



1. PURPOSE

The purpose of this document is to provide the SPAWAR Claimancy policy and guidance for the development and use of SPAWAR Component provisions and clauses, and the procedures for requests for waivers and deviations.

2. POLICY

2.1 SPAWAR Policy

SPAWAR Policy is to limit the use of locally developed component clauses. To the maximum extent practical, all requirements should be listed in the SOW/PWS. If it is necessary to develop a clause to use in a solicitation or contract, the following procedures must be used:

- (A) Must be numbered IAW the NMCARS and;
- (B) Must be approved IAW this SCPPM document.

2.1.1 Component Clause Definition

Those clauses developed by an agency or contracting office for use in solicitations and contracts that are not prescribed for use by FAR, DFARS or NMCARS. In short, those clauses develop for solicitation or contract. Submit all proposed component clause requests to [SPAWAR HQ Policy 2.3.1](#).

2.1.2 Impact Check

If your clause will have:

1. A significant effect beyond the internal operating procedures of the agency (meaning they affect agencies outside Navy- such as DFAS, DCAA, DCMA). In short, requiring a contractor to do something which is contrary to what DFAS, DCAA, DCMA... requires;
2. A significant cost or administrative impact on the contractors or offerors. The PCO must conduct this analysis and document the file with a Memo;
3. Any Deviations to FAR/DFARS/NMCARS standard clauses;
4. Or anytime you develop or invoke an OCI clause, you must get prior HCA (SPAWAR 2.0) approval to insert it in your RFP/Contract- see  [Organizational Conflict of Interests](#) SCPPM.

Then, you must get approvals to use the clause in your Solicitation or Contract.

2.1.3 Commercial Items

Component clause inclusion in procurements of commercial items or services is as outlined in [NMCARS Annex 7](#) (DPAP is the approval authority).

2.1.4 Deviations

A deviation is essentially the use of a policy or procedure that is inconsistent with the FAR/DFARS/NMCARS. It is the policy of SPAWAR to perform its mission in accordance with established rules and regulations. However, in carrying out this policy, it may be determined appropriate to use procedures that deviate from the requirements of higher-level agency regulations. A deviation shall be considered to be any of the conditions described in [FAR 1.401](#) (a) through (f):

“Deviation” means any one or combination of the following:

- (a) The issuance or use of a policy, procedure, solicitation provision (see definition in [FAR 2.101](#)), contract clause (see definition in [FAR 2.101](#)), method, or practice of conducting acquisition actions of any kind at any stage of the acquisition process that is inconsistent with the FAR/DFARS/NMCARS.



- (b) The omission of any solicitation provision or contract clause when its prescription requires its use.
- (c) The use of any solicitation provision or contract clause with modified or alternate language that is not authorized by the FAR (see definition of "modification" in [52.101\(a\)](#) and definition of "alternate" in [2.101\(a\)](#)).
- (d) The use of a solicitation provision or contract clause prescribed by the FAR on a "substantially as follows" or "substantially the same as" basis (see definitions in [2.101](#) and [52.101\(a\)](#)), if such use is inconsistent with the intent, principle, or substance of the prescription or related coverage on the subject matter in the FAR.
- (e) The authorization of lesser or greater limitations on the use of any solicitation provision, contract clause, policy, or procedure prescribed by the FAR.
- (f) The issuance of policies or procedures that govern the contracting process or otherwise control contracting relationships that are not incorporated into agency acquisition regulations in accordance with [1.301\(a\)](#).

2.1.5 The system of controls and approval requirements that governs the use of provisions and clauses other than those prescribed in FAR, DFARS or NMCARS is set forth in [DoN Control Plan for Component Clauses. \(DASN \(AP\)\), May 4, 2010](#) - The Plan is in effect for a period of five years from its approval date and subject to periodic review and updating to ensure compliance with changes in policy or authority levels.

3. RESPONSIBILITIES

3.1 Contracting Officer (PCO)

PCO shall adhere to the [Navy Control Plan for Component Clauses](#) and ensure that only properly approved provisions/clauses are used in SPAWAR solicitations and contracts. It is also the responsibility of the PCO to request deviations via the specified approval channels when such deviation(s) are determined to be the best interest of the Government.

4. PROCEDURE

4.1 Deviation Process

4.1.1 DEVIATION REQUESTS

- (A) Any deviation from the FAR, DFARS or NMCARS requires a formal request for deviation.
- (B) In originating or forwarding a request for deviation, the request shall be signed by the Director of Contracts.
- (C) Request for approval of any deviation from the FAR, DFARS or NMCARS shall be forwarded to the approving authority as identified in [Approvals](#) section below.
- (D) Each submission of a request for deviation shall contain as a minimum:
 - Identification of the department/agency, and component if applicable, requesting the deviation;
 - Identification of the FAR, DFARS, or NMCARS citation from which deviation is needed, a statement about what is required by the citation, and an indication whether an individual or class deviation is being requested;
 - A full description of the deviation and an indication of which of paragraphs (a) through (f) of [FAR 1.401](#) best categorizes the deviation;



- A statement as to whether the deviation will have a significant effect beyond the internal operating procedures and/or a significant cost or administrative impact on contractors or offerors, and reasons to support the statement;
- A statement of the period of time for which the deviation is needed;
- A statement as to whether approval for the same deviation has been received previously, and if so, when;
- A statement as to whether the proposed deviation was published (See FAR Subpart 1.5 for publication requirements) in the Federal Register and an analysis of comments received;
- A statement as to whether the request for deviation has been reviewed by legal counsel, and if so, a statement of the results; and
- Detailed supporting rationale for the request. Include a statement as to what problem or situation will be avoided, corrected, or improved if the request is approved.

4.1.2 PROCESSING OF DEVIATIONS

- (A) Individual or class deviations from the following sections of the FAR, or corresponding section of the DFARS (if applicable), are to be submitted via SPAWAR 2.0/2.0A and ASN (RD&A) to Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), USD (AT&L) DDP for approval:
- Section 3.104 (Procurement Integrity);
 - Subpart 27.4 (Rights in Data and Copyrights);
 - Part 30 (Cost Accounting Standards Administration);
 - Subpart 31.1 (Applicability (Contract Cost Principles));
 - Subpart 31.2 (Contracts with Commercial Organizations); and
 - Part 32 (Contract Financing), except Subparts 32.7 and 32.8, and Payment clauses prescribed by Subpart 32.1.
- (B) All other individual deviations from FAR, DFARS, or NMCARS shall be submitted via SPAWAR 2.0/2.0A to ASN (RD&A) for approval.
- (C) Class deviations from NMCARS shall be submitted via SPAWAR 2.0/2.0A to ASN (RD&A) for approval.

4.2 Component Clause Procedures

4.2.1 COMPONENT CLAUSE STEPS

- (A) Component Clause Analysis Process
- a. PCO provides a written analysis justifying clause use (Approval Template)
 - b. Counsel conducts and documents a review for legal sufficiency
 - c. Branch Head Approval
- (B) Clauses for Repeated Use or Requiring ASN(RD&A)/DASN(AP) Approval:
- a. [SPAWAR HQ Policy 2.3.1](#) will assign a clause number (NMCARS Subpart 5252.1)
 - b. [SPAWAR HQ Policy 2.3.1](#) shall publish analysis in the Federal Register for public comment
 - c. Upon SPAWAR 2.0/2.0A approval, Component clause will be available for use as prescribed and [SPAWAR HQ Policy 2.3.1](#) will provide a copy of the clause to DASN(AP)
- (C) Clauses Requiring DPAP Approval:
- a. Upon submission to ASN(RD&A)/DASN(AP) clauses and analysis published in the Federal Register for public comment, and submitted to



ASN(RD&A)/DASN(AP) Policy for subsequent submission to the DAR Council Director and finally to DPAP for approval.

4.2.2 CONTROL PLAN FOR COMPONENT CLAUSE USE

- (A) One-Time Use Clauses, "Substantially the Same As" Variations, Individual and Class Deviations from Component "Local" Clauses
 - a. No new Component "Local" clauses or variation/deviation to a Component clause is permitted without proper approval. The lowest level of approvals, Director of Contracts, applies to "local" one-time-use clauses designed to deal with a unique situation particular to one contract with no administrative impact. These are Component "Local" clauses developed to deal with a unique situation with one contractor that do not result in a FAR/DFARS/NMCARS deviation, have significant effect beyond SPAWAR internal operating procedures, or have a significant cost or administrative impact on contractors or offerors. All such deviations must be reviewed by Counsel before use.
- (B) Component "Local" Clauses for Repeated Use with no Administrative Impact
 - a. Any additional Component "Local" Clauses that will be added to the [Clausebook](#) and PD2 for use in multiple contracts and solicitations must be accompanied by a written analysis and must pass through the system of controls and approval processes at DFARS 201.304(1)(i), including Federal Register publication and use of the prescribed numbering convention at NMCARS 5252.1.
 - b. Any new clauses resulting in a deviations from regulation or a financial/administrative burden for contractors must be properly supported in writing utilizing the format provided (Approval Template; see: DFARS 201.201-1(d) and, when applicable, DFARS 201.301(b)) and reviewed by Counsel before Director of Contracts (2.0) approval, submission to DASN(AP), and subsequent use. Once approved, component clauses will be included in the Navy's electronic repository of clauses.
 - c. Note: Archived Component "Local" clauses and provisions which formerly existed for instructional purposes may be incorporated in an administrative instruction section of the PWS/SOW.
- (C) Other Component "Local" Clauses for Repeated Use
 - a. When a clause is determined to have a significant effect beyond the internal operating procedures of the agency; or has a significant cost or administrative impact on contractors or offerors, approval is delegated to the Director of Defense Procurement and Acquisition Policy (OUSD(AT&L)DPAP) via ASN(RDA)/DASN(AP).



5. APPROVALS

5.1 Deviations

Deviation Type	Approval Authority
<p>Individual or class deviations from:</p> <ol style="list-style-type: none"> 1. Procurement Integrity FAR 3.104/DFARS 203.104 2. Rights in Data and Copyrights FAR Subpart 27.4/DFARS Subpart 227.4 3. Cost Accounting Standards Administration FAR Part 30/DFARS Part 230 4. Applicability (contract cost principles) FAR Subpart 31.1/DFARS Subpart 231.1 5. Contracts with Commercial Organizations FAR Subpart 31.2/DFARS Subpart 231.2 6. Contract Financing FAR Part 32, (except Subparts 32.7 and 32.8 and the payment clauses prescribed by Subpart 32.1)/ DFARS Part 232, (except Subparts 232.7 and 232.8). (Ref: DFARS 201.402 Policy) 7. Component-unique clause in solicitations or contracts for commercial items that meets the conditions of DFARS 201.304(l)(i). 	<p>DPAP via ASN(RDA)/DASN (AP) Policy and the DAR Council Director</p>
<p>Individual or class deviations from procedures or clauses to include component clauses other than those requiring DPAP approval, that does not:</p> <ol style="list-style-type: none"> 1. Have a significant effect beyond the internal operating procedures of the department or agency; 2. Have a significant cost or administrative impact on contractors or offerors; 3. Diminish any preference given small business concerns by the FAR or DFARS; or 4. Extend to requirements imposed by statute or by regulations of other agencies such as the SBA and DOL. 	<p>Navy Senior Procurement Executive (SPE), the Assistant Secretary of the Navy, Research & Development, Acquisition ASN (RD&A)</p>

5.2 Component Clauses

Component Clause Type	Approval Authority
<p>Unique 'One-Time-Use' Clauses, "Substantially the Same As" Variations, Individual and Class Deviations from Component "Local" Clauses</p>	<p>Director of Contracts & Legal Review</p>
<p>New Component "Local" Clauses with no Administrative Impact</p>	<p>Director of Contracts & Legal Review</p>
<p>Other Component "Local" Clauses for Repeated Use</p>	<p>DPAP via ASN(RDA)/DASN (AP) Policy and the DAR Council Director</p>

6. TOOLBOX

1. [📄 Clause Approval Template](#)



7. CHANGE HISTORY

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

Date	Description of Changes
May 2016	Content formatted and reorganized; updated links.
November 2011	Last version created in old format.