



1. PURPOSE

This document provides SPAWAR claimancy policy and procedures for business clearance memorandums (BCMs).

The purpose of the BCM is to show that the proposed action conforms to law, regulation, good business practices, and Navy acquisition policies, and to prove by written evidence that the price established is fair and reasonable. The BCM serves as the historical record of the business/pricing aspects of an action.

- The pre-negotiation BCM provides analysis and discussion of the contractor's proposal, audit positions and SPAWAR negotiation objective.
- The post-negotiation BCM provides documentation of information presented by both parties during the negotiation process and rationale for the settlement position achieved by the negotiator. The post-negotiation BCM shall also document any changes in the pre-negotiation position and the negotiated settlement.
- Both the pre-negotiation and post-negotiation BCM shall be retained in the contract file.

Related guidance is available under CMPG section [3.3.3.2 Business Clearances](#).

2. POLICY

The policy requirements and procedures for preparing and processing BCMs are set forth in [FAR 15.406-3](#), [DFARS PGI 215.406-3](#), and [NMCARS 5215.406-90](#).

2.1 Negotiated Contract Actions that Require BCMs

1. Contracts (including task and delivery orders against indefinite-delivery contracts (see exceptions in [para 2.2](#) below), basic ordering agreements, blanket purchase agreements, and other contract tools).
2. Contract modifications not within the scope or under the terms of an existing contract.
3. Undefinitized contract actions (see [DFARS Subpart 217.74](#)).
4. Modifications and changes issued pursuant to *the Changes, Disputes, Economic Price Adjustment, Fair Labor Standards Act and Service Contract Act—Price Adjustment, Government Delay of Work, Government Property, Incentive Price Revision, Over and Above Work, Stop-Work Order, Termination, and Value Engineering* contract clauses.
5. Settlement of claims or requests for equitable adjustment not addressed under paragraph (4) above.
6. Retroactive pricing after completion, including final price determination.
7. Definitization of any undefinitized or unpriced contract action, including change orders, Engineering Change Proposals, Value Engineering Change proposals, and Over and Above Work.
8. Advance agreements on special or unusual cost items (see [NMCARS 5231.109](#)).
9. Actions that result in the establishment, modification or rescission of a guarantee of performance on a government contract by a third party.

2.2 Contract Actions that DO NOT Require a BCM

The file still must include the rationale for award sufficiently documented in a memorandum to file:

1. Contract actions awarded using simplified acquisition procedures
2. Task orders or delivery orders issued under [FAR Subpart 8.4, Federal Supply Schedules](#).



3. Task orders or delivery orders issued on a firm-fixed price basis against indefinite-delivery type contracts for supplies for which unit prices are established in the contract; or services for which unit prices are established in the contract for specific tasks to be performed and where a statement of work/statement of objectives is not required.



2.3 Best Value Source Selection Performance Metric

When the cost/price dollar premium is greater than 10% over the lowest acceptable offeror's Total Evaluated Cost/Price shall be documented in and approved by SPAWAR 2.0 via the BCM ([SPAWARNOTE 4200](#)).

3. RESPONSIBILITY

3.1 Contracting Officer

- The Contracting Officer has the overall responsibility for ensuring that proper business clearances are prepared and filed.
- All business clearances shall be reviewed and signed by the Contracting Officer.
- (See the [Toolbox](#) for the [BCM Content Tips/Reminders](#) document)

4. PROCEDURES

4.1 Clearance Format

The format at [NMCARS Annex 2, Business Clearance Memorandum](#), shall be used to document decisions on contract actions that are subject to business clearance requirements, unless an alternative format has been approved by DASN (AP) ([NMCARS 5201.690\(e\)](#)).

- Use the DPAP linked [Contract Pricing Reference Guide](#) to help with price analysis and the determination of fair and reasonable prices.
- Use the DPAP [Commercial Items and the Determination of Reasonableness of Price for Commercial Items](#) memo to help with determining commerciality and the determination of fair and reasonable prices for commercial items ([Policy Alert 15-042](#)).
- The rationale for the selection of contract type must be fully documented IAW [FAR 16.103](#) and is applicable for all new contracts and new task orders.
- Where the RFP provided for full and open competition and only one offer was received, the negotiator must insert the following, if appropriate, in Section IV Pre-Solicitation Compliances: "Only one response was received to the Solicitation, which allowed at least 30 days for proposal responses to be received. The Contracting Officer had a reasonable expectation of receiving more than one offer and has determined the proposed cost/pricing to be reasonable through Cost/Price Analysis." ([DPAP Memo Apr 2011](#))
- When [FAR 52.217-8](#), Option to Extend Services, is included in any contract, ensure that the original BCM includes in the pricing evaluation criteria all option prices, including any periods anticipated to be covered by [FAR 52.217-8](#) ([DASN\(AP\) Memo Feb 2013](#))
- If you obtain a DCAA audit, a copy of the BCM shall be forwarded to DCMA via the [DCMA Contract Audit Follow-up \(CAFU\) tool](#). In the case of a significant disagreement, please follow the procedures of [DPAP memo dated 04, December 2009](#).



4.2 BCM Numbering

1. SPAWAR HQ AND SSC PACIFIC - Use the same number as the applicable J&A plus a decimal number suffix (e.g., 12345.1).
 - HQ: See the attached [Document Control Numbering instruction](#) for obtaining and controlling document numbers.
 - SSC Pacific: Obtain the document control numbers from the electronic "Procurement Action Log" spreadsheet, located on the Contracts Department server (N:\LOGS).
2. SSC ATLANTIC
 - BCMS approved by SSC Atlantic shall be numbered with numerical serial numbers (e.g., No. 844).
 - BCMS to be approved by SPAWAR HQ shall be numbered with the symbol CH and numerically serial numbered consecutively in the 10000 series (e.g., CH105051).

5. APPROVALS

5.1 SPAWAR HQ

Contract Value (x)	Approval Authority
$x \geq \$50M$	SPAWAR 2.0/2.0A
$\$10M \leq x < \$50M$	Branch Head
$x < \$10M$	Contracting Officer

1. Branch Heads may, at their own discretion, impose lower dollar thresholds for their individual Contracting Officers, or on specific procurements.
2. When the person authorized to approve a clearance is personally responsible for the negotiation, the clearance shall be approved by the next higher level. In addition, when the cognizant Branch Head is acting for SPAWAR 2.0/2.0A, the business clearance shall be retained until SPAWAR 2.0/2.0A returns.
3. Note that award may need to be delayed beyond approval of BCM to allow for any required notifications like the CHINFO notification (see [CHINFO SCPPM](#)).

5.2 SSC Atlantic



	Contract Value (x)	Approval Authority
SPAWAR	$x > \$50M$	SPAWAR HQ
Local	$\$50K \leq x < \$50M$	Contract Review Board

1. A copy of all completed business clearances greater than \$50,000,000 shall be provided to Code 111S who shall submit them to SPAWAR 2.0 via HQ_Contracts_Policy@navy.mil.
2. All business clearances under \$500,000 may be approved by the Contracting Officer.

5.3 SSC Pacific

	Contract Value (x)	Approval Authority
SPAWAR	$x > \$50M$	SPAWAR HQ
Local	$x \leq \$50M$	See SSC Pacific IMP 10-002c

All actions requiring Local Peer Review (LPR) approval must be accompanied by an oral summary of the proposed contract action. The LPR presentation requirements,



presentation forms, and LPR review and approval forms are available from [Internal Policy Memorandum \(IPM\) 10-002c](#). SSC Pacific will submit all packages to SPAWAR 2.0 via HQ_Contracts_Policy@navy.mil.

5.4 Miscellaneous Notes on BCM Approvals

5.4.1 DIRECT ACQUISITIONS (i.e., Contracting Officer places order on non-DoD vehicle)

The business clearance approval official is also the decision authority ([NMCARS 5217.7802](#)). Contracting Officers must determine that fees associated with the acquisition are fair and reasonable. Notify the customer of any fees associated with the interagency acquisition and the total costs prior to sending funds to a non-DoD agency and documents the notification in the BCM Section VII.

5.4.2 FIXED-PRICE CONTRACTS FOR DEVELOPMENT ([DFARS 235.006](#))

Obtain USD (AT&L) approval of the Government's pre-negotiation position before negotiations begin, and obtain USD (AT&L) approval of the negotiated agreement with the contractor before the agreement is executed, for any action that is:

1. An increase of more than \$250 million in the price or ceiling price of a fixed-price type development contract, or a fixed-price type contract for the lead ship of a class;
2. A reduction in the amount of work under a fixed-price type development contract or a fixed-price type contract for the lead ship of a class, when the value of the work deleted is \$100 million or more; or
3. A re-pricing of fixed-price type production options to a development contract, or a contract for the lead ship of a class, that increases the price or ceiling price by more than \$250 million for equivalent quantities.

5.4.3 OPTION TO EXTEND SERVICES ([DASN\(AP\) MEMO FEB 2013](#))

Ensure that the original BCM includes in the pricing evaluation criteria all option prices, including any periods anticipated to be covered by [FAR 52.217-8](#), Option to Extend Services.

6. TOOLBOX

1. [NMCARS Annex 2, Business Clearance Memorandum Format](#)
2. [Business Clearance Format marked for Source Selection Information](#) - NMCARS Annex 2 format
3. [Section IV: Pre-Solicitation Compliances Checklist](#) – Dec 2015
4. [Contract Award Announcements \(CHINFO\)](#) - SCPPM
5. [Weighted Guidelines \(DD Form 1547\) Spreadsheet](#)
6. [Improving Competition in Defense Procurements-Amplified Guidance](#) – DPAP memo, Apr 2011
7. [Use of FAR Clause 52.217-8, Option to Extend Services](#) – DASN(AP), Feb 2013
8. [Commercial Items and the Determination of Reasonableness of Price for Commercial Items](#) – DPAP memo, Feb 2015
9. [Contract Audit Recommendations](#) – DPAP memo, Dec 2009
10. [IPM 10-002: Actions Requiring 2.0 Competency Lead or Local Peer Review \(LPR\) and Approval](#) - SSC-Pacific-Specific Guidance
11. [BCM Content Tips/Reminders](#) – Oct 2015
12. [IG/GAO Lessons Learned](#)



7. CHANGE HISTORY

Updated material is highlighted by *purple text* and an Alert/New  icon.

Date	Description of Changes
June 2016 Rev1	Increased threshold for SSC Atlantic in para 5.2.
June 2016	Updated link in para 2.1, updated para 2.3, and added IG/GAO Lessons Learned to Toolbox.
January 2016	CRRB requirement removed.
December 2015	Updated Pre-Solicitation Compliances Checklist in Toolbox.
October 2015	Increased threshold for SSC Atlantic in para 5.2, added BCM content reminder to toolbox, added CAFU requirement in para 4.1, and clarified content.
July 2015	Updated para 2.3 to set format for actions not requiring BCM.
March 2015	Updated format, reorganized content, and updated links. Also, increased approval threshold for HQ Contracting Officers and reduced the approval threshold for SSC Atlantic, and added BCM verbiage for situation when only one offer is received, when using FAR 52.217-8, and when dealing with commercial items. In addition, the SSC Pacific specific IPM 10-002c guidance was updated.
June 2014	Last version created in old format. Latest update under this version was the addition of determining interagency acquisition fees and documenting rationale for selection of contract type.