARS or require OUSD(A&S)DPC approval.   | FAR 1.401<br>DFARS 201.304 | Head of the Contracting Activity OUSD(A&S)DPC (for rule-making process)                |
| Proposed use of modifications, alternates, and authorized deviations.  | FAR 1.401                  | Contracting Officer  |
| Proposed tailoring by the contracting officer of the commercial item provision at FAR 52.212-1, Instructions to Offerors - Commercial Items and the clause at FAR 52.212-4 Contract Terms and Conditions- Commercial Items (with certain limitations) consistent with commercial practice. | FAR 12.302                 | Contracting Officer  |
| Proposed tailoring (inconsistent with customary practice) by the contracting officer of the commercial item provision at FAR 52.212-1, Instructions to Offerors - Commercial   | DFARS 212.302              | Head of the Contracting Activity   |

#### 4. Deviation Review Procedures

- a. Written justification for a new certification by a contractor or offeror that requires approval by the Secretary of Defense shall be processed by routing (See [Contract Document Approval Signature Routing Procedures.](#)) from the Contracting Officer through the cognizant HCO, PL21 Policy Branch, the Office of General Counsel, and HCA prior to approval by the SPE and submission to the DAR Council Director for processing to USD (A&S) via OUSD (A&S) DPC.
- b. Proposed deviations from FAR or DFARS that require approval by OUSD (A&S) DPC shall be processed by routing (See [Contract Document Approval Signature Routing Procedures.](#)) from the contracting officer through the cognizant HCO, PL21 Policy Branch, the Office of General Counsel, and HCA prior to approval by the SPE and submission to the DAR Council Director for processing. The PL21 Policy Branch will coordinate with the DAR Council representative on required approvals as necessary.
- c. Proposed individual deviations from FAR, DFARS, or DARS that do not require OUSD (A&S) DPC approval, shall be processed by routing with DISA Form 320 from the contracting officer through the cognizant HCO, PL21 Policy Branch, and Office of General Counsel for approval by the Head of the Contracting Activity.

e. All deviation requests for approval shall include, at a minimum, the information required by DFARS 201.402(2).

## 5. Unique or Special Requirements Review Procedures

a. Proposed supplemental clauses which fulfill a specific and unique requirement of the acquisition and are not for repetitive use, or are the result of negotiations, do not constitute a deviation from the FAR or DFARS, and which do not require the approval of OUSD (A&S) DPC will be submitted for review by the PL21 Policy Branch and the Office of General Counsel for approval by the Policy, Quality Assurance & Procedures Division Chief (PL2), Defense Information Technology Contracting Organization. These requirements are not required to be included in agency or suborganization acquisition regulations:

G1. Points of Contact

G2. Contract/Order Closeout-Fixed-Price, Time-and-Materials, or Labor-Hour G3. Ordering Procedures for External Agencies/Organizations

G20. Electronic Invoicing for Telecommunications Services G21. Contract Payments - Delivery Ticket Invoice (DTI) G22. Delivery Ticket Invoice (DTI) - Payments

G23. Outage Credits

G24. Contract Billing Dates for Services

H1. Organizational and Consultant Conflicts of Interest (OCCI) H2. Requirement to Submit an Electronic Product List

H3. Key Personnel

H4. Enterprise-Wide Contractor Manpower Reporting Application (eCMRA) Reporting

b. Proposed new repetitive use of substantially-the-same-as clauses that do not constitute a deviation from the FAR or DFARS, but requires the approval of OUSD (A&S) DPC through the rule-making process will be submitted for review by the PL21 Policy Branch and Office of General Counsel for approval by the Head of the Contracting Activity/Chief, Defense Information Technology Contracting Organization. The reviews are to ensure the clauses do not contain material differences from those already authorized for use and that circumstances for use of the provisions and clauses are appropriate. These provisions and clauses will be included in DISA Acquisition Regulation Supplement (DARS).

c. Proposed tailoring of clauses, use of alternates, and authorized deviations will be reviewed on a case-by-case basis by the Contracting Officer, PL21, and the DISA Office of General Counsel to ensure proper use and that the alternate language is authorized prior to being included in solicitations and contracts.

d. Proposed tailoring by the contracting officer of the commercial item provision at FAR 52.212-1, Instructions to Offerors - Commercial Items and the clause at FAR 52.212-4 Contract Terms and Conditions-Commercial Items (with certain limitations) to adapt to market conditions after conducting market research will be reviewed by the Office of General Counsel for actions that exceed the Simplified Acquisition Threshold. Tailoring inconsistent with customary practice must be approved by waiver approved by the Head of the Contracting Activity.

e. Contracting officers outside the United States may deviate from prescribed non statutory FAR and DFARS clauses when contracting with governments of NATO countries, with United Nations or NATO organizations and such governments or organizations will not agree to the standard clauses. The Head of the Contracting Office (HCO) shall maintain a record of all such deviations.

#### 6. Clause Numbering

a. All clauses included in solicitations and contracts must adhere to the numbering and identification requirements of FAR Subpart 52.1, as supplemented by DFARS Subpart 252.1.b. Solicitation clauses authorized for one-time use do not have to be numbered, but must be identified in accordance with FAR 52.103 by the title, date, and name of the contracting office that developed the provision or clause.

#### 7. Controls

a. This plan shall be reviewed annually and updated as required to reflect changes in policy or procedures. When updated, a copy will be provided to the DAR Council Director for review and processing to OUSD (A&S) DPC for approval.

b. Copies of all agency supplemental clauses will be provided to the PL21 Policy Branch for review and consideration for inclusion in agency-level acquisition regulations for use on an agency-wide basis.

#### 8. Focal Point

The HCA is the focal point for resolution of internal or public inquiries on authority for use of deviations, unique or special requirements, and clauses.