



Naval Facilities Acquisition Standards (NFAS)

October 2018 edition

Through Change 1, Revised 02 August 2019

**NAVAL FACILITIES ACQUISITION STANDARDS (NFAS)
2018 EDITION**

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**NAVAL FACILITIES ACQUISITION STANDARDS (NFAS)
2018 EDITION**

**PART 1
FEDERAL ACQUISITION REGULATIONS SYSTEM**

SUBPART 1.1—PURPOSE, AUTHORITY, ISSUANCE

1.101 (NMCARS) Purpose.

(a) The Naval Facilities Engineering Command's (NAVFAC) Naval Facilities Acquisition Standards (NFAS) provide general guidance to field Contracting Officers in the execution of their delegated authority.

(b) The NFAS implements or supplements the Federal Acquisition Regulation (FAR), the Defense Federal Acquisition Regulation Supplement (DFARS) and the Navy Marine Corps Acquisition Regulations Supplement (NMCARS). It is not a stand-alone document, but must be read together with the FAR, DFARS, and NMCARS.

(c) To the extent possible, the NFAS coverage parallels the FAR in format, arrangement and numbering system. However, subdivisions below the section and subsection levels may not always correlate directly to the FAR designated paragraphs and subparagraphs. A DFARS or NMCARS cite in parentheses immediately after the NFAS cite means related coverage is contained in the DFARS or NMCARS (e.g., 1.104 (NMCARS)). Numbered divisions of this manual with a suffix in the "100" series (e.g., 1.105-2-100) contain subject matter related to but not contained in a FAR, DFARS, or NMCARS numbered division. Omission from the NFAS of a subpart, section or subsection, which appears in the FAR, DFARS, or NMCARS denotes that there is no additional coverage in the NFAS.

(d) The NFAS and other NAVFAC procurement policy and guidance are available electronically via the NAVFAC Headquarters (HQ) Acquisition (ACQ) Portal pages. Updates to the NFAS will be posted to the NAVFAC HQ ACQ Portal page. Each update will include an effective date.

(e) The NFAS is maintained by the appropriate Echelon II Division Director. Proposed changes to or deviations from the NFAS along with rationale for the changes or deviations shall be coordinated with your local chain of command and submitted to the appropriate Echelon II Division Director.

1.104 (NMCARS) Applicability.

The NFAS applies to all NAVFAC activities in the same manner and to the same extent as specified in FAR 1.104, DFARS 201.104, and NMCARS 5201.104.

1.170 (NMCARS) Peer Reviews.

(a) Pre-Award and Post Award Peer Reviews (PRs) shall be conducted for service (includes Environmental, Construction, and Architect-Engineering (A-E)) solicitations and contracts (including task/delivery orders) of \$50M or more, including option periods, in accordance with NMCARS 5201.170. Postaward PRs shall be conducted at the

midpoint of the performance period to allow time to finalize any PR recommendations prior to exercising the option period. All PRs shall be conducted using the procedures at DFARS Procedures, Guidance and Information (PGI) 201.170. For multiple award contracts, one PR shall apply for all resulting contracts.

(b) Peer Review authority and thresholds are as follows:

Type of Action	Threshold (Base plus all Options)	Review Level	Peer Review Authority
Services, Environmental, Construction, & A-E*	\$50M to <\$250M	Echelon III Echelon IV	Echelon III CCO Echelon IV CCO
	\$250M to <\$500M for Sole Source** \$250M to <\$1B for Competitive	Echelon II to include Contracting personnel from other Head of Contracting Activity (HCA)	Assistant Commander for Acquisition
	\$500M or more for Sole Source** \$1B or more for Competitive	Department of the Navy (DoN)/Office of the Secretary of Defense (OSD)	Deputy Assistant Secretary of the Navy for Acquisition and Procurement(DASN(AP))/Director, Defense Pricing and Contracting (DPC)
Supplies	\$50M to <\$500M for Sole Source** \$50M to <\$1B for Competitive	Echelon III Echelon IV	Echelon III CCO Echelon IV CCO
	\$500M or more for Sole Source** \$1B or more for Competitive	DoN/OSD	DPC

*Note: A-E actions shall utilize the two phase Peer Review process; Phase I prior to negotiations (including selection report) and Phase II prior to award.

**Note: This sole source threshold is applicable for Peer Review only. See NFAS 6.3 for approval of the Justification and Approval (J&A) for a sole source acquisition if required.

(c) When the Chief of the Contracting Office (CCO) is the PR Authority (PRA), the PRA will:

(i) Identify the PR Leader; designate the Team; facilitate the pre-award and post-award PR; and oversee the PR process and ensure completion of reviews. The PRA

shall not be re-delegated. This review shall be performed by a senior level contracting official, be independent of the Contracting Officer whose procurement is the subject of the review and when practicable, be independent of the Source Selection Authority (SSA).

(ii) Prepare and endorse a PR Report of Findings and Recommendations for each phase.

(d) When the Assistant Commander for Acquisition is the PRA:

(i) The CCO will identify the local Peer Review Team Leader; designate the Team; facilitate the pre-award and post-award review; and oversee the review process and ensure completion of reviews.

1. Prepare and endorse a local PR Report of Findings and Recommendations for each phase.
2. Submit the local PR Report of Findings and Recommendations to appropriate Echelon II Division Director as part of the request for Assistant Commander for Acquisition review.

(ii) The PRA will identify the Echelon II Team Leader; designate the Team; facilitate the pre-award and post-award PR; and oversee the review process and ensure completion of reviews. The PRA shall not be re-delegated. This review shall be performed by a senior level contracting official, and be independent of the SSA and the Contracting Officer whose procurement is the subject of the review.

The PRA or Team Leader will:

1. Invite a peer systems command (SYSCOM) to participate in the Peer Review;
2. Be responsible for providing to the peer reviewer(s) all associated documentation at least 5 working days in advance of the scheduled review or meeting.
3. Document the comments received during the peer review and the adjudication of comments.

(iii) Prepare and endorse a PR Report of Findings and Recommendations for each phase.

(iv) Ensure the PR Report is submitted to DASN(AP).

(e) When DPC is the PRA:

(i) The CCO will identify the local Peer Review Team Leader; designate the Team; facilitate the pre-award and post-award review; and oversee the review process and ensure completion of reviews.

1. Prepare and endorse a local PR Report of Findings and Recommendations for each phase.
2. Submit the local PR Report of Findings and Recommendations to appropriate Echelon II Division Director as part of the request for DPC review.

(ii) Assistant Commander for Acquisition and/or appropriate Echelon II Division Director will:

1. Facilitate the pre-award and post award PR;
2. Submit the local PR Report of Findings and Recommendations to appropriate DON/OSD representative as part of the request for DPC review.

(iii) PRA will prepare and endorse a PR Report of Findings and Recommendations for each phase.

(f) Within 10 working days from the receipt of any level PR Report of Findings and Recommendations, the Contracting Officer shall prepare a Disposition Memorandum (DM) containing the PRA's recommendations and the disposition of those recommendations. The Contracting Officer shall maintain a copy of the DM in the file and provide a copy to the PRA. When Assistant Commander for Acquisition, DASN or DPC is the PRA, the CCO shall endorse the DM and forward to the appropriate Echelon II Division Director for review and further dissemination to DASN/DPC when applicable.

(g) DoD templates with suggested questions for each PR phase, as well as other resources, are provided at the following website:
http://www.acq.osd.mil/dpap/cpic/cp/peer_reviews.html

(h) By the 15th day of each month, Echelon III activities shall submit the PR Rolling Forecast Report for their area of responsibility to the Echelon II People, Process and Policy Director.

SUBPART 1.3—AGENCY ACQUISITION REGULATIONS

1.304 Agency control and compliance procedures.

1.304-100 (NMCARS) Control of NAVFAC baseline clauses.

Only COMNAVFACENGCOM approved provisions and clauses shall be used in solicitations and contracts. No other provisions or clauses other than those prescribed by FAR, DFARS, NMCARS, or the NFAS may be used without following the procedures at NMCARS 5201.304.

SUBPART 1.6—CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES

1.601 (NMCARS) General.

(a) NAVFACENGCOM (Echelon II) contracting authority is delegated by COMNAVFACENGCOM to Echelon III Commanders/Commanding Officer. Any or all authority may be re-delegated to an Echelon III Commander/Commanding Officer unless restricted by a provision contained in this standard. Echelon III Commanders/Commanding Officer may delegate to Echelon III Vice Commander/XO and Echelon IV Commanding Officers unless otherwise restricted.

(b) Echelon III CCOs shall oversee and monitor the contractual procedures, performance, and staffing of field level contracting offices under their cognizance.

(c) An Echelon III or IV CCO may designate an individual to act on their behalf and make any necessary determinations or take any actions that are reserved for the CCO, unless otherwise restricted by a provision contained in this manual. Designated individuals must be Level III warranted.

1.601-90 (NMCARS) Department of the Navy authorities and responsibilities.

(a) When it is unclear which agency is responsible for a requirement the matter shall be resolved at the local level if at all possible. Local decisions should be focused on satisfying customer requirements in the most efficient and economical means possible. If it is still unclear, Echelon III/IV CCO shall consult with the appropriate Echelon II Division Director.

(b) All requests from other commands for delegation of contracting authority that is under NAVFAC cognizance shall be forwarded to the appropriate Echelon II Division Director.

(c) Echelon II shall submit an annual report of any delegations issued and delegations received from other HCAs to DASN(AP) by 30 January of each year.

1.601-100 Grant officer authority.

(a) COMNAVFACENGCOM, the Assistant Commander for Acquisition, and the Deputy Director for Acquisition have been appointed grants officers by the Under Secretary of the Navy. This grant officer authority is limited to entering into grants and cooperative agreements:

- (1) necessary to execute the Defense Environmental Restoration Program (DERP)
- (2) with local governments to provide for certain Caretaker functions at military installations to be closed as authorized under the DoD Base Closure and Realignment Act of 1990 (BRAC)
- (3) to execute Cultural Resources Management
- (4) to execute Natural Resources Management

(b) The authority for DERP and BRAC MAY NOT be re-delegated.

(c) The authority for Cultural and Natural Resources Management may be re-delegated to the Echelon III CCO with further re-delegation allowed to Echelon IV CCOs. Echelon III and IV CCOs may further re-delegate authority to their respective Division Directors, only on an as needed basis. Echelon III and IV Division Directors must have at least one year of experience with Cooperative Agreements prior to receiving a re-delegation. Unless otherwise waived by the Assistant Commander for Acquisition/Deputy Director for Acquisition, all appointed grants officers must complete the [Defense Acquisition University](#) (DAU) course GRT 201, Grants and Agreements Management prior to being appointed as a re-delegated grants officer. GRT 201 can be substituted with an equivalent course that is approved by the Echelon II Client/Ops I Division Director.

(d) Each BRAC Caretaker Services Cooperative Agreement submitted to COMNAVFACENGCOM for signature must contain a written Determination, approved by the authorized designee within Assistant Secretary of the Navy (Installations & Environment) (ASN (I&E)), that the Cooperative Agreement is in the best interests of the United States.

(e) All Cooperative Agreements shall include evidence that funds are available for obligation for the intended purpose and action.

(f) Grants administrators will be appointed in writing by the grants officer. Unless otherwise waived by the Assistant Commander for Acquisition/Deputy Director for Acquisition, completion of GRT 201 or approved equivalent course is required prior to appointment as a grants administrator. The appointment letter will identify the duties and responsibilities of the grants administrator.

1.602 Contracting Officers.

1.602-1 (NMCARS) Authority.

1.602-1-100 Legal review.

(a) Counsel shall review and sign Streamlined Acquisition Plans (STRAPs) for requirements expected to exceed \$100M. Counsel review is optional for STRAPs or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) under \$100M.

(b) Each solicitation (Request for Proposal (RFP) or Invitation for Bid (IFB)) for basic contracts with a total estimated value expected to exceed the simplified acquisition threshold (SAT), as defined in FAR 2.101, shall be reviewed by NAVFAC Counsel prior to issuance. For firm fixed-price contracts with standard terms, provisions, and clauses and with a total value not expected to exceed \$5,000,000, the Contracting Officer may satisfy this requirement by forwarding the standardized provisions and clauses on an annual basis to Counsel for review. Each contract file shall contain written documentation indicating the date each solicitation was reviewed and the identity and signature of the Counsel who performed the review.

(c) Source selection plans (SSPs) for acquisitions above the SAT shall be reviewed and signed by Counsel prior to approval by the SSA; SSPs below the threshold may be

reviewed at the discretion of the Facilities Engineering Command (FEC) Legal Counsel. Counsel shall review all evaluation records and narratives from the Source Selection Evaluation Board (SSEB), any Evaluation Notices prepared by the SSEB, and the written comparative analysis and award recommendation from the Source Selection Advisory Council (SSAC) before presentation to the SSA.

(d) NAVFAC Counsel shall provide written concurrence and signature on all determination and findings, justification and approvals, protests, claims, ratification actions, competitive range determinations, substitution of sureties, alternate payment protections, non-responsiveness determinations, unacknowledged amendments, bid irregularities, bid mistakes, acceptance of late bids or proposals, rejection of all bids or proposals, reassignment issues, individual sureties, assignment of claims, takeover agreements, novation requests, terminations, tax/duty issues, requests for equitable adjustment in excess of the SAT, or other legal reviews requested by the Contracting Officer.

1.602-1-101 NAVFAC solicitation/contract language, Authority.

(a) Use the following NAVFAC language entitled, "Authority," in all solicitations/contracts except acquisitions for commercial items. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or; for solicitations using the Construction Specifications Institute (CSI) formats available in the Standard Procurement System (SPS), include the language in Division 00800 of solicitations using the undated CSI format or if using the CSI 2012 format include the language in Division 00 73 00.

Authority

1. No person other than the Contracting Officer has authority to bind the Government with respect to this contract.
2. No action or omission of any government employee or representative other than the Contracting Officer shall increase or decrease the scope of this contract or shall otherwise modify the terms and conditions of this contract.
3. In no event shall any of the following be effective or binding on the Government or imputed to the Contracting Officer with respect to this contract:

(a) An understanding or agreement between the Contractor and anyone other than the Contracting Officer;

(b) A purported modification or change order issued by anyone other than the Contracting Officer;

(c) A promise by anyone other than the Contracting Officer to provide additional funding or make payments; or

(d) An order, direction, consent, or permission from anyone other than the Contracting Officer to:

(i) Incur costs in excess of a specified estimated cost, allotment of funds, or other ceiling; or

(ii) Expend hours in excess of a specified level of effort.

(End of NAVFAC language)

1.602-2 (DFARS) Authorized representatives of the Contracting Officer.

The following individuals may be designated to assist Contracting Officers in the technical monitoring or administration of a contract:

(a) Contracting Officer's Representative (COR).

(1) Designation. A COR shall be designated for all service contracts and task orders (including environmental, A-E, and construction) including both firm-fixed-price and other than firm-fixed price contracts. The COR assists in the technical monitoring or administration of contracts. Service contracts and task orders requiring monitoring and surveillance shall be validated to ensure that work has been performed in accordance with contract/task order requirements before payment is authorized. The surveillance activities performed by CORs should be tailored to the dollar value/complexity of the specific contract for which they are designated.

The COR will also be appointed as the Departmental Accountable Official (DAO). The DAO is responsible for providing technical oversight and information to the Certifying Officer confirming the overall percentage of work that was received and completed is in accordance with the terms and conditions of the contract. However, foreign national indirect hire employees that are appointed as CORs shall not be appointed as DAOs but may be permitted to perform DAO operational duties with adequate internal controls to support certification.

Contracting Officers may exempt the COR appointment requirement when the following four conditions are met:

(i) The contract will be awarded using simplified acquisition procedures or the task order value is at or below the SAT;

(ii) The requirement is not complex;

(iii) The Contracting Officer will retain and execute COR surveillance and validation duties assuring separation of functions in accordance with NMCARS 5203.101-1 for initiating request, award of contract or order, performing receipt, inspection, acceptance of supplies/services, and certification/approval in Wide Area Workflow (WAWF); and

(iv) The Contracting Officer documents the file, in writing, with the specific reasons why the appointment of a COR is unnecessary.

(2) Appointment. The Contracting Officer shall formally appoint individuals as CORs in the Joint Appointment Module (JAM) under the single sign on environment, Procurement Integrated Enterprise Environment (PIEE). Due to system constraints,

COR appointment shall occur post award. Although the formal COR appointment is done after award, the contract action, at time of award shall identify the COR and provide the COR's contact information. COR appointments using the smartform designation letter in JAM shall define the scope and limitations of the COR's authority, specifically addressing the responsibilities for reviewing and validating the accuracy and reasonableness of invoices. Considerations for appointment of multiple CORs include: multiple locations of performance, multiple disciplines or functional areas, need for constant surveillance, size of requirement, and subject technical matter skill sets. A COR is not authorized to appoint, delegate, redelegate, or sub-delegate COR responsibilities to another person; this includes to the COR Supervisor, a technical point of contact (TPOC) or subject matter expert (SME). TPOCs and SMEs are government technical personnel providing assistance to a COR. TPOCs and SMEs are not formally appointed positions; however, technical experts are often required for successful oversight of contractor performance and may be used at the discretion of the appointed COR to assist in administration, oversight, and performance assessments. TPOCs and SMEs performing COR functions shall be appointed as a COR. Unless the COR appointment contains other provisions for automatic termination, the appointment shall be effective through completion of the contract/task order close out action, unless sooner revoked, until the COR is reassigned, or the individual's employment is terminated. Revocation of a COR appointment may be effected at any time by the appointing or higher authority, or any successor to either. Revocation shall be made in writing.

(3) Qualifications/training. COR designees must have the requisite technical experience to provide the technical expertise necessary for performance of the COR function.

(i) At a minimum, COR designees shall have completed DAU course CLC 106, Contracting Officer's Representative with a Mission Focus or DAU course CLC 222, Contracting Officer's Representative Online Training course. Additionally, DAU course, CLC 206, Contracting Officer Representative in a Contingency Environment is mandatory for CORs supporting contingency operations in a contingency environment. Each COR and COR Supervisor shall review the [DoD Instruction 5000.72](#) through Change 1, of August 2018, DoD Standard for Contracting Officer's Representative (COR) Certification to determine whether CLC 106 or CLC 222 is the most appropriate course for the type/complexity of the contract/order prior to COR nomination in conjunction with the Contracting Officer. Typically, CLC 106 is required for Type A fixed-price, lower performance risk requirements (i.e., basic construction, architect-engineering (A-E) services, etc.), and CLC 222 is required for Type B and C that are other than low performance risk type requirements (i.e., efforts performed in multiple regions/remote geographic locations, cost contracts, combined pricing BOS contracts, environmental remediation, etc.). Contracting Officers may waive some COR training requirements and designate COR responsibilities when necessary for continuation of services. In these cases, COR management is responsible for CORs' completion of training within 21 days for Type A CORs and 35 days for Type B and C, unless other specific timeframe is agreed to by the Contracting Officer. All CORs, COR Supervisors, Contracting Officers, and Contract Specialists are highly encouraged to attend the CTC 342, NAVFAC Contracting Officer Representative COR/COAR course to gain an awareness and understanding of each individual's responsibility for successful and effective contract administration and management. Other COR training requirements include annual Ethics training, annual Combating Trafficking in Persons, and if necessary, contract specific training due to issues related to the contract type, category,

and complexity. Other online systems may be required in the performance of assigned duties. CORs are highly encouraged to take training, if applicable, for the JAM and for the Surveillance and Performance Monitoring module (SPM), Contractor Performance Assessment Reporting System (CPARS) and Wide Area Workflow. Once designated, CORs must complete the following 10 hours of refresher training every three years to include: CLC 106, annual Ethics training, and annual Combating Trafficking in Persons. For CORs that are appointed for actions that are considered other than low risk, an additional six hours of continuous learning training is required for a total of 16 hours of refresher training every three years. The continuous learning refresher training will be based on the specifics of the contracting requirement, preferences of COR management, and Contracting Officer recommendation. Contracting Officers may waive COR specific initial and refresher training requirements for COR nominees who have obtained a minimum of Defense Acquisition Workforce Improvement Act (DAWIA) Level II Certification in Contracting (1102s), Industrial Property Management (1103s), or Quality Assurance (1910s).

(ii) COR designees must have a minimum of six months of relevant experience for Type A requirements and 12 months of relevant experience for Type B and C requirements in a field or position commensurate with the responsibilities that will be delegated to the COR under a specific contract or task order. Relevant experience includes knowledge or practical experience in technical, professional, or administrative fields gained from what one has observed, encountered, or undergone that is generally acquired through job performance, on-the-job training, or through direct observation of events or activities. The Contracting Officer may waive experience requirements.

(4) Authority. CORs are responsible to the Contracting Officer for those actions delegated by the Contracting Officer, including those related to Government Furnished Property if applicable, as specifically addressed in their letter of appointment. For each contract/order assigned, CORs shall maintain an electronic file in SPM, which is considered a part of the official contract file. The electronic COR file may also be maintained as a hardcopy file or a combination of both if organized and cross referenced, as long as it is accessible for audit purposes and posting is to an access restricted portal or other electronic data storage system that is approved for use. However, the file in SPM must include, as a minimum, the items identified in DFARS PGI 202.602-2(d)(vi). Upon contract action completion, the COR shall provide all COR files to the Contracting Officer for proper disposition. The COR shall not and does not have the authority to take any action, either directly or indirectly, that could change the price/cost or fee, quantity, quality, scope, delivery schedule, labor mix or other terms and conditions of the contract and/or task order. Only the Contracting Officer has the authority to make such changes.

(5) Evaluation and documentation. The Contracting Officer shall annually review the COR's files for accuracy and completeness. The results of the Contracting Officer's review shall be documented in SPM. If the contract performance period is less than one year, this evaluation shall be conducted prior to contract/task order completion.

(b) Contracting Officer's Authorized Representative (COAR).

(1) Designation. Echelon III/IV CCOs may delegate COAR authority to civilian engineer/architects, including foreign nationals, in Facility Engineering & Acquisition Division/Resident Officer in Charge of Construction (FEAD/ROICC) offices in

accordance with the policies below. COARs may also be separately appointed as CORs for construction contracts. Civil Engineer Corps officers with appropriate training and experience may perform COAR functions without being appointed as COARs.

(2) Appointment. Echelon III/IV CCOs shall formally appoint individuals as COARs by appointment letter. Appointments shall specify the extent and limitations of the COAR's authority to act on behalf of the Contracting Officer. Unless the appointment contains other provisions for automatic termination, the appointment shall be effective, unless sooner revoked, until the COAR is reassigned or the individual's employment is terminated. COAR appointment may be revoked at any time by the appointment authority, or higher authority, or any successor to either. Revocation shall be made in writing.

(3) Qualifications/training. Prior to appointment, Echelon III and IV CCOs shall ensure COAR designees have the following training:

(i) Minimum training: ACQ 101, CTC 342, CLC 106, and annual Ethics training. CECOS Course A-4A-0101, Introduction to FEAD/ROICC, can be substituted for CTC 342. Course fulfillment provides a means to receive credit for courses based on work experience, education, training, or any combination of those. Course requirements may be waived in extraordinary circumstances and must be approved by the Echelon III/IV CCO. COARs receiving a training waiver shall complete the training requirements within one year of the waiver.

(ii) Experience. For delegations under \$25,000, a minimum of one-year applicable experience in a ROICC environment or equivalent is required. For delegations between \$25,000 and \$150,000, a minimum of two years' applicable experience in a FEAD/ROICC environment or equivalent is required. For delegations between \$150,000 and \$250,000, a minimum of two years' applicable experience in a FEAD/ROICC environment or equivalents is required along with prior COAR experience.

(iii) Education: A four-year Bachelor of Science or Arts Degree, from an accredited, four-year degree granting institution, in any field of engineering or architecture.

(4) Authority. COARs may only be delegated authority to negotiate in-scope modification changes below \$250,000 on construction contracts. The delegations are based on the needs of the FEAD/ROICC office and the qualifications of the COAR. This includes authority to agree to quantities of required materials, equipment, direct labor, time, field overhead, home office overhead, and profit.

(5) Responsibilities. To maintain appropriate separation of contractual and technical functions, as a minimum, the individual responsible for the award of a contract or placement of order shall not perform the receipt/ inspection/acceptance of supplies/services function. In addition to typical duties for construction contracts, the COAR shall execute the following duties in accordance with his/her appointment letter:

(i) Request proposals.

(ii) Negotiate agreements (including the establishment of pre-negotiation positions per FAR 15.406-1).

(iii) Ensure funds are available.

(iv) Properly document (post-negotiation memorandum) the file in a way acceptable to the Contracting Officer.

(v) COAR's will be responsible for fully completing their actions, e.g. input to SPS/FIS. COARs may request assistance as necessary.

(6) Contracting Officer authority and responsibilities. The Contracting Officer shall:

(i) Retain ultimate authority for overall administration of contracts.

(ii) Approve all COAR negotiated agreements and associated documentation of the agreement (post-negotiation memorandum).

(iii) Assist COARs as necessary.

(iv) Issue the SF-30 modification.

(c) Ordering Officer. (Except for USCG BOAs)

(1) Designation. The Contracting Officer may designate individuals, either from within or outside of the contracting organization, as ordering officers, with the authority to execute task/delivery orders thereby obligating funds under NAVFAC indefinite delivery type contracts (IDTC). An ordering officer may be appointed for valid purposes provided the Contracting Officer determines appointment is essential for the efficient operation of the contracting mission. Strict operational control over ordering officers is necessary to preclude violations of law and regulations. Care must be exercised in determining how many ordering officers are necessary yet controllable.

(2) Appointment. Contracting Officers shall formally appoint individuals as ordering officers by appointment letter. The activity to which the ordering officers are assigned need not have their own contracting authority. The appointment letter shall specify the extent and limitations of the ordering officer's authority to act on behalf of the Contracting Officer. Unless the appointment contains other provisions for automatic termination, the appointment shall be effective, unless sooner revoked, until the ordering officer is reassigned or the individual's employment is terminated. Revocation of an ordering officer appointment may be affected at any time by the appointment authority, or higher authority, or any successor to either. Revocation shall be made in writing.

(3) Qualifications/training. Because IDTCs vary in dollar value and complexity, the qualifications, skills, and training needed by ordering officers may also vary. The appointment and training of ordering officers requires consideration of the type of ordering to be performed.

(4) Authority/responsibilities. The authority of an ordering officer is limited to placement of task/delivery orders for pre-priced contract line items under an IDTC. Except as authorized for emergency situations, Ordering Officers do not have the authority to modify the basic contract or task/delivery orders. Under limited situations, the designation official (Contracting Officer) may grant an ordering officer limited

authority to modify task/delivery orders only for emergency situations. Task/delivery orders requiring negotiation of level of effort or scope may only be executed by a warranted contracting official. Oral orders may be used only when specifically authorized. Such orders may not exceed \$10,000 and must be confirmed by issuance of a written task/delivery order within two working days. The contract must identify the individual(s) who have the authority to issue oral orders. Any authority delegated to an ordering officer is not redelegable.

(5) Evaluation and documentation. Supplementing the normal monitoring of the ordering officer, the Contracting Officer shall maintain an activity file on each ordering officer as part of the contract file. The purpose of this file is to record and maintain the results of reviews by the Contracting Officer of the ordering officer's contract related activities. The Contracting Officer shall annually evaluate and document the performance of the ordering officer and provide a copy of this evaluation to the ordering officer's organizational head.

(d) Departmental Accountable Official.

(1) Designation. Departmental Accountable Officials (DAOs) include those individuals who perform a technical oversight function and who provide the Certifying Officer with information that confirms the overall percentage of work that was received/completed in accordance with the terms and conditions of the contract.

(2) Appointment. Contracting Officers shall formally appoint individuals, except comptroller personnel, as DAOs. Appointments shall be made by appointment letter and by completion of a DD Form 577, and shall specify the types of payments authorized for certification. DAO appointments shall remain in full force and effect until revoked or the individual is reassigned or employment is terminated.

(3) Training. Prior to appointment, the Contracting Officer shall ensure the DAO has successfully completed CLC 106, Contracting Officer's Representative Online Training or CLC 222 Contracting Officer's Representative Online Training.

(4) Responsibilities. DAOs are responsible in the performance of their duties for providing to a certifying officer information, data, or services that the certifying officer directly relies upon in the certification of vouchers for payment. DAOs are pecuniarily liable for erroneous payments resulting from their negligent actions in accordance with section 2773a of title 10, United States Code.

1.602-3 Ratification of unauthorized commitments (UACs).

(a) UACs over \$100,000 shall be ratified by Commander, NAVFACENGCOM. This authority is not re-delegable.

(b) By delegation, authority to ratify UACs of \$100,000 or less is as follows:

\$100,000 or less*	Echelon II Asst Commander for ACQ or Deputy Director for ACQ
\$50,000 or less*	Echelon III/IV Commander/ Commanding Officer or Echelon III/IV CCO

*The authority to ratify, at any level, reverts to the head of the contracting activity (HCA) without power of delegation if the HCA has 15 or more UAC's exceeding the micro-purchase threshold each for that fiscal year (FY) or when the person committing the UAC has made, or the Contractor performing the UAC has submitted, a UAC at any point in the past. This determination will be made at HQ ACQ after submission of the quarterly reports. If authority reverts back to the HCA, ratification packages shall be submitted via the Echelon II Division Director for review and endorsement for HCA approval.

When an individual or a contractor is involved or submits more than one UAC, the authority for that UAC and other future UACs committed by the individual or contractor reverts back to the HCA. There is no expiration or reset of this requirement.

(c) The ratifying official and the Contracting Officer on the ratified action shall not be the same individual.

(d) When a ratification action is completed, regardless of dollar value, a copy of the complete ratification package shall be submitted to the respective ECH III or ECH IV People, Process and Policy Division.

(e) Reports.

(1) Upon determination of the need for ratification of a UAC, the activity, where the ratifiable action occurred, shall report the UAC within 10 days from the date the action is determined to be a UAC to their ECH III or ECH IV using the NAVFAC reporting template addressing the NMCARS Annex 15 required information.

(2) Echelon III's shall consolidate and submit a quarterly report to HQ's of ALL UACs and ratification actions for their area of responsibility (AOR), regardless of dollar value, by 20 January, 20 April, 20 July, and 20 October.

(f) The Contracting Officer identified in FAR 1.602-3 and NMCARS 5201.602-3 does not include a Governmentwide Commercial Purchase Card (GCPC) cardholder or an individual with a GCPC warrant.

1.603 Selection, appointment, and termination of appointment.

1.603-1 (NMCARS) General.

Authority for the selection, appointment and termination of appointment of Contracting Officers is delegated as follows:

(a) Echelon III Commanders/Commanding Officer are delegated authority to appoint as Contracting Officers, individuals serving in the contracting career field within their commands and at Echelon IV activities, and at field offices under their cognizance. This authority may be redelegated no lower than the Echelon III CCO.

(b) Echelon IV Commanding Officers are delegated authority to appoint as Contracting Officers, individuals serving in the contracting career field within their

commands and at field offices under their cognizance. This authority may be redelegated no lower than the Echelon IV CCO.

(c) If an action includes both additions and deductions, the absolute dollar value determines the warrant level required for approval or execution (e.g., the absolute dollar value of an action that adds \$500,000 of work and deducts \$200,000 of work is \$700,000.)

1.603-2 (DFARS) Selection.

(a) Selection criteria for Contracting Officer appointments (warrants) are listed in DFARS 201.603-2. Education and training requirements for warrants are also set forth in [DoD Instruction 5000.66](#) Defense Acquisition Workforce Education, Training, and Career Development Program (27 Jul 2017). In addition to the education and training requirements, [DoD Instruction 5000.66](#) also requires that at least first-level performance appraisals of Contracting Officers are performed by supervisors within the individual's contracting chain of command.

DAU courses may be fulfilled by following the guidance at <http://icatalog.dau.mil/DAUFulfillmentPgm.aspx>. Course fulfillment provides a means for AT&L Workforce members to receive credit for DAU courses based on work experience, education, training, or any combination of those. Position requirements may be waived in exceptional circumstances. Waivers must be approved by the NAVFAC Senior Contracting Official (Assistant Commander for Acquisition) for those instances where a statutory requirement has not been met (i.e., DAU certification courses, education, etc.)

Prior to appointing any individual as a Contracting Officer, the appointing official shall ensure that the individual meets the requisite knowledge, experience, and qualitative performance appropriate for the dollar value and complexity of the prospective contracting responsibilities. DAWIA certification is not an entitlement to be warranted. If employee or member of armed service is fully qualified for a warrant at a lower threshold than required by the position, the individual may hold a warrant at the lower level until such time as the higher level qualifications are met. The NAVFAC warrant level requirements specified below must be met in order to qualify to serve in an acquisition position as a Contracting Officer with authority to award and/or administer simplified acquisitions and contracts:

(1) **Simplified Acquisition Procedures (SAP).** Award of simplified acquisitions, delivery/task orders and modifications above the micro-purchase threshold but not exceeding the SAT.

(i) **Experience.** Six months of recent experience in Government or commercial contracting applicable to the dollar threshold or nature of the procurement actions for which the warrant will be issued.

(ii) **Training.** Successful completion of CON 237, Simplified Acquisition Procedures. For IT procurement, Contracting Officers are required to successfully complete ISA 101, Basic Information Systems Acquisition.

(2) **Level I.** Award of contracts, delivery/task orders and modifications with values up to \$1,000,000.

(i) Experience. Two years of recent, progressively complex and responsible contracting and/or staff experience in Government or commercial contracting.

(ii) Training. In addition to the required [Defense Acquisition University](#) (DAU) level courses, the successful completion of the following assignment-specific courses, when applicable.

CON 243, Architect-Engineer Contracting
CON 244, Construction Contracting
CTC 337, Facilities Support Contracting
CTC 423, Environmental Contracting

If you currently hold, or previously held, a warrant that included construction authority, and you completed CTC 343 Construction Contract Modifications, you are not required to take CON 244, Construction Contracting. CTC 343 is considered an acceptable predecessor course in this situation. If you currently hold, or previously held, a warrant that included A-E authority, and you completed CTC 366 Architect - Engineering Contract Management, you are not required to take CON 243, Architect Engineer Contracting. CTC 366 is considered an acceptable predecessor course in this situation. Additionally, the supervisor is responsible to ensure employee has experience and is knowledgeable of cost reimbursable contract administration principles when employee responsibilities include environmental cost contracts. For IT procurement, Contracting Officers are required to successfully complete ISA 101, Basic Information Systems Acquisition.

(3) **Level II.** Award of contracts, delivery/task orders and modifications with values up to \$10M.

(i) Experience. Three years of recent, progressively complex and responsible contracting and/or staff experience in Government or commercial contracting.

(ii) Training. Same as above and Level II courses.

(4) **Level III.** Award of contracts, delivery/ task orders and modifications with the following dollar limitations:

Unlimited	Echelon II Commander, Assistant Commander for Acquisition, and Contracting Officer; Echelon III Commander, Commanding Officer, Vice Commander, Executive Officer, and CCO
Up to \$1 billion	Echelon IV Commanding Officer, Executive Officer, and CCO; Echelon III Division Director
Up to \$500M	Echelon III/IV Contracting Officer

(i) Experience. Four or more years of recent, progressively complex and responsible contracting and/or staff experience in Government or commercial contracting.

(ii) Training. Same as above and Level III courses.

(5) **Governmentwide Commercial Purchase Card (GCPC)**. Warranted cardholders executing the following types of transactions: placing electronic delivery/task orders and modifications above the micro-purchase threshold, but not exceeding the SAT, against IDIQ contracts with firm fixed price line items on FedMall; Fleet Logistics Center cardholders supporting NAVFAC, in accordance with the Memorandum of Agreement (MOA) dated 21 July 2005, placing orders for supplies against General Services Administration (GSA) Schedules above the micro-purchase threshold but not exceeding the SAT; and warranted cardholders located outside the United States as defined by DFARS 213.301(1) making purchases that exceed the micro-purchase threshold but not exceeding \$25,000 if the purchase meets the criteria stated in DFARS 213.301(2). In accordance with [NAVSUPINST 4200.99](#) series, cardholders located outside of the U.S. making purchases using foreign currency must consider the daily exchange rate when making purchases to ensure they are within their authorized spending limit, not-to-exceed \$25,000.

(i) Experience. Six months of government procurement experience, which may include: using FedMall for orders over \$2,500, using the GCPC for open market purchases up to \$2,500, or other related procurement experience.

(ii) Training. In addition to the requirements specified by [NAVSUPINST 4200.99](#), CON 237, SAP Procedures, DAU Purchase Card Training and annual Navy Purchase Card training must be taken. Note: GCPC warrants are exempt from the Continuing Education requirement.

(b) Warrants shall only be issued to qualified GS-1102 and Civil Engineer Corps Officers; however, this restriction does not apply to GCPC warrants prescribed in NFAS 13.301.

(c) Warrants shall only be issued to the employee/officer within the command who is currently performing Contracting Officer duties. Warrants are not transferable upon permanent change of duty station.

(d) Certificates of Appointment (SF-1402 Warrants) for non-1102 Government Purchase Cardholders shall be issued and signed by Echelon III Commanders/Commanding Officer/Echelon IV Commanding Officers or CCOs in accordance with [NAVSUPINST 4200.99](#).

(e) It is NAVFAC policy that a warrant may be used throughout the Command on a short term basis to support specific contingency operations, temporary duty assignments, or onsite visits.

(f) For indefinite delivery contracts that include options, the warrant level must cover the potential maximum ordering amount of the base period.

1.603-3 Appointment.

(a) Appointments will be documented and copies filed as prescribed at FAR 1.603-3. The SF-1402 will contain any warrant limitations (i.e., undefinitized contract actions up to \$150,000 per UCA or authority is limited to \$700,000 for construction), including limitations on the period of appointment. The original Certificate of Appointment shall be provided to the appointed Contracting Officer.

(b) Appointing officials shall issue warrants based on the individual's proven capabilities, office workload, and business environment. Changes, either increasing or decreasing the existing warrant level of a Contracting Officer, shall be made solely at the discretion of the appointing official. When an appointing official determines to make such changes, a new Certificate of Appointment shall be issued.

(c) To maintain their warrant, Contracting Officers shall adhere to the policy in [DoD Instruction 5000.66](#), Defense Acquisition Workforce Education, Training, and Career Development Program (27 July 2017), that requires Defense Acquisition Workforce members to acquire 80 Continuous Learning Points every two years.

(d) Echelon IIIs shall submit the Warrants Annual Report from each Facility Engineering Command (FEC) within their area of responsibility (AOR) to the Echelon II Command Warrant Representative/People, Process and Policy Director by 3 December. NFAS Appendix A summarizes all reporting requirements.

(e) GCPC warrants for Fleet Logistics Center (FLC) cardholders supporting NAVFAC are issued in accordance with NAVFAC/NAVSUP MOA dated 21 July 2005.

1.603-4 (NMCARS) Termination.

(a) Appointments of Contracting Officers remain in effect as long as appointees are assigned to the position and/or organization (FEC) stated on the warrant and the authorities remain the same, unless terminated sooner by the appointing official, his successor, COMNAVFACENGCOM or his designee. CCOs shall ensure warrants are terminated if necessary upon the internal movement of personnel to positions which may have duties that no longer require holding a Contracting Officer warrant.

(b) A Contracting Officer appointment shall be terminated in writing when the individual is transferred from the position due to reassignment outside of the organization (FEC) or permanent change of station/duty.

1.690 (NMCARS) Requirements to be met before entering into contracts.

(a) This delegation does not apply to Utilities Privatization or Special Ventures acquisitions. All business clearances/negotiation memorandums for Utilities Privatization shall be submitted to the Echelon II Division Director for approval.

(b) Review and approval levels for business clearances/negotiation memorandums shall include the value of all options or option years and maximum award fee under a contract. For indefinite delivery contracts, the approval authorities are based upon the total ceiling price of the solicitation/contract. For a multiple award indefinite delivery solicitation/contract, the total ceiling price includes the aggregate value of all proposed

contracts. (As an example, a multiple award indefinite delivery solicitation with a maximum value of \$240M that results in award of four contracts, the aggregate maximum value of all task orders issued during the life of the contracts may not exceed \$240M). The dollar value of an indefinite delivery solicitation/contract is not the minimum guarantee amount or the estimated value of the seed project.

(c) The Business Clearance Memorandum format at NMCARS Annex 2 is required for all competitive and non-competitive actions awarding basic contracts as well as contract modifications with values greater than the certified cost or pricing data threshold. The actions listed in NMCARS 5201.690(c), including task/delivery orders and associated modifications at any dollar value, do not require a Business Clearance Memorandum in the format at NMCARS Annex 2, but do require a Pre-Negotiation and Post-Negotiation Memorandum when discussions/negotiations are held. A combined Pre-/Post-Negotiation Memorandum may be prepared only if no discussions/negotiations are held (award is made on original proposal) or for actions below the SAT. However, if negotiations are held, a pre-negotiation position is required to be established prior to negotiations per FAR 15.406-1. Approval level shall be based on the dollar value of the task/delivery order or associated modification.

(d) Pre-Negotiation Business Clearance/Pre-Negotiation Memorandum.

(1) Review of a Pre-Negotiation Business Clearance/Pre-Negotiation Memorandum shall be determined by the Echelon III/IV Commanders/CCOs.

(2) Approval of a Pre-Negotiation Business Clearance/Pre-Negotiation Memorandum shall be as follows:

(i) Actions up to and including \$750,000 threshold shall be approved by the Contracting Officer.

(ii) Actions over \$750,000 shall be approved by a Contracting Officer a level above the individual assigned the action.

(iii) The approving Contracting Officer shall hold a warrant commensurate with the absolute dollar value of the action (i.e., absolute dollar value is \$700,000 for an action that adds \$500,000 of work and deducts \$200,000 of work).

(e) Post-Negotiation Business Clearance/Post-Negotiation Memorandum approval levels are as follows:

<u>Dollar Value</u>	<u>Approval Authority</u>
Up to and including \$750,000	Contracting Officer
Over \$750,000 up to and including \$30M	Contracting Officer a level above the individual assigned the action
Over \$30M up to and including \$100M	Echelon III/IV Division Director/CCO/00/09 (or Acting)

Over \$100M

*Echelon II Division Director

*Echelon III/IV Commanders/Commanding Officers/CCOs shall ensure business clearances/negotiation memorandums requiring Echelon II approval are reviewed at an appropriate level prior to being forwarded to the Echelon II Division Director.

(f) In no case shall an approving official approve a business clearance or negotiation memorandum for which he/she acted as the source selection authority.

1.691 (NMCARS) Procurement management oversight.

1.691-2 Responsibilities.

1.691-2-100 NAVFAC Procurement Management Assessment Program (PMAP).

(a) The HCA is responsible for performing management and oversight reviews of all procurement operations performed within Headquarters, any subordinate contracting organization with delegated procurement authority, and any other commands delegated contracting authority under NAVFAC's cognizance. This process is implemented through the NAVFAC PMAP process and will ensure execution of authority is performed according to law and regulation. The oversight process shall:

(1) Focus on organizational leadership, management and internal controls, and regulatory compliance.

(2) Evaluate the implementation of procurement processes and management systems.

(3) Provide a feedback system from the NAVFAC Assistant Commander for Acquisition/Deputy Director for Acquisition to NAVFAC acquisition organizations that offer timely information to all organizational levels. Accompanying the PMAP report is a plan of action and milestone (POA&M) template that is standardized and shall be used by the activity to address the action items outlined in the report. The POA&M shall be submitted for CCO approval with a copy to the PMAP team.

(b) NAVFAC PMAP on-site visits shall be scheduled and conducted based on the following considerations: DASN Procurement Performance Management Assessment Program (PPMAP) periodicity requirements, HQ Acquisition input, Echelon III and IV CCO input, and other indicators.

1.691-2-101 Internal Business Assessment.

Each contracting organization within NAVFAC shall perform and document an annual Internal Business Assessment (IBA) to self-assess the quality of the procurement organization's operations and processes. The self-assessment is intended to identify and correct critical vulnerabilities. No less than five percent of all contract actions over the past fiscal year for every product/service line shall be reviewed. Additional reviews shall be conducted if multiple issues are revealed. The IBA shall be submitted to the Echelon IV CCO, Echelon III CCO, or Assistant Commander for Acquisition/Deputy Director for Acquisition as appropriate for analysis.

31 Jan	FEADs/ROICCs	Echelon IV CCO
15 Feb	Echelon IV CCO	Echelon III CCO
15 Feb	Echelon III CCO	Echelon II Asst CDR for Acquisition/ Deputy Director for Acquisition

The Echelon shall perform a detailed analysis and send to the subordinate activity by 15 March. The IBA file shall be uploaded to the NAVFAC PMAP Program Director by 20 March of each calendar year.

Note: An activity receiving a PMAP rating of Satisfactory or Highly Satisfactory will not be required to complete an IBA in the following Fiscal Year. Additionally, based on a reduction in procurement risk, an activity receiving a “Highly Satisfactory” PMAP rating will be automatically granted a waiver to the annual IBA submission requirement for the second Fiscal Year following the PMAP review.

SUBPART 1.7—DETERMINATIONS AND FINDINGS

1.707 Signatory authority.

All Determinations and Findings (D&Fs) forwarded to the appropriate Echelon II Division Director for approval shall contain an endorsement by the Echelon III CCO or 00/09. In addition, D&Fs that require approval above Echelon II (i.e., DASN) shall be routed via the Echelon II Division Director for review and endorsement.

PART 2
DEFINITIONS OF WORDS AND TERMS

SUBPART 2.1—DEFINITIONS

2.101 Definitions.

00 – Commander and Staff

09 – Vice Commander

BASE OPERATIONS SUPPORT (BOS) – A BOS contract (excludes multiple award contracts) is defined as including a Performance Work Statement with FSC/BOS annexes/sub-annexes from two or more of the technical annexes listed below:

- Command and Staff
- Public Safety
- Air Operations
- Port Operations
- Operations Support (Supply)
- Fleet and Family Readiness (Family Support Services)
- Fleet and Family Readiness (MWR)
- Fleet and Family Readiness (Galley)
- Fleet and Family Readiness (Housing)
- Facility Support (Facility Management, Facility Investment, and Facility Services)
- Facility Support (Utilities)
- Facility Support (Base Support Vehicles and Equipment)
- Environmental

BUSINESS LINE COORDINATOR (BLC) – The business line head at Echelon IV activities.

BUSINESS LINE MANAGER (BLM) – The business line head at Echelon III activities.

CHIEF OF THE CONTRACTING OFFICE (CCO) - The Contracts Director at Echelon III/IV activities only.

FACILITIES ENGINEERING COMMAND (FEC) - Echelon IV component command that is subordinate to NAVFAC Atlantic or NAVFAC Pacific.

FACILITIES ENGINEERING AND ACQUISITION DIVISION (FEAD) - Division within the Public Works Department that provides engineering support, construction project management, and service contract management for the installation and other supported commands.

HEAD OF THE CONTRACTING ACTIVITY (HCA) - For NAVFACENGCOM, the Commander, NAVFACENGCOM and by delegation per FAR 1.108(b), the NAVFAC Assistant Commander for Acquisition.

NAVFAC COUNSEL - A member of NAVFAC Office of General Counsel (OGC) located at an activity with contracting authority.

RESIDENT OFFICER IN CHARGE OF CONSTRUCTION (ROICC) - A Civil Engineer Corps officer who is responsible for the administration of assigned contracts at a field contracts office.

**PART 3
IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST
(RESERVED)**

**PART 4
ADMINISTRATIVE MATTERS**

SUBPART 4.6—CONTRACT REPORTING

4.604 (NMCARS) Responsibilities.

(3)(i) The data Verification and Validation (V&V) Report is required to be submitted quarterly. Echelon III activities shall consolidate the information for its area of responsibility (AOR) and submit a report at the end of the month following the end of each fiscal quarter (1 February, 1 May, 1 August, 1 November), via e-mail to the Echelon II People, Process and Policy Director.

(ii) By 1 November of each year, Echelon III activities shall submit the Contract Action Report, Data Verification and Validation (V&V) certification for its AOR to the Echelon II People, Process and Policy Director. NFAS Appendix A summarizes all reporting requirements.

SUBPART 4.8—GOVERNMENT CONTRACT FILES

4.804 Closeout of contract files.

4.804-1 (NMCARS) Closeout by the office administering the contract.

(S-90) Echelon II eACQ Director shall submit the Monthly Contract Closeout Metric Report to Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN(AP)) by the 15th of each month. NFAS Appendix A summarizes all reporting requirements.

4.804-5 Procedures for closing out contract files.

See NFAS 32.1100(e) for closeout procedures for construction and architect-engineer (A-E) contracts when contractor fails to execute an appropriate release within one year after completion and acceptance.

4.805 Storage, handling and disposal of contract files.

Contracting offices shall maintain paper copies of official contract files. Large documents may be stored on compact discs (CD) and kept in official contract files only if they are in a readable format. Some examples of readable formats are (but not limited to): .pdf, .doc, .xls; pst files are not acceptable for CD storage in official contract files. Any contract documents filed in approved government electronic systems (e.g. WAWF, Joint Appointment Module (JAM), Surveillance and Performance Monitoring module (SPM), SeaPort-NXG, eCMS), shall be duly noted in the Contract Record Index of the official contract file.

**PART 5
PUBLICIZING CONTRACT ACTIONS**

SUBPART 5.2—SYNOPSIS OF PROPOSED CONTRACT ACTIONS

5.205 Special situations.

(d) *Architect-engineering (A-E) services.*

(1) All unrestricted synopses for A-E services over \$700,000 shall include a notice that any large firm that is short-listed will be required to submit a subcontracting plan (in addition to addressing the small business criteria in the SF-330) before price negotiations begin for contract award.

(2) Each synopsis of A-E contracts must be concluded with the statement:

"Architect-engineer firms which meet the requirements described in this announcement are invited to submit a completed SF-330 to the office shown below. Firms responding to this announcement by (date/time) local time will be considered. This is not a request for a proposal."

(3) When a synopsis is not required, the publicly displayed notice should include the statement:

"Architect-engineer firms which meet the requirement described in this announcement are invited to submit completed SF-330. Firms responding to this announcement by (date/time) will be considered. This is not a request for proposal."

5.207 Preparation and transmittal of synopses.

(a) All unrestricted synopses over \$700,000 for services and \$1,500,000 for construction shall include a notice to large firms that a subcontracting plan is required prior to award.

(b) All set-aside, 8(a) competitive, sources sought, and potential set-aside synopses must include the North American Industry Classification System (NAICS) Code and size standard.

SUBPART 5.4—RELEASE OF INFORMATION

5.404 (NMCARS) Release of long-range acquisition forecasts.

By 10 June of each year, Echelon III activities shall submit an annual Long Range Acquisition Forecast Report for its area of responsibility (AOR) to the Echelon II People, Process and Policy Director. NFAS Appendix A summarizes all reporting requirements.

SUBPART 5.5—PAID ADVERTISEMENTS

5.502 (DFARS) Authority.

An Echelon III/ IV Chief of the Contracting Office (CCO), without power of redelegation, may approve paid advertising in newspapers.

**PART 6
COMPETITION REQUIREMENTS**

**SUBPART 6.2—FULL AND OPEN COMPETITION AFTER EXCLUSION OF
SOURCES**

6.202 (NMCARS) Establishing or maintaining alternative sources.

(b)(1)(i) Approval of the determination to exclude a source for actions not exceeding \$93M:

- (A) can be submitted for Echelon III Commander/Commanding Officer approval (when the Echelon III Commander/Commanding Officer is a general or flag officer) via the Echelon III or IV Chief of the Contracting Office (CCO). A copy of any approved D&F shall be provided to the Echelon II Division Director; or,
- (B) can be submitted for the Assistant Commander for Acquisition approval via Echelon III or IV CCO and the Echelon II Division Director.

(b)(1)(ii) Approval of the determination to exclude a source for actions over \$93M, must be submitted with a copy of the approved Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) via Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN(AP)) for approval by the Navy Senior Procurement Executive (NSPE) via the Echelon III or IV CCO and the Assistant Commander for Acquisition via the Echelon II Division Director.

SUBPART 6.3—OTHER THAN FULL AND OPEN COMPETITION

6.303-1-100 Bridge contract actions.

Refer to NFAS 6.304-101 for bridge contract action Justification and Approval (J&A) requirements, content, approval, and reporting.

6.304 Approval of the justification.

(a) A warranted Contracting Officer, acting within the limits of their delegated authority, may approve the justification for proposed contract actions not exceeding \$700,000. Echelon III Commander/Commanding Officer/CCO/Echelon IV Commanding Officer/CCO may delegate approval authority to a warranted Contracting Officer for proposed contract actions not exceeding \$700,000. The Echelon III Commander/Commanding Officer/Echelon IV Commanding Officer shall establish internal management controls to ensure proper use of the delegated authority and compliance with legal reviews (see NFAS 1.602-1-100).

(b) For a proposed contract action over \$700,000 but not exceeding \$7,000,000, the justification shall be approved by the Echelon III Commander/Commanding Officer/Echelon IV Commanding Officer.

(c) For a proposed contract action over \$7,000,000 but not exceeding \$13.5M, the justification shall be approved by the Echelon III Commander/Commanding Officer.

(d) All justifications over \$13.5M but not exceeding \$93M shall be forwarded via the Echelon III CCO and the appropriate Echelon II Division Director for approval by the Assistant Commander for Acquisition.

(e) All justifications exceeding \$93M shall be forwarded via the Echelon III CCO and the appropriate Echelon II Division Director, for endorsement by the Assistant Commander for Acquisition for submission to Assistant Secretary of the Navy (Research, Development and Acquisition) (ASN(RD&A)) for approval.

6.304-100 Requirements for limiting competition under MAC task orders.

(a) The written justification to waive or limit competition for task orders under MACs and FSSs shall be obtained prior to release of a request for proposal.

(b) Approval thresholds for the required written justification are as follows:

(1) For a proposed task order up to and including \$700,000, the justification shall be approved by a Level III Contracting Officer. The Contracting Officer shall ensure that the justification is accurate and complete to the best of their knowledge and belief.

(2) For a proposed task order over \$700,000 but not exceeding \$7,000,000, the justification shall be approved by the Echelon III Commander/Commanding Officer/Echelon IV Commanding Officer.

(3) For a proposed task order over \$7,000,000 but not exceeding \$13.5M, the justification shall be approved by the Echelon III Commander/Commanding Officer.

(4) For a proposed task order over \$13.5M but not exceeding \$93M, the justification shall be forwarded via the Echelon III CCO and the appropriate Echelon II Division Director for approval by the Assistant Commander for Acquisition.

(5) For a proposed task order exceeding \$93M, the justification shall be forwarded via the Echelon III CCO and the appropriate Echelon II Division Director for endorsement by the Assistant Commander for Acquisition for submission to ASN(RD&A) for approval.

6.304-101 Bridge contract action approvals

(a) Bridge contract actions are defined as non-competitive contracts awarded to “bridge” the time between the end of one contract and the beginning of another related contract. Contract modifications executed in accordance with FAR 52.217-8 - Option to Extend Services, are considered bridge contract actions if the approved Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) did not include the use of the clause, pricing was not obtained for the additional six (6) months and the option period was not evaluated as part of the initial contract competition.

(b) To reduce reliance on bridge contracts and promote real competition, in addition to the J&A for a non-competitive requirement, the program manager/requirement owner shall prepare a separate request for authorization to award a bridge contract. This determination shall address the rationale for use of a bridge contract, certify to the

urgency of the requirement and be signed by both the program manager/requirement owner and the Contracting Officer. As required by NMCARS 5206.303-1(S-90), use the template at Annex 5 of NMCARS entitled, "Bridge Contract Approval and Reporting," to request authorization to award a bridge contract. For purposes of this guidance, the term "Business Line" is inclusive of Support Line and Functional Area requirement owners.

(c) Approval of the authorization shall be as follows:

(1) For contract actions up to and including \$700,000, the authorization shall be approved by the Business Line Coordinator (BLC) (for Echelon IV) or Business Line Manager (BLM) (for Echelon III), and by the Echelon III/IV CCO.

(2) For contract actions over \$700,000 but not exceeding \$5,500,000 and/or a period of performance greater than 6 months, the authorization shall be approved by the requirements Business Line Leader and the Assistant Commander for Acquisition or by delegation, the Deputy Director for Acquisition.

(3) For contract actions greater than \$5,500,000 and/or period of performance is for subsequent period (2nd, 3rd, etc. bridge) the authorization shall be approved by the Business Line Leader and the Head of the Contracting Activity (HCA). Any authorization for a subsequent bridge contract shall include an explanation of why the competitive timeline on the previous bridge request was not achieved.

(d) All bridge contract actions are required to be reported quarterly. Echelon III activities shall consolidate the information for its area of responsibility (AOR) and submit a report on the 15th day of the month following the end of each fiscal quarter (15 January, 15 April, 15 July, 15 October), via e-mail to the Echelon II People, Process and Policy Director.

(e) J&As for bridge contracts shall not be submitted for review and/or approval before the bridge contract authorization is approved for inclusion in the J&A package. After the bridge contract authorization is obtained, the J&A will be routed to the appropriate approval level for review and approval per NFAS 6.304. Bridge J&As will also include a schedule for award of follow-on competition within Section 8 "Actions to Remove Barriers to Competition."

(f) If the bridge action is for Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22) and it does not qualify for an exception at NMCARS 5237.102; SeaPort is not being used; and the Bridge J&A will not cite FAR 6.302-2 the following applies (see subparagraph (3)(a) for actions citing FAR 6.302-2):

- (1) The Bridge J&A shall be approved by the appropriate competition advocate (see NFAS 6.501);
- (2) A copy of the approved Bridge J&A shall be submitted, via the appropriate Echelon II Division Director to DASN(AP); and

- (3) A request for proposal or solicitation for the requirement shall NOT be issued earlier than three working days after the Bridge J&A is provided to DASN(AP).
 - a. If the bridge J&A cites FAR 6.302-2: A copy of the approved Bridge J&A shall be submitted via the appropriate Echelon II Division Director to DASN(AP) within two working days from approval and there is no requirement to delay request for proposal or solicitation issuance.

SUBPART 6.4—SEALED BIDDING AND COMPETITIVE PROPOSALS

6.401 Sealed bidding and competitive proposals.

(b) Document the determination to use other than sealed bidding procedures in the STRAP, MOPAS-S or separate memorandum.

SUBPART 6.5—COMPETITION ADVOCATES

6.501 Requirement.

The Assistant Commander for Acquisition and the Echelon III/IV Commander/Commanding Officer are designated Competition Advocates. In the event that the Competition Advocate has a conflict of interest due to Source Selection Authority (SSA) duties, the Assistant Commander for Acquisition will serve as the Competition Advocate.

6.502 (NMCARS) Duties and responsibilities.

(b)(2) Echelon IIIs shall submit an annual report of competition advocate activities over the preceding year, including a projected competition goal for the current year to the Echelon II People, Process and Policy Director for their area of responsibility (AOR) by 15 December. NFAS Appendix A summarizes all reporting requirements.

**PART 7
ACQUISITION PLANNING**

SUBPART 7.1—ACQUISITION PLANS

7.102 Policy.

(a) Contracting Officers shall assure adequate acquisition planning including market research is performed consistent with the character and risks associated with the procurement of each requirement prior to issuing solicitations.

7.103 (NMCARS) Agency-head responsibilities.

(d) Streamlined Acquisition Plans (STRAPs) are required for the categories of acquisitions (which notably includes military construction, commercial items, and architect-engineer (A-E)) listed in NMCARS 5207.103(d)(ii) meeting the thresholds in DFARS 207.103(d)(i) (refer to NMCARS Table 5207-1 – STRAP/MOPAS-S Requirements and Approvals). Note: STRAPs are required for task and delivery orders where the value for the order requires a STRAP.

(1) Acquisitions for Development, as defined in FAR 35.001, when the total cost of all contracts for the Acquisition program is estimated at \$10M or more.

(2) Acquisitions for Production when the total cost of all contracts for the acquisition program is estimated at \$50M or more for all years or \$25M or more for any fiscal year.

(3) Acquisitions for Production with Services over the simplified acquisition threshold (SAT) when the total cost of all contracts for the acquisition program is estimated at \$50M or more for all years or \$25M or more for any fiscal year.

(4) Acquisitions for Services (which may include but is not limited to acquisitions for military construction, major station maintenance/repair, A-E, and commercial services), when the total cost of all contracts for the acquisition is estimated at \$50M or more for all years or \$25M or more for any fiscal year.

(5) Acquisitions for Services (which may include but is not limited to A-E, commercial services, base operations support (BOS) or facility support services such as custodial, equipment maintenance and repair, guard services, etc.) when the total cost is estimated at \$50M or more for all years or \$25M or more for any fiscal year. Note: Acquisitions for services over the SAT but less than \$50M shall use the Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) (see NFAS 37.504) unless any fiscal year is \$25M or more, than a STRAP is required.

(6) Acquisitions for Services through use of a contract or task order issued by a non-DoD agency when the total cost is \$50M or more. Refer to NMCARS 5237.170 and NFAS 17.502 for additional approval requirements.

(e) With the exception of Acquisitions for Services greater than \$50M procured through use of a contract or task order issued by a non-DoD agency which requires

approval by the Navy Senior Services Manager (SSM), Streamlined Acquisition Plans (STRAPs) shall be approved as follows:

APPROVAL REQUIREMENTS FOR STRAPs

Total Planned Dollar Value	Requirements Review	Acquisition Plan Review	Decision Authority/Approval
\$10M up to and including \$100M (all years)*	Requiring Activity	Contracting Officer a level above the Contract Specialist	Echelon III/IV Division Director
>\$100M up to and including \$250M (all years)	Requiring Activity	Echelon III/IV Chief of the Contracting Office (CCO)**	Echelon II Division Director
For EXWC ONLY: >\$100M up to and including \$250M (all years) [as authorized under FY17 NDAA Section 233]	Requiring Activity	Contracting Officer a level above the Contract Specialist	NAVFAC EXWC CCO
> \$250M	Requiring Activity	Asst CDR for ACQ***	Deputy Assistant Secretary of the Navy (Acquisition and Procurement (DASN(AP)) or SSM

*Note: With the exception of acquisitions for development which require a STRAP for acquisitions of \$10M or more, acquisitions greater than SAT but less than \$50M for all years, still require acquisition planning and must be documented using NMCARS Annex 21, MOPAS-S. However, acquisitions for construction services less than \$25M in a fiscal year or less than \$50M for all years shall not use MOPAS-S and the acquisition development plan template included in BMS is recommended for use. For NAVFAC EXWC ONLY: Actions under \$2,000,000 (including task or delivery orders) may utilize the acquisition development plan in NAVFAC BMS in lieu of NMCARS Annex 21, MOPAS-S as authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233).

**STRAP documents submitted by Echelon IV to Echelon II do not require review/approval by Echelon III.

***STRAP documents submitted for approval by DASN(AP)/SSM must be submitted via the Echelon III or IV CCO, the appropriate Echelon II Division Director, and the Associate Director for Small Business. The Echelon II Division Director will coordinate the review by the Associate Director for Small Business.

(f) Use NMCARS Annex 20, ISTRAP-M, for all acquisitions \$25M or more in a fiscal year or \$50M or more for all years unless preparing on a programmatic basis then use NMCARS Annex 19 PSTRAP-M.

7.105 Contents of written acquisition plans.

Acquisition plans shall include the information required by FAR 7.105 and DFARS 207.105. STRAPs and MOPAS-S shall be prepared using the appropriate mandatory templates included in NMCARS. Any changes to the templates outside of the signature page must be approved by the Head of Contracting Activity (HCA), without power of delegation.

7.107 (NMCARS) Additional requirements for acquisitions involving consolidation, bundling, or substantial bundling.

7.107-2 (NMCARS) Consolidation.

(e)(2)(i) Approval of the determination that use of a consolidated contract is necessary and justified:

- (A) For actions at or above \$50M, must be submitted for approval by DASN(AP) with a copy of the approved STRAP or MOPAS-S via the Echelon III or IV CCO and the Assistant Commander for Acquisition via the Echelon II Division Director.
 - a. For NAVFAC EXWC ONLY: As authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233), for actions greater than \$50M and less than \$100M, the determination must be submitted for Head of the Contracting Activity (HCA) approval via the Echelon III CCO, the Echelon II Division Director, and the Assistant Commander for Acquisition.
- (B) For actions exceeding \$13.5M but less than \$50M, the determination must be submitted for Assistant Commander for Acquisition approval via the Echelon III or IV CCO and the Echelon II Division Director.
- (C) For actions greater than \$2,000,000 and up to \$13.5M, the determination must be submitted for Echelon III or Echelon IV Commander/Commanding Officer approval via the Echelon III or IV CCO.
 - a. For NAVFAC EXWC ONLY: As authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233), for actions greater than \$2,000,000 and up to \$50M, the determination must be submitted for NAVFAC EXWC Commanding Officer approval via the Echelon III CCO.

7.107-3 (NMCARS) Bundling.

(f)(2)(i) Approval of the determination that use of a consolidated and bundled contract is necessary and justified must be submitted with a copy of the approved STRAP or MOPAS-S for approval by DASN(AP) via the Echelon III or IV CCO and the Assistant Commander for Acquisition via the Echelon II Division Director.

SUBPART 7.4—EQUIPMENT LEASE OR PURCHASE

7.470 (DFARS) Statutory requirements.

Only the HCA is authorized to make a determination to enter into, extend or renew any vessel, aircraft, or vehicle lease, charter or similar agreement with individual performance periods of 18 months or more. The determination and findings shall be reviewed by Legal Counsel, endorsed by the Echelon III CCO, and forwarded to the appropriate Echelon II Division Director for approval by the HCA. A contract for vehicle leasing containing lease terms of 12 months or less per performance period is not subject to this requirement, e.g., a contract with a 6-month lease for the base period and a 12-month lease for each of two option periods.

**PART 8
REQUIRED SOURCES OF SUPPLIES AND SERVICES**

SUBPART 8.4—FEDERAL SUPPLY SCHEDULES

8.404 Use of Federal Supply Schedules (FSS).

(k) With written approval of a Contracting Officer a level above the individual assigned the action, use of FSS is permitted only for direct acquisitions for services including knowledge based services, roofing repairs, and leases at or below the simplified acquisition threshold (SAT) but above the micro-purchase threshold, or for commercial off-the-shelf (COTS) items up to and including \$7,000,000 when:

(1) Funds will not be transferred outside of NAVFAC;

(2) The requirement shall not be for architect-engineer (A-E), construction (except those for roofing repairs), or recurring facilities support services (such as Base Operations Support (BOS), custodial, preventive maintenance of equipment, etc.);

(3) Other mandatory sources cannot be used; and

(4) Blanket purchase agreements against the schedules will not be established for non-personal services.

Note: If procuring services greater than \$2,500; ensure that wage determination(s) are included if applicable.

Note: For Orders above the SAT; ensure compliance with FAR 8.405-4.

Note: For Orders above \$550,000; ensure compliance with FAR/DFARS/NMCARS at Subparts 17.5 and 17.7 (as applicable).

Note: Services can be procured with FSS when they cannot be procured as efficiently through an existing NAVFAC awarded contract. Examples of the types of services procured through FSS contracts, subject to the limitations above, are shredding, bus rentals, leases/rental of equipment, furniture, trailer rentals, equipment repair or maintenance, vehicle purchases, venue rentals (e.g. office space, meeting hall), etc.

(l) For information technology (IT) development and support services, the following order of precedence must be used:

(1) NAVFAC internal contracts (for new contracts, comply with Apr 23 2012 DoN Policy for the Procurement of Information Technology (IT) Development and Support Services).

(2) GSA Alliant//Alliant Small Business, DISA Encore II, Army ITES-2S, Air Force NETCENTS, NIH GWAC, or SeaPort-NXG.

(m) For information technology (IT) acquisitions of software, the following order of precedence must be used:

(1) NAVFAC internal contracts.

(2) DoD Enterprise License Agreement (ELA), SmartBUY and DoD Enterprise Software Agreements (DoD ESI/ESA) (reference Feb 22 2012 DoN memorandum Mandatory Use of Department of the Navy Enterprise Licensing Agreements).

Note: Per NFAS 39.101(a), only Naval Facilities Engineering and Expeditionary Warfare Center (EXWC) has unlimited authority to procure IT resources.

(n) FSS should be used only if there is an expectation of competition unless the limited source is justified. Additionally, although FSS do not require mandatory preference programs, NAVFAC orders shall use small business set-asides to the maximum extent possible.

8.405-6 (NMCARS) Limiting Sources.

No solicitation for Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22), which negates the use of SeaPort shall be issued earlier than three working days **after** the limited sources justification is provided to DASN(AP). The limited sources justification shall:

(1) Be approved by the appropriate competition advocate (see NFAS 6.501);

(2) A copy of the approved limited sources justification shall be submitted; via the appropriate Echelon II Division Director to DASN(AP).

- a. If the limited sources justification cites FAR 8.405-6(a)(1)(i)(A): A copy of the approved limited sources justification shall be submitted via the appropriate Echelon II Division Director to DASN(AP) within two working days from approval and there is no requirement to delay solicitation issuance.

SUBPART 8.70—(DFARS) COORDINATED ACQUISITION

8.7003 Applicability.

8.7003-1 Assignments under integrated materiel management (IMM).

NAVFAC Contracting Officers are not normally authorized to purchase automotive vehicles, construction equipment, and weight handling equipment or other material handling equipment. However, special authority using the DFARS procedures at this subpart. All requests must be coordinated with the responsible Echelon III Transportation Product Line Management Office, and submitted to EXWC as NAVFAC's execution agent for Civil Engineering Support Equipment (CESE). For NAVFAC OCONUS activities, the approval authority is delegated to the Echelon III Chief of the Contracting Office (CCO). In the CCO's absence, this authority may be redelegated no lower than the Acting Echelon III CCO.

**PART 9
CONTRACTOR QUALIFICATIONS**

SUBPART 9.1—RESPONSIBLE PROSPECTIVE CONTRACTORS

9.104-5 Certification regarding responsibility matters.

Procuring Contracting Officers/Chief of the Contracting Office (PCOs/CCOs) shall notify the cognizant Echelon II Division Director on issues relevant to both FAR 9.104-5(a)(2) and FAR 9.104-5(b)(2). For issues relevant to FAR 9.104-5(a)(2), the PCO/CCO shall also provide a recommendation if the offeror is being considered for award. The Echelon II Division Director/Head of Contracting Activity (HCA) shall determine the appropriate course of action.

SUBPART 9.5—ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST

9.506 Procedures

(b) Requests for approval, as required by FAR 9.506, of a recommended course of action (which may include proposed provisions or draft contract clauses) to avoid, neutralize or mitigate a potential organizational conflict of interest shall be submitted via the Echelon III or IV CCO to the appropriate Echelon II Division Director. Such requests must be approved prior to issuance of any solicitation.

9.507 [Removed and Reserved]

9.507-2 [Removed and Reserved]

PART 10
MARKET RESEARCH

10.001 Policy

Market research is a basic precursor to solid acquisition planning. Failure to conduct market research in a timely manner is not a valid justification in attempting to limit competition later on. Contracting Officers are encouraged to conduct market research at the earliest possible time.

**PART 11
DESCRIBING AGENCY NEEDS**

11.002 Policy.

Specifications for a contract to be performed in a foreign country and may be prepared both in English and in the appropriate foreign language as necessary.

SUBPART 11.1—SELECTING AND DEVELOPING REQUIREMENTS DOCUMENTS

11.104 [Removed and Reserved]

11.105-100 Proprietary specifications.

(a) Proprietary specifications shall not be included in NAVFAC contracts unless a Justification and Approval (J&A) is prepared and approved in accordance with FAR Part 6 before solicitation advertisement. The J&A approval level shall be dictated by the estimated value of the proprietary products. This requirement also applies to specifications prepared by other agencies for projects to be constructed by NAVFAC.

(b) When authorized, the brand name justification or documentation shall be publicized with the solicitation. The posting requirement applies to acquisitions exceeding \$25,000 that uses brand name specifications, including simplified acquisitions and sole source procurements. If publication of the justification or documentation with the solicitation or the Request for Quotation (RFQ) is inappropriate because of one of the exceptions in FAR 5.102(a)(4) applies, a copy of the justification shall be kept in the contract file. The technical specification shall state: "Notwithstanding any other provision of this contract, no other product will be acceptable."

11.106 (DFARS) Purchase descriptions for service contracts.

Purchase descriptions for service contracts and resulting requirements documents (e.g., Statements of Work/Performance Work Statements (SOW/PWS) shall include language to provide a clear distinction between Government employees and contractor employees as required by DFARS 211.106.

SUBPART 11.2—USING AND MAINTAINING REQUIREMENTS DOCUMENTS

11.201 Identification and availability of specifications.

11.201-100 Construction contract drawings and specifications.

Technical portions of specifications shall not include issues covered by FAR, DFARS, NMCARS or NFAS clauses, provisions, or exceptions thereto.

11.201-101 Collateral equipment.

If collateral equipment is included in specifications, the matter should be coordinated with and approved by the contracting agency normally responsible for procuring the collateral equipment.

SUBPART 11.4—DELIVERY OR PERFORMANCE SCHEDULES

11.402 Factors to consider in establishing schedules.

(b) *Construction.*

(1) When establishing a completion date for construction contracts requiring performance and/or payment guarantees, a period of 15 days shall be allowed for the mailing of the award and the contractor's submission of the required guarantee.

(2) Time extensions shall not be deferred until completion of work.

(3) Options – see NFAS 17.202-100.

11.404-100 NAVFAC solicitation/contract language, Phased Construction Schedule.

Use the following NAVFAC language entitled “Phased Construction Schedule” in all solicitations/contracts for construction that require the use of a phased construction schedule. The NAVFAC language should be used with FAR Clause 52.211-12, Liquidated Damages—Construction. The language should be included in Division 00800 of solicitations using the undated Construction Specifications Institute (CSI) format available in the Standard Procurement System (SPS) or, if using the CSI 2012 format, include the language in Division 00 73 00.

PHASED CONSTRUCTION SCHEDULE

Within the overall project schedule, commence and complete the work in phases. Complete each phase of the work within the number of days stated in the following schedule:

a. Schedule start day: The day designated as the beginning of a particular phase; the number listed is the number of days from the award of contract.

b. Completion day: The day designated as the end of a given phase and the day the work in that phase must be completed; the number listed is the number of days from the award of the contract.

c. Schedule:

Phase	Description	Schedule Start Day	Completion Day
A	[]	[]	[]
B	[]	[]	[]
C	Completion of remaining	[]	[]

[Contracting Officer to insert start and completion day for each phase. The completion day of the last phase must be the same number as indicated in FAR 52.211-10, Commencement, Prosecution, and Completion of Work.]

d. If the work of a particular phase is complete and accepted before the scheduled completion day, immediately begin work on the subsequent phase unless otherwise restricted.

(End of NAVFAC language)

SUBPART 11.5—LIQUIDATED DAMAGES

11.502 Procedures.

(a) The appropriate liquidated damage rate(s) shown in the following tables shall be included in all firm fixed-price construction solicitations and contracts exceeding the simplified acquisition threshold. These rates may be included in contracts below the simplified acquisition threshold (SAT) at the discretion of the Contracting Officer. Liquidated damages rates are calculated based upon the independent Government estimate (IGE) excluding Supervision, Inspection and Overhead (SIOH) and contingency for the construction project; liquidated damages are not adjusted based upon the contract award amount and the total calculated amount is not prorated.

(b) If multiple completion dates are specified, provide a liquidated damage rate for each date. If multiple deliverables are specified, state a liquidated damage rate per day per deliverable.

(c) The liquidated damage rates may be increased or decreased up to 50 percent by a Contracting Officer's written determination that the Government's anticipated loss from delayed completion is less or greater than these amounts. Echelon III/IV Chief of the Contracting Office (CCO) approval is required for liquidated damage rates exceeding a 50 percent increase or decrease of the rates in these tables. This authority may not be re-delegated.

(d) The final invoice shall include either the statement: "The contract was completed within the contract time and no liquidated damages are assessed," or be annotated to show the contract completion date, the actual date of completion, the number of days for which liquidated damages are assessed, the rate per day of liquidated damages and the total amount of liquidated damages assessed by modification for late performance.

(e) Assessment of liquidated damages shall be through issuance of a unilateral modification.

(f) The contractor shall be notified upon initial withholding of Contract Work Hours and Safety Standards (CWHSS) liquidated damages and again upon the issuance of the final order affirming the assessment of the CWHSS liquidated damages. Liquidated damages for labor violations are assessed in accordance with DFARS 222.302.

LIQUIDATED DAMAGES (LDs) TABLES

Table 1: General Construction Projects			
Project Cost		Estimated Liquidated Damages Per Day	
\$ 2,000 - 25,000 25,000 - 50,000 50,000 - 100,000 100,000 - 500,000 Each additional \$100,000 - add \$50*	\$ 80 110 140 200		
*This amount is not pro-rated. Example – for all values between \$501,000 - \$600,000, add \$50.			
Table 2: Family Housing Units			
Types of Units		Liquidated Damages Day Per Unit	
GOQ (General Officers' Quarters) SOQ (Senior Officers' Quarters) FGO (Field Grade Officers) CGO (Company Grade Officers) SEM (Senior Enlisted Men) JEM (Junior Enlisted Men)		Average daily Basic Allowance for Housing (BAH) with dependents plus average applicable housing allowances or temporary living allowance, as appropriate.	
Table 3: Bachelor Housing			
Type of Housing	Rate Per Day	No. of Men Per Bldg.	Liquidated Damages Day Per Bldg.
BOQ	BAH rate for single O3 for area.	x _____	= _____
BEQ	BAH rate for single E-5 for area.	x _____	= _____
Table 4: Storage Space			
LDs Per Day	Square Feet	LDs Per Square Foot Per Day	
\$.15	x _____	= _____	

Table 5: Office Space		
LDs Per Day	Square Feet	LDs Per Square Foot Per Day
\$.30	x _____	= _____

SUBPART 11.6 – PRIORITIES AND ALLOCATIONS

11.602 Policy.

The Defense Priorities and Allocations System (DPAS) implements Title I of the Defense Production Act of 1950 and authorizes the President to require the priority performance of contracts and orders needed to promote the national defense. This authority is delegated to the Department of Commerce (DOC) who ensures compliance with DPAS regulations. The DOC has authorized the Department of Defense (DoD) to apply priority ratings to contracts and orders that support the DoD-approved national defense program categories in the DPAS Schedule 1 of the 15 CFR 700.

11.603 Background.

Priority ratings consist of a rating symbol and a program identification symbol obtained from the 15 CFR 700 Schedule 1. Rating symbols are DX (reserved for highest national defense urgency) and DO (reserved for program vital to the national defense). The DX and DO Priority Rating Authority is delegated to Commander, Naval Supply Systems Command by the Secretary of the Navy and is further delegated to Commander, Naval Facilities Engineering Command. DPAS priority ratings are assigned to DoD-approved Defense Programs. If a project or program is not an approved Defense Program, an activity cannot assign a DPAS DX or DO priority rating.

11.604 Procedures.

(a) Procedures for implementing DoD DPAS are set forth in the Department of Defense Priorities and Allocations Manual (DoD 4400.1-M) and the Department of Commerce 15 CFR 700. The references can be found in full text at <http://www.dtic.mil/whs/directives>.

(b) The authority to rate construction contracts at the DO level exists with the Contracting Officer. All construction contracts are to be rated with DO-C2. Service contracts are not included in DPAS and shall not be rated. The DPAS officer will be the Echelon III/IV CCO. "NAVFAC Echelon II Acquisition Division Directors will function as the DPAS Officer for those NAVFAC contract activities that do not report to an Echelon III/IV CCO." In the event NAVFAC contractors have a conflict between the NAVFAC DO rated contract and one from another activity or agency and cannot meet both with the DO ratings, the matter will be forwarded to the Assistant Commander for Acquisition/Deputy Director for Acquisition via the Echelon II Acquisition Division Director and Echelon III CCO.

PART 12
ACQUISITION OF COMMERCIAL ITEMS

SUBPART 12.1 – ACQUISITION OF COMMERCIAL ITEMS – GENERAL

12.102 (NMCARS) Applicability.

(a)(i)(C) Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN (AP)) concurrence must be obtained on the determination that expert and consultant services are commercial items. Determinations for concurrence must be submitted with a copy of the approved Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) via the Echelon III or IV Chief of the Contracting Office (CCO) and the Assistant Commander for Acquisition via the Echelon II Division Director.

SUBPART 12.2 - SPECIAL REQUIREMENTS FOR THE ACQUISITION OF COMMERCIAL ITEMS

12.207 (NMCARS) Contract type.

(b)(iii) The determination to use time-and-materials and labor-hour contracts for services other than those identified in DFARS 212.207(b)(i) or (ii), must be submitted for approval by DASN (AP). The determination must be submitted with a copy of the approved STRAP or MOPAS-S via the Echelon III or IV CCO and the Assistant Commander for Acquisition via the Echelon II Division Director.

SUBPART 12.70 – LIMITATION ON CONVERSION OF PROCUREMENT FROM COMMERCIAL ACQUISITION PROCEDURES

12.7001 (NMCARS) Procedures.

(a)(2) A request for a Head of the Contracting Activity (HCA) determination to convert a procurement valued at more than \$1,000,000 but less than \$100M from commercial acquisition procedures must be submitted via the Echelon III or IV CCO, and the Assistant Commander for Acquisition via Echelon II Division Director. In the case of a procurement valued at more than \$100M, award must be withheld until a copy of the HCA determination to convert the procurement from commercial acquisition procedures is provided to Defense Pricing and Contracting (DPC) via DASN(AP).

SUBPART 12.71 – PILOT PROGRAM FOR ACQUISITION OF MILITARY-PURPOSE NONDEVELOPMENTAL ITEMS

12.7102-2 (NMCARS) Reporting requirements.

(a) Echelon III activities shall consolidate and submit an annual report identifying all contracts awarded under the Pilot Program on Acquisition of Military-Purpose Nondevelopmental Items to the Echelon II People, Process and Policy Director for their area of responsibility (AOR) by 1 October. NFAS Appendix A summarizes all reporting requirements.

PART 13
SIMPLIFIED ACQUISITION PROCEDURES

13.003 Policy.

(a) Pursuant to NMCARS 5213.000, NAVSUP created the [DON Simplified Acquisition Procedures \(SAP\) Guide](#) to supplement existing policy for simplified acquisition procedures.

SUBPART 13.2—ACTIONS AT OR BELOW THE MICRO-PURCHASE THRESHOLD

13.270 (DFARS) Use of the Government wide commercial purchase card (GCPC).

(a) All purchases for services and supplies below the micro-purchase threshold (MPT) shall be acquired by the GCPC. Per FAR 2.101, the MPT is \$10,000 with the following exceptions:

(1) For the acquisition of services subject to the Service Contract Labor Standards, the MPT is \$2,500;

(2) For the acquisition of construction subject to the Wage Rate Requirements (Construction), the MPT is \$2,000;

(3) For acquisitions of services or supplies as determined by the head of the agency, are to be used to support a contingency operation; or to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; international disaster assistance, an emergency or major disaster as described in FAR 13.201(g)(1), except for construction subject to the Wage Rate Requirements (Construction), the MPT follows: \$20,000 for any contract to be awarded and performed, or purchase to be made inside the U.S; and \$30,000 for any contract to be awarded and performed, or purchase to be made outside the U.S. Note that the Navy Consolidated Card Program Management Division (CCPMD) must issue a Purchase Card Administrative Notice prior to using the GCPC for contingency operations. Notification to the Headquarter (HQ) GCPC Program Manager is required when exercising this authority.

(b) For acquisitions of supplies and services acquired and performed outside the United States that meet the conditions set forth in DFARS 213.301 the GCPC may be used over the MPT up to \$25,000, including construction procured using commercial procedures (cardholders must be documented by a Certificate of Appointment (SF-1402)). If using the GCPC for construction outside the United States, it is important to note that FAR Part 36 and any related clauses cannot be included. The GCPC CANNOT be utilized for construction above the MPT in the United States.

(c) The Echelon III Commander/Commanding Officer shall make a written determination in accordance with DFARS 213.270(b)(1) prior to using purchase orders or separate contracts for such micro-purchase actions. This authority may not be redelegated within the Echelon III command. However, pursuant to DFARS subpart 213.270(b)(2), if an activity does not have a resident Flag Officer or SES member, the

Echelon III Commander may delegate this authority to the senior local Echelon IV CEC Officer. The NAVFAC EXWC Echelon III Commanding Officer may make the written determination pursuant to DFARS subpart 213.270(b)(2).

(d) A written determination is not required when placing orders under existing contracts such as delivery/task orders for indefinite quantity type contracts, purchases under BPAs, or when issuing contracts or purchase orders that will be performed entirely outside of any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(e) The GCPC shall not be used for micro-purchases where contract terms and conditions must be expressly written, or for items deemed prohibited by the Navy CCPMD Purchase Card Instruction and/or CCPMD Deskguide, or otherwise prohibited from the use of appropriated funds.

SUBPART 13.3 SIMPLIFIED ACQUISITION METHODS

13.301 (DFARS) Governmentwide Commercial Purchase Card

(a) For cardholders without a GCPC Warrant, the purchase card will be used for the following categories:

(1) Micro-Purchase Requirements. The purchase card shall be used to buy and/or pay for all requirements valued at or below the MPT (see FAR 2.101). Purchases higher than the MPT are not authorized.

(2) The purchase card MAY be used as a method of payment in conjunction with other contracting methods above the MPT provided appropriate authority has been granted and is stated within the delegation letter.

(b) Cardholder authority to use the GCPC up to the MPT shall be documented in a Letter of Delegation (LOD) specifying any limitations to supplies or services authorized to purchase and spending limits. Cardholder authority must not exceed authority delegated to the activity.

(1) The LOD shall also document authorized use and dollar limits for using the GCPC above the MPT for:

(i) Payment for commercial training services authorized by an Authorization, Agreement and Certification of Training Form (SF-182) up to \$25,000, and/or

(ii) Payment to Defense Logistics Agency (DLA) Document Services below \$25,000, and/or

(iii) Use of the GCPC as a method of payment to pay for orders placed on a contract by a warranted Contracting Officer or ordering officer up to their delegated authority.

(c) For cardholders with a GCPC Warrant, in addition to the categories listed in (b) above, the purchase card:

(1) Shall be used to place electronic delivery/task orders and modifications above the MPT, but not exceeding the simplified acquisition threshold (SAT), against IDIQ contracts with firm fixed price line items on FedMall.

(2) May be used by Fleet Logistics Center cardholders supporting NAVFAC, in accordance with the MOA dated 21 July 2005, to place orders for supplies (material buys) only against GSA Schedules above the MPT, but not exceeding the SAT, for firm fixed price line items. Non pre-priced or firm fixed price line items require completion of a GCPC Price Reasonableness Form as supporting documentation showing evidence of three quotes and shall be reviewed/approved by the Approving Official in advance of the purchase.

(3) GCPC warranted cardholders located outside the United States, as defined by DFARS 213.301(1), may also make purchases that exceed the MPT but do not exceed \$25,000 if the purchase meets the criteria stated in DFARS 213.301(2). In accordance with [NAVSUPINST 4200.99](#), cardholders located outside of the U.S. making purchases using foreign currency must consider the daily exchange rate when making purchases to ensure they are within their authorized spending limit, not-to-exceed \$25,000.

Note: Each purchase must be commensurate with the GCPC Warrant and the appointment letter. The local contracting activity will provide internal procedures to accomplish Federal Procurement Data System – Next Generation (FPDS-NG) reporting requirements.

13.303 (DFARS) Blanket Purchase Agreements (BPAs).

(a) BPAs will be established in accordance with chapter 5 of [DON SAP Guide](#), and should be used for non-complex, repetitive procurements that do not require a Performance Work Statement or Statement of Work.

(b) BPAs for Architect-engineering (A-E) and Design-Build construction projects are not authorized. See Subpart 36 for procurement of A-E and Design-Build construction projects.

**PART 14
SEALED BIDDING**

SUBPART 14.2—SOLICITATION OF BIDS

14.201 Preparation of invitations for bids.

14.201-100 Bid items.

(a) An alternate bid item is a bid item, which may be used in lieu of or as an alternative to another bid item. Echelon III/IV Chief of the Contracting Office (CCO) approval is required prior to the use of alternate bid items. This authority may not be redelegated.

(b) Level III Contracting Officer approval is required for the use of a combination of additive/deductive or other bidding systems in construction.

(c) Level III Contracting Officer approval is required if over four additive bid items are used (see NFAS 36.213-70).

(d) Level III Contracting Officer approval is required for use of the Estimated Total Cost Method in construction contracts.

(e) If unit price bid items are used in construction contracts, FAR clause 52.211-18, Variation in Estimated Quantities, must be included in the solicitation.

14.211 Release of acquisition information.

(a) All inquiries from prospective bidders regarding issued solicitations shall be directed to the contracts office issuing the solicitation. The following statement shall be included in every solicitation:

“All questions concerning this solicitation shall be addressed to (include name, address and phone number).”

(b) The Contracting Officer will maintain a record of all inquiries, including the name of the individual making the inquiry, questions asked and answers given or amendment issued.

SUBPART 14.3—SUBMISSION OF BIDS

14.304 Submission, modification, and withdrawal of bids.

If a hand carried bid is presented after the bid opening official has declared that the time for bid opening stated in the solicitation had arrived, the bid shall be received and the time of receipt and name of the person delivering the bid noted on the bid envelope. The bid shall be retained, unopened, until a determination to accept or reject the bid is made by a level above the Contracting Officer after obtaining NAVFAC Counsel written review comments.

SUBPART 14.4—OPENING OF BIDS AND AWARD OF CONTRACT

14.402 Opening of bids.

14.402-1 Unclassified bids.

(a)(4) For construction contracts, after all the bids have been read, the independent Government estimate (IGE) and the control amount, if applicable, shall then be read.

(b)(1) The contract specialist, Contracting Officer, and any other persons designated in writing by the CCO for that purpose, is authorized to open bids.

14.404 Rejection of bids.

14.404-1 Cancellation of invitations after opening.

(a) A written determination by a level above the Contracting Officer is required prior to converting an invitation for bids to a negotiated procurement.

(b) If an invitation for bids has been cancelled and converted to a negotiated procurement, an amendment shall be issued to all responsible bidders stating the authority for the action, the evaluation criteria, and include applicable clauses for negotiated procurements.

14.405 Minor informalities or irregularities in bids.

NAVFAC Counsel written review comments are required prior to waiving unacknowledged amendments.

SUBPART 14.5—TWO-STEP SEALED BIDDING

14.502 Conditions for use.

A Level III Contracting Officer approval is required prior to using the two-step sealed bidding procurement method.

**PART 15
CONTRACTING BY NEGOTIATION**

SUBPART 15.1—SOURCE SELECTION PROCESSES AND TECHNIQUES

15.101-2 Lowest price technically acceptable (LPTA) source selection process.

The number of proposals to be evaluated for technical acceptability may be limited to the lowest priced offer at the discretion of the Contracting Officer. If the number of proposals to be evaluated is limited, the technical proposal shall be provided to the evaluator(s) without any identification of price. If the lowest priced proposal is not found to be technically acceptable then the next lowest price proposal shall be evaluated. If that proposal is also not found to be technically acceptable, then the process described will be conducted again as many times as necessary, until such time as the Government identifies a technically acceptable proposal. The source selection method must be included in the request for proposal. If the Contracting Officer later determines that discussions are necessary, the procedures in FAR 15.306 shall be followed.

**SUBPART 15.2—SOLICITATION AND RECEIPT OF PROPOSALS
AND INFORMATION**

15.203 Requests for proposals.

Requests for proposals (RFPs) that require Past Performance Questionnaires (PPQs) shall utilize the standard NAVFAC PPQ form. The Contracting Officer shall allow offerors to submit PPQs with their proposal and shall not require PPQs to be sent directly from the client(s). PPQs sent directly to the Contracting Officer by the client(s) are acceptable.

15.209-100 NAVFAC provision/solicitation language, All or None Offers.

(a) Use the following NAVFAC language entitled, "All or None Offers," in solicitations where proposals are to be accepted on an all or none basis. The language should be included in Section L of solicitations using Uniform Contract Format (UCF) or; for solicitations using the Construction Specifications Institute (CSI) formats available in the Standard Procurement System (SPS), include the language in Division 00800 of solicitations using the undated CSI format or if using the CSI 2012 format include the language in Division 00 73 00.

ALL OR NONE OFFERS

Offers are solicited on an "all or none" basis and FAR 52.215-1, INSTRUCTIONS TO OFFERORS-COMPETITIVE ACQUISITION in Section L, is hereby modified. Failure to submit offers for all line items listed shall be cause for rejection of the offer.

(End of NAVFAC language)

SUBPART 15.3—SOURCE SELECTION

15.303 Responsibilities.

(a) Source Selection Authority (SSA). The dollar value includes all options or option years. For indefinite delivery contracts, the approval authorities are based upon the total ceiling price of the solicitation/contract. For a multiple award indefinite quantity, the total ceiling price includes the aggregate value of all proposed contracts. (As an example, a multiple award indefinite delivery solicitation with a maximum value of \$240M that results in award of four contracts, the aggregate maximum value of all task orders issued during the life of the contracts may not exceed \$240M). The contract value of an indefinite delivery indefinite quantity (IDIQ) solicitation/contract is not the minimum guarantee amount or the estimated value of the seed project. For actions over \$30M, the SSA must hold a Level III warrant. For acquisitions with a total estimated value of \$100M or more, the SSA shall be an individual other than the Procuring Contracting Officer (PCO). See NFAS 1.690 for Business Clearance Memorandum (BCM) approval levels. Authority to act as SSA has been delegated as follows:

<u>Dollar Value</u>	<u>Source Selection Authority</u>
All Special Ventures at any dollar value	Echelon II
Up to and including \$30M	Contracting Officer with appropriate warrant level
Over \$30M up to and including \$100M	Echelon III/IV Division Director with Appropriate warrant authority and commensurate experience/training in the Business Line/Product Line (BL/PL) (i.e., CI, ENV, FSC) required in the procurement
Over \$100M	Echelon III/IV CCO/00/09

(b) For competitive negotiated acquisitions below \$100M, the SSA shall establish a single board comprised of only the Source Selection Evaluation Board (SSEB), unless multiple boards consisting of the SSEB and Source Selection Advisory Council (SSAC) are approved as outlined in 15.303(b)(4) below. The SSA should consider the establishment of multiple boards if the estimated value of the action is near the \$100M threshold.

(1) The SSEB will be comprised of a chairperson and evaluators (also known as SSEB members). The SSEB members may be organized into functional teams corresponding to the specific evaluation criteria (e.g., Technical Team, Past Performance Team, Cost Team, etc.). Use of non-Government personnel as voting members of the SSEB is prohibited. Evaluation of Non-Cost/Price factors and cost or price proposals must be performed independent of each other. The SSEB chairperson shall ensure the cost or price proposals are not released to anyone conducting evaluation of Non-Cost/Price factors until that evaluation is completed and findings are documented. The SSEB may deliberate on the overall ranking of offerors only when requested by the SSA or required by the Source Selection Plan (SSP) and, if necessary,

provide a competitive range recommendation with suggested discussion questions or a best value recommendation. Discussion questions shall be documented on Evaluation Notices and reviewed by the Contracting Officer and Legal Counsel.

(2) The SSEB should consist of a minimum of two and a maximum of five members. The composition of the SSEB shall be commensurate with the technical complexity of the procurement and minimized to the maximum extent practicable.

(i) The SSEB chairperson does not need to be a warranted Contracting Officer; however, the chairperson's primary career field must be designated as Contracting. A waiver to serve as the SSEB chairperson shall be approved by the Echelon III/IV Chief of the Contracting Office (CCO). In all cases, a contracting representative with the appropriate training and experience must serve as a member of the SSEB.

(ii) The SSEB may consist of a Contracting Officer operating within their warrant authority who performs the duties of both the SSA and the SSEB chairperson and a single technical representative.

(3) A single document shall be prepared by the SSEB documenting the outcome of the evaluation of Non-Cost/Price factors, the cost or price analysis, and if necessary the SSEB's deliberations. All evaluation records and narratives from the SSEB shall be reviewed by the Contracting Officer and Legal Counsel before evaluation results are presented to the SSAC (when used) and the SSA. In the event there is significant disagreement among the SSEB members regarding evaluation results that should be presented to the SSAC (when used) and the SSA, the minority opinion(s) shall also be presented at the decision briefing providing the SSA with sufficient information to fully consider the minority view(s).

(4) If appropriate, based on complexity and associated risk of the acquisition, multiple boards (SSEB and SSAC) may be used for acquisitions below \$100M when approved by the Echelon III/IV CCO.

(c) For competitive negotiated acquisitions of \$100M or more, the SSA shall establish multiple boards as follows:

(1) Source Selection Evaluation Board (SSEB), as described in 15.303(b)(1) above. If Small Business Utilization is a factor in the source selection, the Small Business Specialist shall be assigned to the SSEB as a member to evaluate this criterion.

(2) Source Selection Advisory Council (SSAC), consisting of two or three members.

(i) The SSAC chairperson does not need to be a warranted Contracting Officer; however, the chairperson's primary career field must be designated as Contracting. A waiver to serve as the chairperson shall be approved by the Echelon III/IV CCO.

(ii) The SSAC provides oversight to the SSEB and serves as the interface between the SSEB and SSA. The SSAC shall review evaluation results of the SSEB to

ensure the evaluation process follows the evaluation criteria and that ratings are appropriately and consistently applied. The SSAC shall provide a written comparative analysis and award recommendation to the SSA after review by Legal Counsel. In the event there is significant disagreement among the SSAC members regarding the recommendation, a minority opinion shall be documented and presented to the SSA as part of the comparative analysis.

(3) For NAVFAC EXWC ONLY: As authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233), the NAVFAC EXWC CCO may waive the requirement to use multiple evaluation boards for actions greater than \$100M up to but less than \$250M.

(d) Participants of the source selection process (multiple or single board process).

(1) All personnel appointed as members of any board in a source selection, including clients, are required to complete CTC 415 prior to serving on the assigned board. The CCO may grant a temporary waiver to this requirement provided the online course, NAVFAC CTC-W415 Source Selection (available in Total Workforce Management Services (TWMS)), is completed and registration and completion of CTC 415 occurs within the following twelve (12) months. In cases where board members are individuals outside of NAVFAC, their equivalent training (for CTC 415) will be approved by the CCO on a case-by-case basis. Clients participating as advisors are not required to complete this training; however, they will be required to sign the Certificate of Non-Disclosure and Conflict of Interest Statement.

(2) NAVFAC engineers and architects appointed as members of the SSEB performing evaluations of Non-Cost/Price factors which include engineering, design, construction or oversight of engineering, design, and construction must be licensed professional engineers or registered architects unless a waiver is granted pursuant to NAVFACINST 3540.1D, dated 22 February 2019. The licensing requirements for the chairperson or team lead shall not be waived under any circumstances. Non-licensed engineers and architects may be appointed to serve on selection boards, evaluation boards, or evaluation teams for contracts that do NOT involve engineering, design, construction or any oversight of design, engineering or construction.

(3) NAVFAC Counsel shall be assigned as an advisor on all source selections.

(4) Non-Government personnel may not be appointed as a member to any board. Use of non-Government personnel as advisors shall be supported by a written determination in accordance with NFAS 37.204 and FAR 37.204. They may not determine ratings or rankings of offerors' proposals and are prohibited from participating in the review and evaluation of past performance information. Non-Government advisors must sign the Non-Disclosure Agreement (NDA) required to be signed by all Government employees participating in the source selection. They shall also submit documentation indicating their personal stock holdings for a conflicts of interest review in consultation with the legal advisor prior to being allowed to access source selection information. The Contracting Officer must ensure the Government has received consent from the offerors before a non-Government advisor is given access to proprietary information. When non-Government advisors are used, the solicitation must contain the

following provision in the instructions to offerors in Section L of the Uniform Contract Format (UCF) or appropriate section when using other formats:

USE OF NON-FEDERAL PERSONNEL IN EVALUATIONS

(a) The Government intends to use one or more non-government personnel as advisor(s) in evaluating proposals. These contractor-advisor(s) are required by the terms of their government contract and the Procurement Integrity Act (41 U.S.C. §23) to maintain the confidentiality of any materials to which they are given access. Submission of your proposal to the government constitutes implied consent to allow review of your proposal by contractor-advisor(s).

(b) An offeror shall require the contractor-advisor to execute a supplemental non-disclosure agreement (NDA) by including a copy of the NDA with their proposal. The NDAs are not considered part of the proposal and communications (if any) between the contractor-advisors and the offerors regarding the terms of the NDA are neither discussions nor clarifications.

(c) In the unlikely event the offeror and the contractor-advisor are unable to agree on the terms and conditions to be set forth in the NDA, offerors are advised that the inability of the government to obtain the contractor-advisor's expertise in reviewing the offer may adversely impact the government's evaluation of the proposal.

(End of Provision)

(e) Source Selection Plan (SSP). SSPs are required for all competitive acquisitions over the SAT, excluding contract awards using simplified acquisition procedures. SSPs for acquisitions of \$250M or more shall be submitted to the appropriate Echelon II Division Director for approval prior to issuance of the solicitation. SSPs submitted by Echelon IV to Echelon II do not require review/approval by Echelon III. The SSA shall approve SSPs for acquisitions below \$250M. After the SSP is approved, any changes to the plan except personnel changes require re-approval of the plan by Counsel and the approval authority. For personnel changes, approval is required by the SSA.

15.304 Evaluation factors and significant subfactors.

(a) In all SSPs, Technical factors shall be equal to Past Performance. Prior to determining Non-Cost/Price factors are more important than Price in the Tradeoff process, a detailed memorandum shall be approved by the Echelon III or IV CCO and the Business Line Manager/Business Line Coordinator (BLM/BLC).

(b) For unrestricted acquisitions using the Tradeoff process, the SSP shall include a separate evaluation factor for Small Business Utilization, which shall be weighted at least equal to the highest ranking Technical factor. When evaluating small business participation, adjectival ratings shall be utilized.

(c) For the Lowest Price Technically Acceptable (LPTA) process, evaluation of small business participation is exempt in accordance with DFARS 215.304(c)(i). However, in the event that it is appropriate to include in some circumstances, it shall be a separate evaluation factor.

(d) Solicitations utilizing source selection procedures for procurements within the 50 United States, the District of Columbia, and outlying areas (as defined in FAR 2.101) shall contain a standard "Safety" Non-Cost/Price factor. This factor shall be included as a stand-alone evaluation factor and not as a subfactor or an element of the Past Performance evaluation factor. This requirement may only be waived by the Echelon III/IV 00/09.

(e) For design-build procurements, refer to the Capital Improvements Line acquisition strategy established for the current fiscal year.

15.306 Exchanges with offerors after receipt of proposals.

The PCO shall prepare a competitive range decision document (CRDD) whenever the PCO establishes and the SSA approves a competitive range. The CRDD shall be updated and re-approved by the SSA if an offeror is eliminated from the competitive range prior to making the source selection decision.

15.308 Source selection decision.

The SSA shall prepare a source selection decision document (SSDD) for all source selections. The SSDD shall reflect the SSA's independent, integrated, comparative assessment and decision, and include the rationale for any business judgments and tradeoffs made or relied on by the SSA. The SSDD is the single summary document supporting selection of the best value proposal consistent with the stated evaluation criteria. It shall clearly explain the decision and document the reasoning used by the SSA to reach the decision consistent with FAR 15.308.

15.371 (DFARS) Only one offer.

The Contracting Officer shall comply with DFARS 215.371-1.

15.371-5 (DFARS) Waiver.

The requirement to resolicit for an additional period of at least 30 days may be waived by one management level above the Contracting Officer.

SUBPART 15.4—CONTRACT PRICING

15.403 Obtaining cost or pricing data.

15.403-1 (NMCARS) Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. Chapter 35)

(c)(4)(B) Echelon III activities shall consolidate and submit an annual report of Truth in Negotiations Act waivers to the Echelon II People, Process and Policy Director for their area of responsibility (AOR), by 15 October. NFAS Appendix A summarizes all reporting requirements.

15.403-3 (DFARS) Requiring Data Other than Certified Cost or Pricing Data.

(a)(4) A request for an Head of the Contracting Activity (HCA) determination that it is in the best interest of the Government to award to an offeror that fails to comply with a Contracting Officer's request for Data Other than Certified Cost or Pricing Data, must be submitted via the Echelon III or IV CCO, and the Assistant Commander for Acquisition via the Echelon II Division Director.

(d) Reports. Echelon III activities shall consolidate and submit a quarterly report of all HCA determinations to the Echelon II People, Process and Policy Director for their area of responsibility (AOR), by 20 June, 20 October, 20 January, and 20 April. NFAS Appendix A summarizes all reporting requirements.

15.403-5 Instructions for submission of certified cost or pricing data and data other than certified cost or pricing data.

(a) For negotiations, which rely on a contractor's cost or pricing data, the business clearance shall state that the government relied on this data.

(b) For cost contracts, extrapolate costs to the total capacity on best value source selections.

(c) Where the total amount of a construction contract, task order, or modification is equal to or below the certified cost or pricing data threshold, the following may be used in lieu of requiring the contractor to submit a detailed breakdown of overhead:

(1)(i) Ten percent of labor, material and equipment estimates in lieu of field overhead,

(ii) Five percent of subcontract estimates,

(iii) Three percent of the total labor, material and equipment estimates and the amount computed by (i) above in lieu of home office overhead or,

(2) The audited rates for that company established by a Defense Contract Audit Agency (DCAA) audit less than one-year-old.

(d) No overhead or profit shall be allowed on bond expenses.

(e) When an architect-engineer (A-E) contract includes reimbursable travel for an A-E firm located outside the commuting distance of the construction site, the contract shall state that the A-E firm will be reimbursed for authorized travel in accordance with government travel regulations. No profit and overhead will be allowed on reimbursable travel expenses contained in an otherwise fixed-price contract.

15.404 Proposal analysis.

15.404-1 Proposal analysis techniques.

When cost analysis is required or when negotiating the basic award of a multi-tasked, A-E indefinite delivery indefinite quantity (IDIQ) arrangement (including

Comprehensive Long-Term Environmental Action, Navy (CLEAN) contracts), the Contracting Officer shall justify labor and indirect rates in terms of average area rates for similar work. Rates in excess of average area rates should be justified in terms of the need of the government.

15.404-2 Information to support proposal analysis.

When the Contracting Officer plans to sustain less than 75% of the total recommended questioned costs (excluding unsupported costs) in a DCAA audit report on a proposal valued at \$10M or more, the Contracting Officer shall attempt to resolve disagreements with the auditor. If the differences cannot be resolved, the Contracting Officer shall document the discussion, including the basis of the disagreements, in the pre-negotiation business clearance and in writing to the auditor (e.g., email). Negotiations may commence after discussions with DCAA have been documented and the pre-negotiation business clearance has been approved. If DCAA requests higher-level review, the Contracting Officer shall notify the CCO and provide DCAA with the name and contact information of the CCO.

15.404-4 Profit.

(a) When establishing the profit or fee portion of the Government pre-negotiation objective in price negotiations based on cost analysis, the Contracting Officer shall use profit/fee analysis to determine the reasonableness of any profit/fee included in the contract price. For actions below the cost or pricing data threshold, refer to FAR 15.404-4(d) for profit analysis factors.

(b) Government set predetermined profit rates shall not be established upon contract award and used in resulting task orders. Profit will be negotiated on individual task orders based on project risk and complexity. The profit determination must be structured and supported in the business clearance or price negotiation memorandum.

(1) For construction execution of petroleum, oil and lubricants (POL) tanks under the Clean, Inspect, Repair (CIR) process only, Echelon III and IV CCOs may approve the use of maximum profit rates for task or delivery orders that will be binding to modifications to those task or delivery orders. Profit analysis is still required when cost analysis is required.

(c) Award Fee. Under environmental cost-plus-award-fee contracts, award fee shall not exceed 10 percent of the Contract Task Order (CTO) total.

15.404-73 (DFARS) Alternate structured approaches.

(b)(2)(S-100) Facilities capital cost of money shall not apply to contracts where reimbursement is provided to contractors through construction equipment use rates or allowances (see FAR 31.105(d)). In other situations, where facilities capital cost of money is proposed and verified, follow the procedure in DFARS 215.404-73(b)(2).

15.404-73-100 Alternate structured approaches for construction contracts.

As required by DFARS 215.404-4, all fixed-price construction contract actions shall use the alternate approach. For cost reimbursement contracts, the weighted guidelines

method described in DFARS 215.404-71 shall be used if cost realism is not assessed in competitive acquisitions.

15.404-73-101 Alternate structured approaches for architect-engineer contracts.

The pre-negotiation profit objective for a firm-fixed-price A-E (including surveying and mapping) contract, contract modification or task order shall be determined by the alternate structured approach. The profit objective for all other types of A-E contracts will be determined in accordance with DFARS 215.404-71.

SUBPART 15.6—UNSOLICITED PROPOSALS

15.606 Agency procedures.

Unsolicited proposals shall be forwarded to the Echelon III/IV contracts office via the Acquisition chain of command. The Echelon III/IV CCO shall determine the disposition of the proposal in accordance with applicable regulations. This authority may not be redelegated. Unsolicited proposals received at Echelon II shall be forwarded to the cognizant Echelon II Acquisition Division Director for disposition of the proposal.

PART 16
TYPES OF CONTRACTS

SUBPART 16.3—COST-REIMBURSEMENT CONTRACTS

16.302 Cost Contracts.

Cost-plus contracting for military construction and family housing projects is prohibited per Section 2801 of the FY12 National Defense Authorization Act (NDAA), which was effective 31 December 2011. Cost-plus contracts are described in FAR 16.304, 16.305 and 16.306. This prohibition is applicable in all cases, even if there is a declaration of war or a declaration by the President of a national emergency under Section 201 of the National Emergencies Act (50 U.S.C. 1621). Military construction refers to a type of work and not a particular appropriation available for construction work (e.g., MCON) or source of construction project authorization and also applies to construction work below the Military Construction Appropriation Act (MILCON) threshold.

16.302-100 Approval of cost-reimbursement type contracts.

The approval of the Assistant Commander for Acquisition is required prior to committing to any Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) to enter into or award a cost reimbursement contract, inclusive of options:

In excess of \$50M (if awarded prior to October 1, 2019)

In excess of \$25M (if awarded on or after October 1, 2019)

The request for approval shall explain how the procurement's history, current market conditions, or other circumstances support use of a cost-reimbursement type action. The request, which can be in email format, shall be forwarded to the appropriate Echelon II Division Director, via the Echelon III Chief of Contracting Office (CCO), for approval.

Note: This approval is in addition to any other required approval or documentation required based on the specific cost reimbursement type contract to be used (see NFAS 16.306 and 16.405-2) or included in higher regulations.

16.306 (DFARS) Cost-plus-fixed-fee contracts.

A request to use MILCON funded cost-plus-fixed-fee contracts shall be forwarded to the appropriate Echelon II Division Director via the Echelon III CCO for final approval by Office of Secretary of Defense (OSD).

SUBPART 16.4—INCENTIVE CONTRACTS

16.404 (DFARS) Fixed price contracts with award fees.

For guidance, see NAVFAC Award Fee Desk Guide.

16.405-2 Cost-plus-award fee.

All cost-plus-award fee (CPAF) contracts must be approved by the Head of the Contracting Activity (HCA)/Assistant Commander for Acquisition. Each determination and finding (D&F) must certify that "the work to be performed is such that it is neither feasible nor effective to devise predetermined objective incentive targets applicable to cost, technical performance or schedule". The D&F shall be forwarded via the Echelon III/IV CCO to the appropriate Echelon II Division Director for approval by the Assistant Commander for Acquisition. This authority may not be redelegated.

SUBPART 16.5—INDEFINITE DELIVERY CONTRACTS

16.503 Requirements contracts.

(e) The contract price on the award document shall be marked "Estimated Total Price."

(f) No funds shall be obligated at time of award but are obligated at time of issuance of orders against the contract.

16.504 Indefinite-quantity contracts.

(a)(4)(viii) The contract price on the award document shall be marked "Not to Exceed."

(a)(4)(ix) Funds are to be obligated at time of award for the minimum quantity only.

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

(i) The determination to award a task or delivery order contract in an amount estimated to exceed \$112M (including all options) to a single source must be submitted for approval by Assistant Secretary of the Navy for Research, Development and Acquisition (ASN(RDA)). The determination must be submitted with a copy of the approved STRAP or MOPAS-S via the Echelon III or IV CCO, the Assistant Commander for Acquisition via the Echelon II Division Director, and via Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN(AP)) using the format required by NMCARS Annex 7.

16.504-100 NAVFAC solicitation/contract language, Minimum and Maximum Fees [Architect-Engineer Indefinite Quantity Contracts].

(a) Use the following NAVFAC language entitled, "Minimum and Maximum Fees [Architect-Engineer Indefinite Quantity Contracts]" in all indefinite quantity type solicitations/contracts for architect-engineer (A-E) services. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or; for solicitations using the Construction Specifications Institute (CSI) formats available in the Standard Procurement System (SPS), include the language in Division 00800 of solicitations using the undated CSI format or, if using the CSI 2012 format, include the language in Division 00 73 00.

**MINIMUM AND MAXIMUM FEES
[ARCHITECT ENGINEER INDEFINITE QUANTITY CONTRACTS]**

As the contract minimum has been established with project _____ (insert project number or name) identified in the basic award, the contract maximum annual total is \$ (insert amount).

(End of NAVFAC language)

(b) Use the following NAVFAC language entitled, "Minimum and Maximum Fees [Architect-Engineer Indefinite Quantity Contracts]" in indefinite quantity solicitations/contracts for A-E services if the contract minimum will be established without an initial project. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or; for solicitations using the CSI formats available in SPS, include the language in Division 00800 of solicitations using the undated CSI format or, if using the CSI 2012 format, include the language in Division 00 73 00.

**MINIMUM AND MAXIMUM FEES
[ARCHITECT ENGINEER INDEFINITE QUANTITY CONTRACTS]**

The contract minimum is \$_____ (insert amount). The contract maximum annual total is \$_____ (insert amount).

(End of NAVFAC language)

16.504-101 Facilities support indefinite-quantity contracts.

(a) The contract amount on the award document shall be the total of the extended unit prices for each line item for the base year.

(b) The "quantity" column on the Schedule shall be marked "Estimated."

(c) Insert the following in Schedule B:

"MAXIMUM NOT TO EXCEED (NTE) AND MINIMUM GUARANTEE

The maximum NTE value of an ordering period is the total of all the CLINs in that ordering period. The maximum or NTE value of the contract is the total value of all CLINs in the Schedule. Orders shall not be made that exceed the maximum NTE value for any ordering period. The maximum NTE value of an ordering period and of the contract may be increased by written modification to the contract in conjunction with any modification that increases the value of an existing task order that is authorized by a contract clause. Orders in excess of the estimated quantity set forth for any particular CLIN shall not be exceeded without the Contractor's agreement which shall be indicated by signing or beginning performance of the order.

Concurrently with the award of the basic contract, the Government intends to issue a task order to obligate the contract minimum guarantee for:

CLIN XXXX, Base Period recurring work;

Minimum guarantees do not apply to the option periods.”

(d) The contract price on the award document shall be marked "Not to Exceed."

(e) The work identified for the recurring and non-recurring requirements in the contract must be of a similar nature.

(f) Modifications to a task order, and a corresponding change to the NTE values of an ordering period and the contract may be made without a FAR Part 6 Justification and Approval (J&A) when:

(1) the modification is within the scope of an existing task order, consider factors such as changes in the period of performance or the type of work, the extent of the increase in cost or price, and whether offerors would have anticipated the potential for the type of work contemplated by the modification. Counsel should be consulted regarding such scope determinations.

16.504-103 FedMall contracts.

(a) All contracts will include the FAR clause 52.232-36, Payment by Third Party.

(b) All contracts will include in Section H the following provision:

“Contractor Support of Electronic Contracting (FedMall)

The contractor is required to offer indefinite quantity (IQ) pre-priced line item services to authorized Government personnel when they are ordering the work directly via the Governmentwide Commercial Purchase Card (GCPC) program. When receiving GCPC orders against Section B, the contractor shall provide the supplies and services at the offered price without additional markup or handling fee.

The contractor agrees to accept and process electronically submitted GCPC orders for IQ services, including those orders issued through the FedMall. The FedMall is a U.S. Government (USG) owned and operated web-based ordering system that enables any Department of Defense (DoD) or Federal activity to search for and order goods and services. Authorized GCPC users will receive approved accounts on FedMall to view and order IQ line items.

The contractor is required to receive electronic IQ orders from the FedMall using 128-bit encrypted email. The contractor agrees to purchase, install, and utilize the most recent version of PGP Personal software, or a comparable solution, for the purpose of decrypting order notification emails from the FedMall. In addition, the DoD has established the External Certification Authority (ECA) program to support the issuance of DoD-approved certificates to contractors. The ECA program is designed to provide the mechanism for contractors to securely communicate with the DoD and authenticate to DoD Information Systems. The contractor agrees to purchase, install, maintain and use a DoD-approved ECA certificate. Information on obtaining an ECA certificate can be found at <http://iase.disa.mil/pki/eca/Pages/certificate.aspx>.

The contractor shall post updates on order delivery schedule and performance to the FedMall in a timely manner.

The contractor shall track quantities and report total ordered quantity in FedMall and approved DD 1155's by line item number each month and year-to-date. The report shall be due to the Contracting Officer by the fifth day of the following month. The contractor must track and report when total dollar value of all orders from both GCPC purchases and DD 1155s exceed 75% of the combined Section B Pre-Priced Line Item quantities."

(c) Paragraphs (a) and (b) above apply to both new solicitations and to existing contracts awarded without the FedMall clause and provision.

(d) FedMall orders will not exceed the SAT for services. FedMall orders for construction work is not allowed.

(e) Unless an exception in paragraph (f) below applies, no IDIQ orders will be accepted for processing through a NAVFAC contract's office that can be ordered directly by the client through FedMall unless approved by a waiver. It is the intent that IDIQ contracts will be placed on FedMall. If a contract has been posted on FedMall and a client requests a task order be issued not using FedMall, a waiver by the Echelon III/IV CCO is required for each order. In no case shall the waiver process be utilized to provide a customer the flexibility to circumvent use of FedMall. Use of blanket delivery orders will only be utilized when a waiver has been granted by the Echelon III/IV CCO.

(f) An exception to paragraph (e) above may be made at the discretion of the Contracting Officer, in coordination with the appropriate technical authority, when:

(1) Service requirements warrant additional contractual and technical oversight due to complexity of the work involved (e.g., crane/technical/safety oversight or similar considerations); or

(2) The client does not have GCPC authority to place FedMall orders valued above the micro-purchase threshold.

Written justification by the Contracting Officer and appropriate technical authority shall be required prior to issuing an IDIQ order. The written justification shall be included in the contract file and a copy provided to the Echelon III/IV CCO to ensure this exception is applied prudently.

16.505 Ordering.

(a) *General.*

(13) Delivery/task orders may only be executed by a warranted Contracting Officer or an ordering officer designated pursuant to NFAS 1.602-2(c).

(14) All delivery/task orders may be issued on DD Form 1155 unless it is a FedMall order. FedMall orders will follow the FedMall procedures.

(15) Orders under contracts funded with annual appropriations shall not be executed in one fiscal year with commencement beginning in the next fiscal year (See FAR 32.703-3).

(16) Orders for severable services may be for a period that begins in one fiscal year and ends in the next fiscal year if the order does not exceed one year. (See DFARS 237.106).

(d) *Undefinitized Task/Delivery Orders.* Undefinitized task/delivery orders are authorized only when the contract provides undefinitized orders as a method for ordering.

(e) *Delivery/task orders under non-DoD Governmentwide acquisition contracts (GWACS) and multi-agency contracts.* With written approval of a Contracting Officer a level above the individual assigned the action, orders may be placed using GWACS (for example GSA One Acquisition Solution for Integrated Services (OASIS)) and/or multi-agency contracts for services including knowledge based services and are not limited to the simplified acquisition threshold (SAT). These orders are interagency acquisitions and must also comply with all applicable interagency requirements (See NFAS 17.5). GWACS and/or multi-agency orders shall not be used for architect-engineer (A-E) or construction. Additionally, GWACs and/or multi-agency orders for recurring facilities support services (such as Base Operations Support (BOS), custodial, preventive maintenance of equipment, etc.) shall be limited to those instances when they cannot be procured as efficiently through a NAVFAC awarded contract and shall use small business set-asides to the maximum extent possible.

Note: Orders for Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22) must consider use of SeaPort. If SeaPort is not used and the requirement is not excepted by NMCARS 5237.102, a determination and findings (D&F) shall be submitted for approval by DASN(AP) (see NFAS 16.505-100 and 37.103-100).

16.505-70 Orders under multiple award contracts.

(a) Prior to determining Non-Cost/Price factors, when combined, are more important than Cost/Price for a task order, the proposed evaluation plan or a detailed memorandum shall be approved by the Echelon III or IV CCO and the Business Line Manager/Business Line Coordinator (BLM/BLC).

(b) Multiple Award Contract (MAC) task orders using the price only selection methodology only, with an estimated value up to but less than \$25M, do not require a written MAC Task Order Evaluation Plan (TOEP). A written MAC Task Order Evaluation Plan is required for any MAC task order above \$10M not using the price only selection methodology. Additionally, a written MAC TOEP is required for any MAC task order above \$25M. If required, the MAC TOEP must be prepared and approved prior to issuing the solicitation. The approval authority for evaluation plans are as follows:

(1) Contracting Officer with appropriate warrant level for task orders with a value up to and including \$50M.

(2) One Management Level above the Contracting Officer for task orders with a value over \$50M.

(c) Capital Improvements (CI) construction projects over \$100M shall not be procured via a MAC task order unless a formal waiver is approved by the Echelon II CI and ACQ. However, this policy does not apply to the Global Contingency Construction contract and no waiver is required.

(d) Competitive task orders over the simplified acquisition threshold (SAT) shall be solicited for a minimum of 30 days, except for architect-engineer MAC task orders which shall have a minimum solicitation period of 14 days. The minimum solicitation period may be waived by the cognizant Echelon III/IV CCO. A copy of the waiver shall be submitted to the Echelon II Division Director.

(e) Solicitations that require past performance questionnaires (PPQs) shall utilize the standard NAVFAC PPQ form. The Contracting Officer shall allow offerors to submit PPQs with their proposal and shall not require PPQs to be sent directly from the client(s). PPQs sent directly to the Contracting Officer by the client(s) are acceptable.

(f) Approval thresholds for limiting competition for task orders under multiple award contracts are prescribed at NFAS 6.304-100(b).

16.505-100 Orders for Engineering Services and/or Program Management Services, as identified in NMCARS Annex 22.

(a) The Contracting Officer shall consider SeaPort for use prior to issuing any task or delivery order for Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22) unless an exception applies (see NMCARS 5237.102). If SeaPort is not used and the requirement is not excepted, a determination and findings (D&F) shall be submitted for approval by DASN(AP). The D&F shall be submitted via the Echelon III/IV CCO, the appropriate Echelon II Division Director and the Assistant Commander for Acquisition.

(b) In situations where repetitive task or delivery orders for Engineering Services and/or Program Management Services (see NMCARS Annex 22) are anticipated, a class D&F should be prepared and submitted for approval by DASN(AP) via the Echelon III/IV CCO, the appropriate Echelon II Division Director and the Assistant Commander for Acquisition.

SUBPART 16.6—TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS

16.601 (DFARS) Time-and-materials contracts.

Determination and Findings (D&F) for a Time and Material (T&M) contract less than or equal to \$1,000,000 and a contract term less than or equal to 3 years, including options, shall be approved by the appropriate Echelon III/Echelon IV CCO. A D&F for a T&M or labor hour (LH) contract greater than \$1,000,000 and a contract term less than or equal to three years, including options, shall be approved by the Assistant Commander of Acquisition/Deputy Director for Acquisition. When the contract term, including options, exceeds three years, the D&F shall be approved by the Head of Contracting Activity (HCA) as required by FAR 16.601(d). In addition to the

requirements at DFARS 216.601, the D&F shall address why a cost-plus-fixed-fee term contract or order is not appropriate.

16.602 Labor hour contracts.

D&F for a labor hour (LH) contract less than or equal to \$1,000,000 and a contract term less than or equal to 3 years, including options, shall be approved by the appropriate Echelon III/Echelon IV CCO. A D&F for a T&M or LH contract greater than \$1,000,000 and a contract term less than or equal to three years, including options, shall be approved by the Assistant Commander of Acquisition/Deputy Director for Acquisition. When the contract term, including options, exceeds three years, the D&F shall be approved by the HCA as required by FAR 16.601(d). In addition to the requirements at DFARS 216.601, the D&F shall address why a cost-plus-fixed-fee term contract or order is not appropriate.

PART 17
SPECIAL CONTRACTING METHODS

SUBPART 17.2—OPTIONS

17.202 Use of options.

17.202-100 Use of options in construction contracts.

(a) Written approval by a level above the Contracting Officer is required for the use of options in construction contracts and combination construction and service contracts in which the service work is the option.

(b) The period of time in which the Contracting Officer has to exercise an option for construction is limited to 365 days from date of contract award. If it is determined a longer period of time is necessary ***and prior to release of any solicitation***, a written request for a longer period shall be submitted for approval by the Echelon III/IV Chief of the Contracting Office (CCO).

17.202-101 Use of options in facilities support contracts.

(a) Written approval of a level above the Contracting Officer is required to include construction options in facilities support service contracts to be performed in the United States, its territories or trusts.

(b) Leases for equipment may include an option to buy. Operation and Maintenance, Navy (O&MN) funds may not be used to exercise a purchase option in excess of \$100,000.

(c) For facilities support contracts that include both recurring and non-recurring work, the base ordering period or any option ordering period shall not exceed twelve months.

17.202-102 Use of options in architect-engineer contracts.

(a) The Contracting Officer shall make the written determination required by FAR 17.205 justifying why options to extend the contract term beyond the base year is in the government's best interest.

(b) Any options included in an architect-engineer (A-E) contract must be stated in the scope of services.

(c) Prior to exercise of any option, the Contracting Officer shall make the written determination required by FAR 17.207 affirming that the A-E firm remains the most highly qualified firm to do the work.

17.202-103 Use of options in Utility Service contracts.

Utility Service contracts, as defined in FAR 41.101, may be awarded for periods not exceeding 10 years in accordance with NFAS 41.103 and FAR 41.103. The overall

term of a utility services contract using 40 U.S.C. 501 shall be no more than 30 years, inclusive of the base and all options.

17.204 Contracts.

(e)(i) Service contracts are limited to a term of five years. A waiver must be approved prior to issuing a solicitation for services if the term, including options, exceeds five years or up to five years and six months when FAR clause 52.217-8, "Option to Extend Services," is included in the solicitation and the approved Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) included the use of the clause and obtained pricing for the additional six months. A maximum contract term of eight years (up to eight years and six months when FAR clause 52.217-8, "Option to Extend Services," as stated above, is included in the solicitation) for Base Operations Support (BOS) contracts is allowable with an approved waiver in accordance with this paragraph.

1. The waiver request shall be approved by the Assistant Commander for Acquisition/Deputy Director for Acquisition for any solicitation that includes terms that exceed five years (up to five years and six months when FAR clause 52.217-8, "Option to Extend Services," is included in the solicitation).

(e)(i)(C) Waiver requests for solicitations with terms over 10 years shall be approved by the Assistant Secretary of the Navy for Research, Development and Acquisition (ASN(RDA)). The waiver request must be submitted with a copy of the approved Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) via the Echelon III or IV CCO, the Assistant Commander for Acquisition via the Echelon II Division Director and via Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN(AP)). The waiver request shall explain/demonstrate any unique circumstances or extreme situations, and how the procurement's competitive history and/or significant capital investment requirement indicates that a longer period of performance is necessary to establish or maintain competition. All waiver requests shall be coordinated via the Headquarters (HQ) ACQ Division Director. A waiver request submitted by Echelon IV does not require review/approval by Echelon III but a copy shall be transmitted concurrently to the Echelon III CCO.

(f) The ordering period for task or delivery order contracts (excluding facility support contracts that include both recurring and non-recurring work) including contracts for construction, architect-engineering and knowledge based services, Blanket Purchase Agreements, and Basic Ordering Agreements, may be for any period up to five years without requiring separate one-year option periods per DFARS 217.204(e)(i)(A) and must be specified in the basic contract. Written email approval from the respective Echelon III/IV CCO is required when the ordering period will exceed 12 months on indefinite delivery contracts.

17.207 Exercise of options.

(a) Prior to exercising an option on a services contract, ensure the language required by DFARS 211.106 is included in the Statement of Work/Performance Work Statement (SOW/PWS) or incorporated by modification.

(b) Contracts that have been awarded where the pricing was not evaluated for exercising the Option to Extend Services under FAR clause 52.217-8 during the initial competition shall follow bridge contract procedures pursuant to NMCARS 5206.3 for Other Than Full and Open Competition. Approval and authorization to award a bridge contract in the prescribed format at NMCARS Annex 5 shall be obtained prior to requesting a Justification and Approval (J&A).

(c) If the anticipated term of the contract, including the exercise of the Option to Extend Services under FAR clause 52.217-8, exceeds the limits defined in NFAS 17.204(e)(i), a waiver is required by NFAS 17.204(e)(i)(1).

(d) If exercising the option will extend Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22), SeaPort must be considered for use to procure the services. If SeaPort is not used and the option does not qualify for an exception at NMCARS 5237.102, a determination and findings (D&F) shall be submitted for approval by Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN(AP)). The D&F shall be submitted via the Echelon III/IV CCO, the appropriate Echelon II Division Director and the Assistant Commander for Acquisition.

17.208 Solicitation provisions and contract clauses.

17.208-100 NAVFAC contract clauses.

(a) Use the clause at FAR 52.217-7, "Option for Increased Quantity-Separately Priced Line Items," in:

(1) A-E contracts when the contract provides for exercise of an option for post construction award services other than those specified at DFARS 236.609-70, and

(2) construction contracts with option(s) for additional work.

SUBPART 17.5—INTERAGENCY ACQUISITIONS

17.500-100 Scope of subpart, Interagency and Intra-Agency acquisitions.

The policy in this subpart is applicable to both interagency and intra-agency acquisitions. The following definitions apply:

Interagency acquisitions are: DoD acquisitions when supplies or services required are obtained from another federal agency outside of DoD, either by an assisted acquisition or a direct acquisition. For example, an acquisition made between the Department of Energy and Department of Navy. In accordance with FAR 2.101, the term includes:

- Acquisitions under the Economy Act ([31 U.S.C. 1535](#)); and
- Non-Economy Act acquisitions completed under other statutory authorities. e.g. --General Services Administration (GS) Federal Supply Schedules (FSS) in FAR 8.4 and --Governmentwide acquisition contracts (GWACs) such as GSA One Acquisition Solution for Integrated Services (OASIS).

Note: FSS Orders less than \$550K are inter-agency acquisitions, however, in accordance with FAR 17.500(c)(2), the requirements of FAR 17.502-1 and 17.502-2 do not apply.

Intra-agency acquisitions are DoD acquisitions with any other DoD agency. For example, an acquisition made between the Department of the Navy and the Department of the Army.

“Requesting agency” refers to the agency requesting the supplies or services.

“Servicing agency” refers to the agency providing the supplies or services.

“Assisted acquisition” refers to the servicing agency conducting an acquisition on behalf of the requesting agency.

“Direct acquisition” refers to the requesting agency placing an order against another agency’s indefinite-delivery vehicle (no action is taken by the servicing agency).

17.502-1 [Removed and Reserved]

17.502-2 (NMCARS) The Economy Act.

(a) A D&F, in the format outlined in BMS, is required for:

(1) Interagency Economy Act Orders (assisted and direct contract actions outside of DoD), unless there is an exception in paragraph (c) below or other specific statutory authority (e.g., FSS and GWAC) applies.

- i. If contracting action on the part of the servicing agency is NOT required (direct acquisition); in accordance with NMCARS 5217.502-2(c)(2)(A), approval of the D&F is delegable from the Head of the Contracting Activity (HCA) designee to the appropriate level within the organization, and is shown in the approval table at (b) below. For example, if NAVFAC is performing the work for another agency with its internal workforce, approval of the D&F is encouraged to take place at the appropriate level.
- ii. If contracting action on the part of the servicing agency IS required (assisted acquisition) and it is to non-DoD activities (interagency), the approval table at (b) below applies. For example, the Environment Protection Agency is contracting for work on behalf of NAVFAC.

(2) Intra-agency Agreements (within DoD), both Economy Act and non-Economy Act, that result in a contract or order for knowledge based services.

(b) The thresholds and approval authority for D&Fs are as follows:

Threshold	Economy Act Direct* Interagency Acquisition Approval Authority	Economy Act Assisted* Interagency Acquisition Approval Authority	Intra-agency Acquisition Approval Authority for Knowledge Based Services Approval Authority**
> Micro-purchase Threshold to SAT	Requiring Office Commanding Officer	Requiring Office Commanding Officer	Requiring Office Commanding Officer
> SAT to < \$5M	Echelon III/IV Commander/Commanding Officer	Echelon III Commander/Commanding Officer	Echelon III/IV Commander/Commanding Officer
\$5M to <\$50M	Asst Commander for ACQ	Asst Commander for ACQ	Asst Commander for ACQ
> \$50M to \$550M		DASN(AP)	
> \$550M		ASN(RDA)	

*Approval of any D&F will also document the review and approval outlined in NMCARS 5217.770 if required.

**The D&F format outlined in BMS for Economy Act Orders shall also be used for Intra-agency knowledge based services regardless of authority (Economy Act or non-Economy Act).

Notes:

- (1) All assisted acquisitions regardless of dollar value must be supported by an Interagency Agreement (IA). Each agency's file shall include the IA.
- (2) D&Fs that require approval above the Asst. Commander for ACQ shall be routed via the appropriate Echelon II Division Director.
- (3) Approval authority of D&Fs for Interagency Economy Act actions that will result in a contracting action executed by an agency not subject to the FAR, is limited to the Navy Senior Procurement Executive, ASN(RDA), without power of redelegation (NMCARS 5217.502-2(b)). The D&F must be submitted with a copy of the approved STRAP or MOPAS-S via the Echelon III or IV CCO, the Assistant Commander for Acquisition via the Echelon II Division Director and DASN(AP)).
- (4) For intra-agency assisted acquisitions (excluding those for knowledge-based services) the interagency agreement shall be documented on the DD Form 1144, Support Agreement (see template at <http://www.acq.osd.mil/dpap/pacc/cc/resources.html>) in accordance with DFARS PGI 217.502-1.

(5) For intra-agency acquisitions performed by NAVFAC for another DoD Component, the DD Form 1144 is required for use to document reimbursable support in accordance with [DoD FMR](#) Vol 11A Chapter 3.

(c) Exceptions. In addition to exceptions in NMCARS 5217.502(S-92), a D&F is not required for the following types of orders:

- (1) OPM for civilian recruitment certificates.
- (2) Orders with the Government Printing Office.
- (3) Orders with General Services Administration (GSA) for vehicle purchases.

(d) Reporting. Using the Inter-Intra Agency Log, D&Fs shall be reported via annual email to the Echelon II People, Process and Policy Director. Echelon III activities shall consolidate the information for its area of responsibility (AOR) and submit a report by 10 November of each year.

By 10 December of each year, Echelon III activities shall submit an annual DoE Work for Others (WFO) Order Compliance Assessment Results Report for its AOR to the Echelon II People, Process and Policy Director. NFAS Appendix A summarizes all reporting requirements.

SUBPART 17.7 – INTERAGENCY ACQUISITIONS: ACQUISITIONS BY NONDEFENSE AGENCIES ON BEHALF OF THE DEPARTMENT OF DEFENSE.

17.703 (NMCARS) Policy.

(c) Echelon II People, Process and Policy Director shall submit an annual report of nondefense agency certifications of compliance by 15 October. NFAS Appendix A summarizes all reporting requirements.

17.770 (NMCARS) Procedures.

(a) For Economy Act orders (direct and assisted) as well as non-Economy Act knowledge based services orders over SAT, review and approval will be documented by a signed D&F as required in NFAS 17.502-2(b).

(b) For direct non-Economy Act orders over SAT that are not for knowledge based services, review and approval will be documented by an approved business clearance memorandum or Pre or Post Negotiation Memorandum.

(c) For assisted non-Economy Act orders over SAT that are not for knowledge based services, review and approval thresholds are the same as “Economy Act Assisted Interagency Acquisition Approval Authority” thresholds as shown in NFAS 17.502-2(b) above. Review and approval for these requirements will be documented by a separate memorandum and be included in the file.

(d) In accordance with FAR 17.703, for all assisted non-Economy Act orders over SAT, the Contracting Officer shall also verify at

http://www.acq.osd.mil/dpap/cpic/cp/interagency_acquisition.html that the non-DoD agency has certified its compliance or received a waiver (FARS 17.703). This verification shall be documented in the file.

SUBPART 17.74—UNDEFINITIZED CONTRACT ACTIONS (DFARS)

17.7403 Policy.

For policies and procedures regarding undefinitized change orders pursuant to the Changes Clause of a contract, refer to NFAS 43.2 Change Orders.

17.7403-100 Management of undefinitized contract actions (UCAs).

The Echelon III/IV CCO shall provide management oversight over UCAs issued by the Contracting Officers under their cognizance to ensure appropriate use, management attention to backlog, and establishment/adherence to definitization schedules.

17.7404 (DFARS) Limitations.

17.7404-1 Authorization.

(a) Undefinitized Contract Actions (UCA) may be executed either unilaterally or bilaterally. UCAs shall be approved as follows:

(1) Up to and including \$1,000,000, approval authority is delegated to the Echelon III/IV Commanders/Commanding Officers and the CCO. This authority may be redelegated to Levels I, II, or III Contracting Officers up to a maximum dollar value of \$150,000 per UCA.

- (i) For construction execution of petroleum, oil and lubricants (POL) tanks under the Clean, Inspect, Repair (CIR) process only, up to and including \$4,000,000, approval authority is delegated to the Echelon III/IV Commanders/Commanding Officers and the CCO. This authority may be redelegated to Levels I, II, or III Contracting Officers up to a maximum of \$250,000 per UCA.

(2) Over \$1,000,000, approval authority is the appropriate Echelon II Division Director.

- (i) For construction execution of POL tanks under the CIR process only, over \$4,000,000, approval authority is the appropriate Echelon II Division Director.

(b) Only Contracting Officers having specific UCA authority designated on their warrant shall approve the use of contract actions for UCAs, unless delegated one-time authority on a case-by-case basis.

17.7404-2 Price ceiling.

A Not-To-Exceed (NTE) ceiling price shall be established for each UCA. This NTE ceiling price may be adjusted by modification during performance if circumstances warrant, but shall not be exceeded at definitization.

17.7404-4 Limitations on obligations.

See the limitations on obligations for UCAs at DFARS 217.7404-4.

17.7405 (NMCARS) Plans and reports.

(a)(2) The Consolidated Undefined Contract Actions (UCA) Management Report is required to be reported semi-annually. Echelon III activities shall consolidate the information for its AOR and submit a report by 10 April and 10 October via email to the Echelon II People, Process and Policy Director. NFAS Appendix A summarizes all reporting requirements.

**PART 18
EMERGENCY ACQUISITIONS
(RESERVED)**

PART 19
SMALL BUSINESS PROGRAMS

SUBPART 19.5—SET-ASIDES FOR SMALL BUSINESS

19.505 (DFARS) Rejecting Small Business Administration recommendations.

Appeals by the Small Business Administration (SBA) Procurement Center Representative (PCR) shall be forwarded to the Echelon III/IV Chief of the Contracting Office (CCO) for a decision. This authority may not be redelegated.

SUBPART 19.7—THE SMALL BUSINESS SUBCONTRACTING PROGRAM

19.702 Statutory requirements.

Selection procedures for architects and engineers require an architect-engineer (A-E) firm to identify who will perform the work (including subcontractors required under the contract). Contracting Officers shall ensure A-E firms address their planned usage of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business in the SF-330. Additionally, synopses for A-E services expected to exceed \$700,000 shall require a short-listed large business firm to submit a subcontracting plan, in addition to the narrative in the SF-330, before price negotiations begin for contract award. If the selected A-E firm fails to negotiate a subcontracting plan acceptable to the Contracting Officer within the time limit prescribed by the Contracting Officer, the firm will be ineligible for award.

19.703 (DFARS) Eligibility requirements for participating in the program.

All solicitations shall include a notice to offerors of the opportunity to use AbilityOne (formerly known as Javits-Wagner-O'Day (JWOD)), SourceAmerica (formerly known as NISH) and National Industries for the Blind (NIB) organizations to meet subcontracting goals. The notice should include Historically Black Colleges and Universities/Minority Institutions (HBCU/MI) information as well as a point of contact and telephone number.

19.704 Subcontracting plan requirements.

For A-E contracts over \$700,000, a large business firm that is short-listed will be required to submit a subcontracting plan (in addition to addressing small business subcontracting criteria in the SF-330) before price negotiations begin for contract award.

**SUBPART 19.8—CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION
(THE 8(a) PROGRAM)**

19.803 Selecting acquisitions for the 8(a) program.

A-E contracts may be awarded under the 8(a) program, HUBZone Businesses and Service Disabled Veteran Owned Small Businesses (SDVOSBs). Selection must follow procedures for the selection of architects and engineers at 40 U.S.C. 1101-1104. The SBA must provide a slate of qualified A-E firms and the NAVFAC activity will make the selection of the most highly qualified firms.

19.805 Competitive 8(a).

19.805-1 General.

The approval of the Assistant Commander for Acquisition/Deputy Director for Acquisition is required prior to committing to any Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) to enter into or award an 8(a) sole source contract, pursuant to FAR 19.805-1(b)(2) and DFARS 219.805-1, estimated to exceed \$4,000,000, inclusive of all contract periods or options. The request for approval shall explain how the procurement's competitive history, current market conditions, or other circumstances support a sole source action. The request for approval by the Assistant Commander for Acquisition/Deputy Director for Acquisition shall be submitted via the Echelon III CCO, and the appropriate Echelon II Division Director.

**PART 20
(RESERVED)**

**PART 21
(RESERVED)**

PART 22
APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

SUBPART 22.1—BASIC LABOR POLICIES

22.101 Labor relations.

22.101-1 (NMCARS) General.

- (a) For guidance, see SECNAV Instruction ([SECNAVINST 4200.36A](#) (or successor instruction)), Contractor Industrial Labor Relations.

SUBPART 22.3—CONTRACT WORK HOURS AND SAFETY STANDARDS

22.305 Contract clause.

(a) The Construction Wage Rate Requirements statute applies to construction contracts over \$2,000 in the United States, the District of Columbia and the Commonwealth of the Northern Mariana Islands. Construction contracts in excess of \$150,000 for work in Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act, (43 U.S.C. 1331 et seq.), American Samoa, Guam, Wake Island, and Johnson Island are subject to the Contract Work Hours and Safety Standards statute but are not subject to the Construction Wage Rate Requirements statute. FAR Clause 52.222-4, Contract Work Hours and Safety Standards – Overtime Compensation, shall be included in solicitations/contracts for construction in these locations. NOTE: In accordance with the National Defense Authorization Act of 2010, the Construction Wage Rate Requirements statute applies to Guam realignment construction projects.

(b) Service contracts in excess of \$150,000 for work that may require or involve the employment of guards and watchmen, and/or laborers or mechanics where services will be performed in the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Wake Island, and Johnson Island are subject to the Contract Work Hours and Safety Standards and the Service Contract Labor Standards statutes.

SUBPART 22.4—LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION

22.406 Administration and enforcement.

22.406-13 (DFARS) Semiannual enforcement reports.

(a) A semi-annual Labor Enforcement Report on compliance with and enforcement of the Wage Rate Requirements (Construction) shall be prepared on NAVFAC Form 4350/1 (REV 03-15) and shall contain information regarding NAVFAC enforcement actions during the periods 1 October to 31 March and 1 April to 30 September.

(b) Echelon IV shall submit its report to Echelon III on 10 April and 10 October each year. Echelon III activities shall submit its report to the Echelon II Command Labor Advisor on 15 April and 15 October each year. The Echelon II Command Labor Advisor will submit the report to the U.S. Department of Labor on 30 April and 30 October of each year.

SUBPART 22.5—USE OF PROJECT LABOR AGREEMENTS FOR FEDERAL CONSTRUCTION PROJECTS

22.503 (FAR) Policy

For each construction project of \$25M or more, the Streamlined Acquisition Plan (STRAP), NMCARS Annex 18 Paragraph 2.3.2 should also include the Contracting Officer's determination whether use of a Project Labor Agreement (PLA) is appropriate for the project based on the criteria in FAR 22.503.

PART 23 ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE (RESERVED)

PART 24
PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

SUBPART 24.2—FREEDOM OF INFORMATION ACT

24.203 Policy.

All Freedom of Information Act (FOIA) requests shall be coordinated through the Echelon III/IV FOIA Coordinator.

**PART 25
FOREIGN ACQUISITION**

SUBPART 25.1—BUY AMERICAN ACT-SUPPLIES

25.103 (DFARS) Exceptions.

(a) Public Interest.

(ii)(B)(2) Approval of the public interest determination for a procurement valued at or below the simplified acquisition threshold (SAT) is a level above the Contracting Officer. Approval of the public interest determination for procurements above the SAT but less than \$1,500,000 is the Head of Contracting Activity (HCA). Requests for HCA approval shall be forwarded via the Echelon III/IV Chief of the Contracting Office (CCO) and the appropriate Echelon II Division Director.

(ii)(B)(3) Approval of the public interest determination for procurements valued at \$1,500,000 or more is the agency head (Assistant Secretary of the Navy for Research, Development and Acquisition (ASN(RDA))). Requests for approval shall be forwarded via the Echelon III/IV CCO, the appropriate Echelon II Division Director, the Assistant Commander for Acquisition, and the Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN(AP)).

(b) Nonavailability.

(ii)(C) Approval of the nonavailability determination for procurements valued at or below the SAT is a level above the Contracting Officer. Approval of the determination for procurements valued above the SAT but less than \$1,500,000 is the Echelon III/IV CCO. Approval of the determination for procurements valued at \$1,500,000 or more is the HCA. Requests for HCA approval shall be forwarded via the Echelon III/IV CCO and the appropriate Echelon II Division Director. Upon approval, a copy of the determination and findings (D&F) shall be submitted to the Defense Acquisition Regulations (DAR) Council via DASN(AP) (see NMCARS 5225.103(b)(2)(ii)).

SUBPART 25.2—BUY AMERICAN ACT—CONSTRUCTION MATERIALS

25.202 (NMCARS) Exceptions.

(a)(2) Approval of the impractical or inconsistent with public interest determination for procurements valued at or below the SAT is a level above the Contracting Officer. Approval of the determination for procurements valued above the SAT but less than \$1,500,000 is the Echelon III/IV CCO. Approval of the determination for procurements valued at \$1,500,000 or more is the HCA. Requests for HCA approval shall be forwarded via the Echelon III/IV CCO and the appropriate Echelon II Division Director.

SUBPART 25.4--TRADE AGREEMENTS

25.401 (NMCARS) Exceptions

(a)(2)(A) The determination and findings to exclude an acquisition of a product from the provisions of FAR subpart 25.4, must be submitted for approval by Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)). The determination must be submitted with a copy of the approved Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) via the Echelon III or IV CCO, the Assistant Commander for Acquisition via the Echelon II Division Director, and via DASN(AP).

25.403 (NMCARS) World Trade Organization Government Procurement and Free Trade Agreements.

(c)(ii) A request for a national interest waiver in the form of a determination and findings must be submitted for approval by Under Secretary of Defense for Acquisition and Sustainment (USD(A&S))/Director of Defense Pricing and Contracting (DPC). The determination must be submitted with a copy of the approved Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S) via the Echelon III or IV CCO, the Assistant Commander for Acquisition via the Echelon II Division Director, and via DASN(AP).

SUBPART 25.70—AUTHORIZATION ACTS, APPROPRIATION ACTS, AND OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITIONS

25.7003 (DFARS) Restrictions on acquisition of specialty metals.

25.7003-3 (NMCARS) Exceptions.

(b)(2)(ii) By 7 October of each year, Echelon III activities shall submit an annual Commercial Off the Shelf (COTS) Specialty Metal Exceptions Report for its area of responsibility (AOR) to the Echelon II People, Process and Policy Director. NFAS Appendix A summarizes all reporting requirements.

SUBPART 25.75—BALANCE OF PAYMENTS PROGRAM

25.7500 (DFARS) Policy.

Before solicitation, the determinations required by DFARS 25.7500 may be made by the Echelon III Commanders/Commanding Officer. This authority may be delegated no lower than the Echelon III 09/CCO and Echelon IV 00/09/CCOs.

PART 26 OTHER SOCIOECONOMIC PROGRAMS (RESERVED)

PART 27 PATENTS, DATA, AND COPYRIGHTS (RESERVED)

**PART 28
BONDS AND INSURANCE**

SUBPART 28.1—BONDS AND OTHER FINANCIAL PROTECTIONS

28.101 Bid guarantees.

28.101-1 Policy on use.

- (a) Annual bid bonds are not acceptable for construction contracts.
- (b) Bid guarantees are not required on sole source construction contracts.

28.101-2 Solicitation provision or contract clause.

28.101-2-100 NAVFAC provisions or contract clauses.

(a)(1) In solicitations requiring the provision of FAR 52.228-1, Bid Guarantees, paragraph (c) shall read, "The amount of the bid guarantee shall be 20 percent of the bid price or \$3,000,000, whichever is less."

(2) For indefinite quantity solicitations with no seed project and JOC solicitations, paragraph (c) of the FAR provision 52.228-1 shall read, "The amount of the bid guarantee shall be the price payable for the contract guaranteed minimum."

(3) For requirements solicitations, paragraph (c) of the FAR provision 52.228-1 shall read, "The amount of the bid guarantee shall be the price payable for the estimated quantity."

(4) For Multiple Award Contracts (MAC) with a seed project, paragraph (c) of the FAR provision 52.228-1 shall read, "The amount of the bid guarantee shall be 20 percent of the bid price for the seed project or \$3,000,000, whichever is less."

28.102 Performance and payment bonds and alternative payment protections for construction contracts.

28.102-1 General.

(a) Level III Contracting Officers may waive performance and payment bonds for work in foreign countries.

(b) For contracts over \$500,000, copies of the payment and performance bonds shall be forwarded to the surety (not the agent's office) for authentication. A copy of this request to the surety shall be sent to the contractor.

(c) Alternative payment protections, other than bonds and those types of security listed in FAR 28.204-1 and 28.204-2, shall be reviewed by NAVFAC Counsel prior to inclusion in solicitations.

(d) For environmental cost reimbursement contracts, if the Echelon III/IV Chief of the Contracting Office (CCO) determines that bonds are required, the Contracting Officer shall document in writing their rationale and basis for requiring bonding.

28.102-100 Performance and payment bonds for Multiple Award Contracts.

Performance and Payment Bonds for MACs are only required at the time of issuance of a task order and shall not be required for the maximum value of the contract. The bonds will be based on the amount of the task order and any subsequent modifications.

28.102-3-100 NAVFAC solicitation/contract language, Notice of Bonding Requirements.

(a) In addition to the appropriate FAR Clause (52.228-15 Performance and Payment Bonds -- Construction or 52.228-16 Performance and Payment Bonds - Other Than Construction), use the following NAVFAC language entitled, "Notice of Bonding Requirements," in solicitations/contracts requiring performance and payment bonds. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or; for solicitations using the Construction Specifications Institute (CSI) formats available in the Standard Procurement System (SPS), include the language in Division 00800 of solicitations using the undated CSI format or if using the CSI 2012 format include the language in Division 00 73 00.

NOTICE OF BONDING REQUIREMENTS

Within _____ days after receipt of award, the bidder/offeror to whom the award is made shall furnish the bonds required by FAR Clause _____ [Contracting Officer to insert appropriate FAR Clause number either 52.228-15 or 52.228-16].

Bidders/offerors are hereby notified that the contract time for purposes of fixing the completion date, default, and liquidated damages will be as stated in FAR Clause 52.211-10 Commencement, Prosecution, and Completion of Work, regardless of when performance and payment bonds or deposits in lieu of surety are executed.

(End of NAVFAC language)

28.102-3-101 Alternative Protection for Construction in a foreign country.

(a) In some overseas jurisdictions it has proven impracticable to require a contractor to furnish a bond for solicitations/contracts, for example, because it is inconsistent with standard industry practices in these countries.

(b) FAR 28.102-1(a) permits the Contracting Officer to waive submittal of performance and payment bonds for as much of the work as is to be performed in a foreign country upon finding that it is impracticable for the contractor to furnish such bond. Accordingly, when such a finding has been made, alternative forms of protection may be used to protect government interests, consistent with local conditions, to the maximum extent practicable. Appropriate contract language to effectuate such alternative forms of protection may be used in lieu of FAR 52.228-15, FAR 52.228-16, and the NAVFAC language, "Notice of Bonding Requirements," described in Section 28.102-3-100 above. Such alternative language should be included in Section H of

solicitations using Uniform Contract Format (UCF) or; for solicitations using the CSI formats available in SPS, include the language in Division 00800 of solicitations using the undated CSI format or, if using the CSI 2012 format, include the language in Division 00 73 00. The Chief of the Contracting Office, in consultation with NAVFAC Counsel, may prescribe appropriate contractual language and procedures for construction in foreign countries under their area of responsibility.

28.103 Performance and payment bonds for other than construction contracts.

28.103-1 General.

(a) Bid, performance, and payment bonds shall not be required for facilities support service contracts estimated to be awarded at less than the simplified acquisition threshold (SAT) or awarded pursuant to Section 8(a) of the Small Business Act.

(b) A written determination by the Echelon III/IV CCO is required prior to including bonds for other than construction contracts. The determination must specifically address the requirement for bonds that exceed 25 percent of the contract award amount.

28.103-2 Bonds or other security for dismantling, demolition, or removal of improvements.

Contracts for dismantling, demolition, or removal of improvements, see NFAS 37.302 for bonding requirements.

28.106 Administration.

28.106-2 Substitution of surety bonds.

A Level III Contracting Officer approval is required prior to substituting the original bond with a new surety bond covering all or part of the obligations on the previously approved bond.

SUBPART 28.2—SURETIES AND OTHER SECURITY FOR BONDS

28.203 Acceptability of individual sureties.

The Contracting Officer shall submit documentation in support of individuals proposed as sureties to NAVFAC Counsel for review prior to making a determination of acceptability.

SUBPART 28.3—INSURANCE

28.306 Insurance under fixed-price contracts.

(a) Contractors shall not be required to provide insurance coverage on government owned/furnished equipment and materials without Echelon III/IV CCO approval. This authority may not be redelegated.

(b) Contracts requiring work on government property and which include transportation or transportation related services shall specify insurance coverage as

required by state and local laws or by FAR 28.307-2, whichever results in higher coverage. On a case-by-case basis, Level III Contracting Officers are authorized to specify higher coverage.

PART 29
TAXES

SUBPART 29.4—CONTRACT CLAUSES

29.402 Foreign contracts.

29.402-100 NAVFAC requirement for solicitation/contracts when work will be performed at U.S. installations in Japan.

(a)(1) Article XII of the “Agreement Under Article VI of the Treaty of Mutual Cooperation And Security Between Japan and the United States of America Regarding Facilities and Areas and the Status of United States Armed Forces in Japan,” exempts materials, supplies, equipment and services procured for official purposes in Japan by the United States armed forces, or by authorized procurement agencies of the United States armed forces from the following Japanese taxes: (1) Commodity tax, (2) Travelling tax, (3) Gasoline tax, and (4) Electricity and gas tax. United States Forces, Japan (USFJ) Instruction 51-5 prescribes procedures for obtaining exemption from certain Japanese taxes in connection with official procurement in Japan by the U.S. armed forces.

29.402-101 NAVFAC Solicitation/contract language, Consumption Tax Exemption Procedures on Purchase of Goods and Services by the United States Armed Forces in Japan.

Include the following requirement entitled, “Consumption Tax Exemption Procedures on Purchases of Goods and Services by the United States Armed Forces in Japan (Japanese Law No. 108, 1988),” in solicitations/contracts when work will be performed at U.S. installations in Japan. This requirement is in addition to FAR clause 52.229-6, Taxes – Foreign Fixed-Price Contracts. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or in Division 00600 of solicitations using Construction Specifications Institute (CSI) format.

**CONSUMPTION TAX EXEMPTION PROCEDURES ON PURCHASE OF GOODS
AND SERVICES BY THE UNITED STATES ARMED FORCES IN JAPAN
[JAPANESE LAW NO. 108, 1988]**

(a) The Consumption Tax Law (Law No. 108, 1988) was enacted in the Diet of Japan on 24 December 1988, and applied from April 1, 1989. The Government of Japan (GOJ) and the United States Government (USG), in accordance with paragraph 3, Article XII, of the "Agreement Under Article VI of the Treaty of Mutual Cooperation And Security Between Japan And The United States of America Regarding Facilities And Areas And The Status of United States Armed Forces In Japan," (SOFA) have agreed upon procedures for exempting the United States from the Japanese Consumption Tax on goods and services purchased in Japan for official purposes of the U. S. Armed Forces by the U. S. Armed Forces or its authorized procurement agencies.

(b) The underlying objective is to obtain the full amount of the exemption from the tax on U.S. Forces procurements immediately at the time of purchase and at the same time provide the Contractor a proof of purchase document, acceptable to GOJ tax authorities,

which he/she can present to the tax authorities to obtain a tax credit and/or refund for tax already collected and paid by previous sellers.

(c) The exemption from the Japanese Consumption Tax applies not only to prime contractors, but also subcontractors or suppliers at every level regardless of the nationality of the prime contractor whether a Japanese or foreign firm.

(d) By the submission of their offer, the offeror certifies that the Japanese Consumption Tax is not included in the bid/proposal/quote price, nor will it be a part of any subsequent modification to the contract. Procedures for Contractors to obtain a consumption tax credit are described in USFJ Instruction 51-5 that may be obtained from the Procuring Contracting Office.

(End of NAVFAC Language)

**PART 30
COST ACCOUNTING STANDARDS ADMINISTRATION**

SUBPART 30.2 – CAS PROGRAM REQUIREMENTS

30.201-5 (NMCARS) Waiver.

(b) A request for a Head of the Contracting Activity (HCA) determination to grant a CAS Waiver for a contract or subcontract that is less than \$15M, must be submitted via the Echelon III or IV Chief of the Contracting Office (CCO), and the Assistant Commander for Acquisition via the Echelon II Division Director. Requests for Defense Pricing and Contracting (DPC) approval on CAS Waivers for a contract or subcontract that is \$15M or more, must be submitted at least 60 days prior to anticipated award via the Echelon III or IV CCO, and the Assistant Commander for Acquisition via the Echelon II Division Director and Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN(AP)).

(e) Reports. Echelon IIIs shall consolidate and submit an annual report of all CAS Waivers to the Echelon II People, Process and Policy Director for their area of responsibility (AOR), by 1 November. NFAS Appendix A summarizes all reporting requirements.

**PART 31
CONTRACT COST PRINCIPLES AND PROCEDURES
(RESERVED)**

**PART 32
CONTRACT FINANCING**

SUBPART 32.1—NON-COMMERCIAL ITEM PURCHASE FINANCING

32.112 Nonpayment of subcontractors under contracts for non-commercial items.

32.112-1 Subcontractor assertions of nonpayment.

The contract file shall contain documentation of all actions taken, results, and all efforts made by the Contracting Officer to facilitate the payment of subcontractors.

SUBPART 32.6—CONTRACT DEBTS

32.604 Demand for payment.

(b)(5)(ii) Payments made by check for contract debt arising from a default termination/overpayment shall be payable to the “U.S. Treasury.” Upon receipt, the Contracting Officer shall forward the check to the cognizant Defense Finance and Accounting Officer. Alternate debt payment methods may be available for use by contractors and can be determined at:

<https://www.dfas.mil/contractorsvendors/governmentremittance/returnfunds.html>.

(f) The contract file must remain open until the debt is collected.

32.607-1 Installment Payment

(a) In the case of requests for an installment payment agreements that will liquidate the debt in less than three years, the Echelon III/IV Chief of the Contracting Office (CCO) is the debt collection official (DCO) for debts due under contracts within their area of responsibility (AOR).

(b) Upon receipt of a contractor’s written request for an installment payment agreement, the Contracting Officer shall perform an initial evaluation of the contractor’s justification in accordance with FAR 32.607 and [DoD FMR](#) (Volume 16, Chapters 2 and 5), and provide a recommendation to the Echelon III/IV CCO.

32.607-2 Deferment of collection.

(c)(2)(e) The Contracting Officer shall forward requests for deferment of contract debts to the Echelon III/IV CCO.

(f) The Echelon III/IV CCO shall submit an evaluation of the contractor’s request along with the necessary supporting information (e.g. financial condition, small business concern representation, the final decision, the appeal, status of appeal, etc.), and a recommendation including the basis of that recommendation regarding the advisability of deferment. This information shall be submitted to the appropriate Echelon II Division Director for forwarding to the Assistant Secretary of the Navy (Financial Management & Comptroller) via Deputy Secretary of the Navy for Acquisition and

Procurement (DASN(AP)). Collection of the debt should continue until the date the deferment is granted.

SUBPART 32.7—CONTRACT FUNDING

32.702 Policy.

(a) Based on the customer and project history, Contracting Officers may use their own discretion in requiring actual funds in hand before issuing solicitations or Requests for Proposals (RFPs) for delivery/task orders or modifications. For actions above the Simplified Acquisition Threshold (SAT), an intent to fund (i.e. commitment of funds, promise to pay, letter of intent) or actual funding is required prior to solicitation. For actions below the SAT, the Program/Project Manager remains responsible for validation of funds availability and communicating this to the Contracting Officer.

- (1) For construction execution of petroleum, oil and lubricants (POL) tanks under the Clean, Inspect, Repair (CIR) process only, the Tank Requirements Repair (TRR) form can be used as a promise to pay if signed by the requestor's financial management or comptroller representative.

(b) Except for Military Construction Appropriation Act (MILCON), when making an in scope change on construction contracts in a fiscal year other than the year of award you must determine whether fiscal year funds from the year of award or current fiscal year funding can be used to finance a change to the contract. Contracting Officers in concert with counsel shall provide an analysis as to whether the obligation to pay is a pre-existing duty arising out of the terms of the contract at time of award, or new/additional work that is in scope and needed by the customer for a complete and useable facility but work which may/should be paid with current year funds.

(c) To improve the Department of Defense's (DoD) ability to track service contract commitments and obligations, all purchase requests (PR) received must include a four-digit Product Service Code (PSC) at a line item level of detail. PSCs will be established by requiring activities for each PR line item so that it can be linked at the point of commitment to the Object Class recorded in the accounting system.

SUBPART 32.8—ASSIGNMENT OF CLAIMS

32.803 Policies.

When a payment is made under an assigned contract, the contractor shall immediately be told the date and amount of all payments.

32.805 Procedure.

(a) The Contracting Officer shall obtain review comments from NAVFAC Counsel on all assignment of claims.

(b) A release shall be obtained from both the assignee and the contractor prior to final payment.

SUBPART 32.11—FINAL PAYMENT

32.1100 Final payment for construction and architect-engineer contracts.

(a) If the contract payment is assigned, an assignee's release of claims (NAVFAC Form 4330/14) is required. All final vouchers shall reflect the status of liquidated damages. A contractor's final release on NAVFAC Form 4330/7 is required and shall reflect the total contract price, amounts previously paid, and the amount of the final voucher.

(b) For contracts where the contractor pays the government, NAVFAC Form 4330/7 should be modified by deleting the first seven lines and replacing it with the following:

"In consideration of the premise and the receipt of all material as set forth in the specification under the above-mentioned contract, the undersigned contractor does and by the receipt of said material shall...."

(c) The contractor shall clearly indicate the basis and amount of any claim.

(d) When a release contains an exception that the Contracting Officer considers acceptable, the following notation shall be placed on the release:

"Release approved by Contracting Officer this
_____ day of _____ (Month/Year) _____

(signature)"

(e) To close out contracts one year after completion and acceptance of the work when the contractor fails to execute an appropriate release, the Contracting Officer shall send a letter to the contractor, certified mail return receipt, requesting submission of a final invoice in Wide Area Workflow (WAWF) and a valid final release. Any surety should also be provided with this notification. Thirty days after the return of the certified mail receipt, the Contracting Officer may close out the contract. If the contractor refuses to respond to or accept the certified letter or cannot be located, the Contracting Officer may deobligate the contract balance and close out the contract.

SUBPART 32.70 – ELECTRONIC SUBMISSION AND PROCESSING OF PAYMENT REQUESTS AND RECEIVING REPORTS

32.7002 (NMCARS) Policy.

(a) Prior to determining that electronic submission of payment requests and receiving reports would be unduly burdensome to the contractor, approval shall be obtained from DASN(AP). The request for DASN(AP) approval shall be forwarded via the Echelon III or IV CCO and the Assistant Commander for Acquisition via the Echelon II Division Director.

**PART 33
PROTESTS, DISPUTES, AND APPEALS**

SUBPART 33.1—PROTESTS

33.103 (NMCARS) Protests to the agency.

All agency level protests received by any NAVFAC contracting office shall be subject to administrative review.

(a) Protests received on solicitations advertised at Echelon IV field contracting activities (i.e. Facilities Engineering and Acquisition Divisions/Resident Officer in Charge of Construction (FEADs/ROICCs) shall be reviewed by the cognizant Echelon IV Chief of the Contracting Office (CCO).

33.104 (NMCARS) Protests to GAO.

Upon receipt of contractor notification, the contracting location designated in the solicitation shall notify the appropriate Echelon II Division Director and NAVFAC Headquarter (HQ) Counsel, with a copy to the Echelon III CCO.

33.170 (NMCARS) Briefing requirement for protested acquisitions valued at \$1 billion or more.

Echelon III/IV CCOs shall submit the notice to the appropriate Echelon II Division Director via the Echelon III CCO prior to submitting the report to Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN(AP)) not later than 3 days after receipt of the protest.

SUBPART 33.2—DISPUTES AND APPEALS

33.211 Contracting Officer's decision.

(a) Personnel who, at the request of NAVFAC Counsel, prepare memoranda or notes concerning a claim shall place a legend on each page as follows:

"ATTORNEY-CLIENT PRIVILEGE FOR OFFICIAL USE
ONLY: This document is prepared for use by government or
attorneys in connection with a contractor's claim. It is not to
be released outside the government or to government
personnel not having a need to know."

(b) A log shall be maintained of all claims received.

(c) The Claims Log Report is required to be submitted annually. Echelon III activities shall consolidate the information for its area of responsibility (AOR) and submit a report by 31 October via email to the Echelon II People, Process and Policy Director. NFAS Appendix A summarizes all reporting requirements.

33.214 Alternative dispute resolution (ADR).

NAVFAC encourages ADR as a means of resolving disputes. Echelon III activities shall establish appropriate procedures for their utilization.

33.214-100 Disputes resolution board (DRB).

The Board shall be chaired by a representative from the contracts office and have at least one technical and one legal representative.

33.2100 Remand by NAVFAC for settlement by negotiation.

(a) A memorandum of negotiations shall be prepared to support a negotiated settlement.

(b) If a settlement cannot be reached, a report shall be prepared setting forth specific reasons why an agreement could not be reached and the claim package returned to the appropriate Echelon II Division Director.

SUBPART 33.90—PROCEDURES (NMCARS)

33.9001 Claims approval requirements.

(a) Proposed claim settlements and final decisions of the Contracting Officer shall be reviewed and approved—

(1) For claims up to \$25M by a Level III Contracting Officer with in-house NAVFAC Counsel support and CCO review.

(2) For claims over \$25M by DASN(AP). The Contracting Officer shall follow NMCARS 5233.9001 process with in-house NAVFAC Counsel support and CCO review. Requests for DASN(AP) review/approval shall be submitted via appropriate Echelon II Division Director.

(b) For claims over \$5,000,000, the Contracting Officer shall:

(1) Notify the appropriate Echelon II Division Director via the Echelon III CCO within 10 days of receipt. Include the projected final decision date which shall include 14 days for the appropriate Echelon II and III Division Director review and concurrence of the draft Final Decision letter.

(2) The Contracting Officer shall provide a signed copy of the Final Decision letter to the CCO and appropriate Echelon II Division Director via the Echelon III CCO.

PART 34 MAJOR SYSTEM ACQUISITION (RESERVED)

PART 35 RESEARCH AND DEVELOPMENT CONTRACTING (RESERVED)

**PART 36
CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

SUBPART 36.2—SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION

36.201 (FAR/DFARS) Evaluation of contractor performance.

See NFAS 42.1503 for general guidance on preparation and distribution of construction contractor performance evaluations.

36.202 Construction Specification Institute (CSI) format.

Contracts for construction shall be prepared in the CSI format. Document Sections (00xxx) contain the contractual requirements and General Requirements Sections (01xxx) contain the administrative requirements.

36.205 Statutory cost limitations.

When more than one project is included in a single contract, and the estimated cost of the contract is over the current statutory cost limitation for unspecified minor construction (less estimated Supervision, Inspection and Overhead (SIOH)), the solicitation documents shall require the projects to be separately priced and contain a certification that the price for each project includes an approximate apportionment of all estimated direct cost, allocable indirect costs, and profit. The solicitation must state the applicable cost limitation for each affected item in a separate schedule.

36.207 Pricing fixed-price construction contracts.

For fixed-price construction line items, Contracting Officers may use Project, Task, or Job as units of measure.

36.213 Special procedures for sealed bidding in construction contracting.

36.213-3 Invitations for bids.

36.213-3-101 Budgeted amount.

For construction of family housing projects, the solicitation shall contain the budgeted amount.

36.213-70 (DFARS) Additive or deductive items.

A Level III Contracting Officer's approval is required prior to issuing a solicitation including more than four additive bid items.

36.215 Special procedure for cost-reimbursement contracts for construction.

Refer to the Capital Improvements Business Line for guidance on cost-reimbursement construction contracts.

36.2100 Environmental remedial action contracts.

For guidance, see [Environmental Cost Reimbursement Contract Manual P-1160](#).

36.2102 Non-appropriated funded (NAF) contracts.

(a) Requests to waive FAR procedures for solicitations funded from non-appropriated sources shall be approved by the Echelon III/IV Commander. This authority may be redelegated no lower than the Echelon III/IV Chief of the Contracting Office (CCO). Each request must identify the FAR provisions to be waived, the criteria to be used to select firms who will be given the opportunity to submit bids or proposals if other than full and open competition is to be used and the rationale why the identified waivers from the FAR make prudent business sense. All documentation related to each approved request shall be retained in the contract file.

(b) If combining appropriated and non-appropriated funding under one solicitation/contract, FAR provisions cannot be waived.

(c) Any firm that may seek to compete for NAF work, even if not initially provided a solicitation, must be given an opportunity to participate.

SUBPART 36.3—TWO-PHASE DESIGN-BUILD SELECTION PROCEDURES

36.303-1-100 Phase One.

(a) The only documentation required after completion of Phase One evaluations are the Source Selection Evaluation Board/Source Selection Advisory Council/Source Selection Authority (SSEB/SSAC/SSA) Documents/Decisions if no discussions are conducted with the offerors. In this case, a Pre-Business or Pre/Post Business Clearance is required after Phase Two. However, if it is determined that it is necessary to conduct discussions after the evaluation of proposals in Phase One, a Pre-Business Clearance is required in Phase One.

(b) The number and identity of the most highly qualified offerors selected to submit Phase Two proposals are considered "Source Selection Information" as defined in FAR 2.101, and shall only be disclosed to persons specifically granted access to source selection sensitive information.

SUBPART 36.5—CONTRACT LANGUAGE

36.5-100 NAVFAC solicitation/contract language, Utilities for Construction and Testing.

Use the following language entitled, "Utilities for Construction and Testing," in fixed-priced solicitations/contracts for construction, dismantling, demolition or removal of improvements when utilities are to be contractor-furnished. This language should be used in lieu of FAR Clause 52.236-14, Availability and Use of Utility Services. The language should be included in Division 00800 of solicitations using the undated Construction Specifications Institute (CSI) format available in the Standard Procurement System (SPS) or, if using the CSI 2012 format, include the language in Division 00 73 00.

UTILITIES FOR CONSTRUCTION AND TESTING

The Contractor shall be responsible for obtaining, either from available Government sources or local utility companies, all utilities required for construction and testing. The Contractor shall provide these utilities at his expense, paid for at the current utility rate delivered to the job site. The Contractor shall provide and maintain all temporary utility connections and distribution lines, and all meters required to measure the amount of each utility used.

(End of NAVFAC language)

36.5-101 Instructions for use of NAVFAC language.

(a) Use the language, “Authority,” at NFAS 1.602-1-101 in all construction solicitations/contracts.

(b) Use the language, “PHASED CONSTRUCTION SCHEDULE,” at NFAS 11.404-100 in construction solicitations/contracts that require use of a phased construction schedule. The NAVFAC language should be used in conjunction with FAR Clause 52.211-12, Liquidated Damages—Construction.

(c) Use the language, “All or None Offers,” at NFAS 15.209-100 in construction solicitations where offers are solicited on an all or none basis.

(d) Use the language, “NOTICE OF BONDING REQUIREMENTS,” at NFAS 28.102-3-100 in construction solicitations requiring bonds. The language should be used in conjunction with FAR Clause 52.228-15, Performance and Payment Bonds – Construction.

(e) Use the language, “Consumption Tax Exemption Procedures on Purchase of Goods and Services by the United States Armed Forces in Japan [Japanese Law No. 108, 1988],” in all construction solicitations in Japan. This language should be used in addition to FAR 52.229-6, Taxes – Foreign Fixed-Price Contracts.

(f) Use the language, “Utilities for Construction and Testing,” at NFAS 36.5-100 in solicitations/contracts for construction, dismantling, demolition or removal of improvements when utilities are to be contractor-furnished. This language should be used in lieu of FAR 52.236-14 Availability and Use of Utility Services.

36.5100 NAVFAC provision and contract clauses.

(a) Use the DFARS Clause 252.236-7003 or 252.236-7004 as required for solicitations/contracts that use a separate bid item for mobilization and preparatory work.

SUBPART 36.6—ARCHITECT-ENGINEER SERVICES

36.601 Policy.

36.601-3 Applicable contracting procedures.

36.601-3-100 Indefinite quantity architect-engineer contracts.

(a) See NFAS 17.202-102 for use of options/phases.

(b) Projects under these contracts shall be restricted to the locations designated in the contracts. Parallel contracts with the same statement of architect-engineer (A-E) services shall not be used except when using multiple award contract procedures.

(c) Multiple award contracts may not be established for A-E services without Echelon II Division Director approval. Contract task order requirements must be competed using a streamlined A-E selection process. Once a multiple award contract is awarded, any decision not to compete a task order requirement must be approved by the appropriate Competition Advocate (see NFAS 6.501).

(d) The contract term shall not exceed five years, including options. The Contracting Officer shall make the requisite pre-award and post-award determinations required by FAR 17.205 and FAR 17.207. See NFAS 17.202-102.

(e) The contract amount is the maximum "Not to exceed" amount.

(f) The total estimated dollar value of the contract, including any option year, shall be used as the threshold for certified cost or pricing data, field pricing reports (Defense Contract Audit Agency (DCAA) audit) and business clearance approval requirements.

(g) Prepriced options for construction support may be included in task orders, but the exercise period shall not exceed eighteen months from final design without Echelon III/IV CCO approval. This approval authority may not be redelegated.

(h) See [NAVFAC P-1160, Environmental Cost Reimbursement Manual](#), for guidance on environmental cost reimbursement contracts.

36.602 Selection of firms for architect-engineer contracts.

36.602-1 Selection criteria.

The A-E firm's experience in sustainable design and their quality control program shall be evaluated during selection.

36.602-2 Evaluation boards.

(a) Engineers/Architects serving on boards for contracts which include engineering, design, construction or oversight of engineering, design and construction shall be registered professionals unless a waiver is granted pursuant to NAVFACINST 3540.1D, dated 22 February 2019. Contracting Officers shall not appoint NAVFAC Engineers/Architects as board members unless they are licensed or have been granted a waiver by the appropriate authority. All NAVFAC members of the board shall have successfully completed CTC 466. The licensing requirements for the chairperson shall not be waived under any circumstances. In cases where board members are individuals outside of NAVFAC, their equivalent training (for CTC 466) will be approved by the CCO on a case-by-case basis.

(b) Chairpersons shall have experience serving on A-E selection boards and shall have been briefed by the Contracting Officer and NAVFAC Counsel concerning procurement rules and ethics.

(c) Non-licensed engineers and architects may be appointed to serve on selection boards, evaluation boards, or evaluation teams for contracts that do NOT involve engineering, design, construction or any oversight of design, engineering or construction.

36.602-3 Evaluation board recommendations.

Board recommendations are considered source selection information and should be safeguarded from unauthorized disclosure.

36.602-4 Selection authority.

Whenever the estimated total contract value exceeds \$100M, slate/selection board reports shall be forwarded via the Echelon III/IV CCO to the appropriate Echelon II Division Director for approval. When the total contract value is under \$100M, Contracting Officers with appropriate warrant authority shall approve such reports in accordance with Echelon III/IV procedures.

36.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

Contracting Officers are authorized to use the short selection processes described in FAR Subpart 36.602-5. Firms shall be identified and evaluated exclusively from SF-330's submitted or currently on file.

36.604 Performance evaluation.

See NFAS 42.1503 for guidance on the preparation and distribution of performance evaluation reports.

36.605 Government cost estimate for architect-engineer work.

For work exceeding the simplified acquisition threshold (SAT), the independent government estimate (IGE) shall be provided to the Contracting Officer prior to receipt of a firm's proposal.

36.606 Negotiations.

A firm shall be requested to provide as part of their proposal separate prices for preparation of plans and specifications and for engineering services.

36.607 Release of information on firm selection.

See U.S. Code 10, Sec. 2807 for clearance requirements for 2807 Notification for MILCON and Family Housing projects.

36.608 Liability for Government costs resulting from design errors or deficiencies.

(a) Whenever there is a modification to a construction contract resulting from a design deficiency in plans or specifications, the Contracting Officer shall make a written determination of the extent to which the A-E firm may be responsible for such design deficiency and whether any increased costs resulting from such design deficiency shall be assessed against the A-E firm. The determination and subsequent action shall be documented in the contract file.

(b) Where possible A-E liability is not pursued, the Contracting Officer's reasons supporting this decision shall be documented in the contract file.

(c) If the A-E firm and the construction contractor directly negotiate additional compensation for the additional work performed by the contractor, a modification may be issued by the Contracting Officer to extend the time for contract completion under the construction contract.

36.609-100 Instructions for use of NAVFAC language.

(a) Use the language, "Authority," at NFAS 1.602-1-101 in all architect-engineer solicitations/contracts.

(b) Use the language, "Minimum and Maximum Fees [Architect-Engineer Indefinite Quantity Contracts]," at NFAS 16.504-100(a) in architect-engineer indefinite quantity contracts where the initial project will represent the contract minimum. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or; for solicitations using the CSI formats available in SPS, include the language in Division 00800 of solicitations using the undated CSI format or, if using the CSI 2012 format, include the language in Division 00 73 00.

(c) Use the language, "Minimum and Maximum Fees [Architect-Engineer Indefinite Quantity Contracts]," at NFAS 16.504-100(b) in architect-engineer indefinite quantity contracts where the contract minimum is established by a dollar value and not the initial project. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or; for solicitations using the CSI formats available in SPS, include the language in Division 00800 of solicitations using the undated CSI format or, if using the CSI 2012 format, include the language in Division 00 73 00.

(d) Use the language, "Consumption Tax Exemption Procedures on Purchase of Goods and Services by the United States Armed Forces in Japan [Japanese Law No. 108, 1988]," in all architect-engineer solicitations for services in Japan. This language should be used in addition to FAR 52.229-6, Taxes – Foreign Fixed-Price Contracts.

(e) Use the language, "Drawings Prepared by an Architect-Engineer," at NFAS 36.609-101 in all architect engineer solicitations/contracts to be performed outside the United States. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or; for solicitations using the CSI formats available in SPS, include the language in Division 00800 of solicitations using the undated CSI format or, if using the CSI 2012 format, include the language in Division 00 73 00.

(f) Use the language, "Key Personnel," at NFAS 36.609-102 in architect engineer solicitations/contracts when contractor personnel are key for performance and/or were a factor in the selection process. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or; for solicitations using the CSI formats available in SPS, include the language in Division 00800 of solicitations using the undated CSI format or, if using the CSI 2012 format, include the language in Division 00 73 00.

36.609-101 NAVFAC solicitation/contract language, Drawings Prepared by an Architect-Engineer.

Use the following language entitled, "Drawings Prepared by an Architect-Engineer," in all architect-engineer solicitations/contracts to be performed outside the United States. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or; for solicitations using the CSI formats available in SPS, include the language in Division 00800 of solicitations using the undated CSI format or, if using the CSI 2012 format, include the language in Division 00 73 00.

DRAWINGS PREPARED BY AN ARCHITECT-ENGINEER

The engineer or architect signing the drawings must be registered in the country of record for the architect-engineer firm or the country of the proposed construction -- as a Professional Engineer (P.E.) or Registered Architect (R.A.). In addition, the drawings shall be signed by a responsible person of corporate status in the architect-engineer firm and stamped with his/her registration seal when the seal is authorized by the country where the project is to be constructed.

(End of NAVFAC language)

36.609-102 NAVFAC solicitation/contract language, Key Personnel.

Use the following language entitled, "Key Personnel," in architect-engineer solicitations/contracts when contractor personnel are key for performance of the contract and/or were a factor in the selection process. The language should be included in Section H of solicitations using Uniform Contract Format (UCF) or; for solicitations using the CSI formats available in SPS, include the language in Division 00800 of solicitations using the undated CSI format or, if using the CSI 2012 format, include the language in Division 00 73 00.

KEY PERSONNEL

The Architect-Engineer (A-E) shall employ the following professional personnel to perform the services required under this contract. Prior to starting work, the A-E will forward to the Contracting Officer a resume for the individual(s) assigned to each discipline to be utilized. No substitution will be made without the advance written approval of the Contracting Officer, after he has reviewed the proposed replacement's experience and qualifications record submitted by the architect-engineer firm with explanation of the necessity for the change. No increase in salary rates will be allowed when personnel substitution is authorized.

<u>DISCIPLINE</u>	<u>NAME</u>	<u>JOB</u>	<u>TITLE</u>
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(End of NAVFAC language)

36.6100 Inspection services.

(a) General construction inspection services by the A-E firm are only permitted when all the general inspection required for the job is procured through contract; however, specialty inspection services that require specialized knowledge/experience/skills may be obtained by contract even when the general inspection services are not.

(b) Inspectors may be used to check contractor compliance with labor standards provisions provided such duties are restricted to checking and making reports to the Contracting Officer.

(c) For environmental Comprehensive Long-Term Environmental Action, Navy (CLEAN) contracts, the inspection services may be compensated through a cost reimbursement contract.

PART 37
SERVICE CONTRACTING

SUBPART 37.1—SERVICE CONTRACTS—GENERAL

37.102-100 Policy – Government Estimate of Services cost

(a) An independent Government estimate (IGE) of services cost shall be prepared and furnished to the Contracting Officer, prior to receipt of any proposals, and at the earliest practicable time for contract actions anticipated to exceed the simplified acquisition threshold (SAT). The Contracting Officer may require an IGE when the cost of required work is not anticipated to exceed the SAT. The IGE shall be prepared in as much detail as though the Government were competing for award and shall include a basis of estimate, such as the source for quantities, labor rates, indirect rates, and profit. The IGE shall be signed and dated by the personnel who prepared the IGE. The Contracting Officer's Representative (COR) or technical requirements generator is responsible for preparing the IGE. The COR or technical requirements generator may find the general guidance related to development of IGEs in the Department of Defense COR Handbook useful when preparing the required IGE.

(b) Access to information concerning the IGE shall be limited to Government personnel whose official duties require knowledge of the IGE. An exception to this rule may be made during contract negotiations to allow the Contracting Officer to identify a specialized task and disclose the associated cost breakdown figures in the IGE, but only to the extent deemed necessary to arrive at a fair and reasonable price. The overall amount of the IGE shall not be disclosed except as permitted by agency regulations.

37.103-100 Contracting Officer responsibility.

The Contracting Officer shall consider SeaPort for use when procuring Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22) unless an exception applies (see NMCARS 5237.102). [This includes issuance of task orders under existing IDIQ contracts – see NFAS 16.505-100]. If SeaPort is not used and the requirement is not excepted, a determination and findings (D&F) shall be submitted for approval by Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN(AP)). The D&F shall be submitted via the Echelon III/IV Chief of the Contracting Office (CCO), the appropriate Echelon II Division Director and the Assistant Commander for Acquisition.

37.110 Solicitation provisions and contract clauses.

Use FAR clause 52.237-3, Continuity of Services in all NAVFAC knowledge based services (KBS) contracts.

37.110-100 NAVFAC solicitation/contract language, Substitutions of Key Personnel.

Use the following language entitled, "Substitutions of Key Personnel," in service contracts when personnel are key to performance of the contract and/or were a factor in the selection

process. The language should be included in Section H of solicitations using Uniform Contract Format (UCF).

SUBSTITUTIONS OF KEY PERSONNEL

The Contractor shall provide complete resumes for proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 days after receipt of all required information of the consent on substitutes. No change in unit prices may occur as a result of key personnel substitution.

(End of NAVFAC language)

37.192 Service Acquisition Workshops (SAWs)

(a) Multi-functional teams for service acquisitions, excluding construction, with a total estimated value (including options) of \$500M or more or an annual value of \$250M or more, shall participate in a SAW or equivalent program. Procuring Contracting Officers/Chief of the Contracting Office (PCO/CCOs) shall notify the cognizant Echelon II Division Director that a SAW is anticipated. The Echelon II Division Director/Assistant Commander for Acquisition/Deputy Director for Acquisition shall determine the appropriate course of action. If determined appropriate, a SAW is required before a services Streamlined Acquisition Plan (STRAP) will be approved. The SAW should be requested as soon as the requirement has been identified.

(b) If the Assistant Commander for Acquisition/Deputy Director for Acquisition determines that a waiver of a SAW is necessary, the procedures in NMCARS 5237.192 shall be completed before the STRAP is approved.

SUBPART 37.2—ADVISORY AND ASSISTANCE SERVICES

37.203 Policy.

37.203-100 Required approval.

Prior to contracting for Advisory and Assistance Services using NAVFAC line of accounting, approval shall be obtained from Echelon II NAVFAC Financial Management (FM) Proponent. NAVFAC Headquarter (HQ) FM approval is not required on a direct cite from non-NAVFAC customers.

37.204 (NMCARS) Guidelines for determining availability of personnel.

A Determination and Findings (D&F) that personnel with the required training and capabilities are not readily available within the agency or other Federal agencies (as defined by FAR 2.101) to conduct evaluations or analysis of proposals for an initial contract award shall be approved by the Assistant Commander for Acquisition via the appropriate Division Director. This D&F is required for the use of any third-party personnel to conduct evaluations or analysis of proposals through a contract or any other means, whether paid or unpaid.

SUBPART 37.3—DISMANTLING, DEMOLITION OR REMOVAL OF IMPROVEMENTS

37.302 Bonds or other security.

(a) A contract for demolition or timber cutting to clear an area to permit new construction shall include Bonds statute bonds. However, if the demolition is part of an environmental cost-reimbursement contract, Bonds statute bonds are not required.

(b) Bid security shall be 20 percent of the estimated cost of demolition, exclusive of salvage.

(c) A performance bond shall be required in a minimum amount of 50 percent of the estimated cost of demolition, exclusive of salvage.

SUBPART 37.5—MANAGEMENT OVERSIGHT OF SERVICE CONTRACTS

37.502 Exclusions.

(b) For NAVFAC EXWC ONLY: As authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233), the NMCARS requirement to use NMCARS Annex 21 MOPAS-S for supply contracts when incidental services are greater than the SAT is waived.

37.504 Contracting Officer's Responsibilities.

(a) All acquisitions of services valued in excess of the SAT shall comply with the policy and procedures in NMCARS 5207.103(j) and (1) and in NFAS 7.103 unless—
(1) The [Department of Defense Instruction \(DoDI\) Number 5000.74](#) does not apply; or
(2) Exempted by [DoDI 5000.74](#).

(3) For NAVFAC EXWC ONLY: Actions under \$2,000,000 (including task or delivery orders) may utilize the acquisition development plan in NAVFAC BMS in lieu of NMCARS Annex 21, MOPAS-S as authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233). Approval authorities remain the same as in the table below.

(b) Use NMCARS Annex 21, MOPAS-S, for all service acquisitions (which may include but is not limited to architect-engineering (A-E), commercial services, base operations support (BOS) or facility support services such as custodial, equipment maintenance and repair, guard services, etc.,) over the SAT up to but less than \$50M for all years or up to but less than \$25M for any fiscal year, including task orders. Exception: In-scope task orders using only pre-priced line items under NAVFAC IDIQ contracts do not require a MOPAS-S document.

(c) Use NMCARS Annex 20, ISTRAP-M, for all service acquisitions \$25M or more in a fiscal year or \$50M or more for all years unless preparing on a programmatic basis then use NMCARS Annex 19, PSTRAP-M.

Review and approval of the MOPAS-S for performance and non-performance based service acquisitions valued between SAT and \$50M is delegated as follows:

APPROVAL REQUIREMENTS FOR MOPAS-S

Total Planned Dollar Value	Requirements Review	Acquisition Plan Review	Decision Authority/Approval
> SAT up to & incl \$25M (all years)	Requiring Activity	Procuring Contracting Officer (PCO)	Level above PCO
> \$25M up to but less than \$50M (all years)	Requiring Activity	Contracting Officer a level above the Contract Specialist	Echelon III/IV Division Director

Refer to NFAS 7.103(e) for approval levels for STRAP documents for service acquisitions \$50M or more for all years or \$25M or more for any fiscal year.

(d) MOPAS-S does not apply to contracts for construction, or for utility contracts providing natural gas, electricity, water and wastewater treatment processing at other than Government owned generation, production or treatment facilities. Similarly, MOPAS-S does not apply to contracts for the provision of energy conservation services using Energy Savings Performance Contracts or Utility Energy Service Contracts. However, market research and acquisition planning must be performed and documented for all requirements.

SUBPART 37.100—FACILITIES SUPPORT CONTRACTING

37.1000 Contract format.

All facility support contract actions in excess of the SAT must utilize NAVFAC's FSC/BOS Template as applicable. The Contracting Officer should consult with the cognizant Public Works Business Line Point of Contact to ensure strict compliance with Template guidance and, if applicable, ensure any waivers have been requested and approved prior to accepting the Performance Work Statement (PWS).

37.1002 Evaluation of contractor performance.

See NFAS 42.1503 for guidance on the preparation and distribution of performance evaluation reports.

37.1003 Instructions for use of NAVFAC language.

(a) Use the language, "Authority," at NFAS 1.602-1-101 in all service solicitations/contracts (including facilities support, BOS, and knowledge based services). The language should be included in Section H of solicitations using Uniform Contract Format (UCF).

(b) Where proposals are to be accepted on an all or none basis, the Contracting Officer shall include the language at NFAS 15.209-100, in Section L of the solicitation.

(c) Use the language, "NOTICE OF BONDING REQUIREMENTS," at NFAS 28.102-3-100 in other than construction solicitations requiring bonds. The language should be

used in conjunction with FAR Clause 52.228-16, "Performance and Payment Bonds – Other than Construction."

(d) Use the language, "Consumption Tax Exemption Procedures on Purchase of Goods and Services by the United States Armed Forces in Japan [Japanese Law No. 108, 1988]," in all service solicitations/contracts for services in Japan. This language should be used in addition to FAR 52.229-6, "Taxes – Foreign Fixed-Price Contracts."

(e) Use the language, "SUBSTITUTIONS OF KEY PERSONNEL," at NFAS 37.110-100 in service contracts when personnel are key to performance of the contract and/or were a factor in the selection process. The language should be included in Section H of solicitations using Uniform Contract Format (UCF).

SUBPART 37.101—FORESTRY CONTRACTING

37.1010 NAVFAC policy.

(a) *Service contracts.* Reforestation, timber stand improvement, or fire prevention shall be accomplished in accordance with the provisions of NFAS Subpart 37.100.

(b) *Timber sale contracts.* Sale contracts shall be accomplished in accordance with applicable provisions of the [Federal Management Regulation](#), Subchapter B–Personal Property, Part 102-38–Sale of Personal Property.

(c) Sales and service-type work shall not be combined under one contract, but shall be accomplished by separate contracts.

SUBPART 37.3100—DISMANTLING, DEMOLITION, OR REMOVAL OF IMPROVEMENTS

37.3100 NAVFAC policy.

(a) No demolition contract shall be executed until the requiring activity has complied with the requirements of the [Federal Management Regulation](#), Subchapter C–Real Property, Part 102-75–Real Property Disposal and the current version of [SECNAVINST 11011.47](#).

(b) The Uniform Contract Format (UCF) will be utilized for contracts solely for dismantling, demolition, or removal of improvements and the Construction Specifications Institute (CSI) format utilized for contracts with follow-on construction.

(c) When payment is made to the government, the payment check and a conformed copy of the contract shall be transmitted to the local disbursing officer as promptly as possible. The Contracting Officer shall request the disbursing officer to hold the check in a suspense account until such time as the Contracting Officer is certain that no modifications to the contract that result in a refund to the contractor will be required.

PART 38 FEDERAL SUPPLY SCHEDULE CONTRACTING (RESERVED)

PART 39
ACQUISITION OF INFORMATION TECHNOLOGY

39.002 Definitions.

"Information technology (IT)" means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. This includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

An "information system (IS)" is a combination of elements that shall function together to produce the capabilities required to fulfill a mission need, including hardware, ancillary equipment, software or any combination thereof, but excluding construction or other improvements to real property.

"Platform information technology (PIT)" refers to computer resources, both hardware and software, that are physically part of, dedicated to, or essential in real time to the mission performance of special purpose systems. PIT detects or causes a change through the direct monitoring and/or control of physical devices, processes and events in the enterprise. Industrial control systems, including building control systems, and utility control systems, are examples of PIT used in building energy management (HVAC) and utility systems for generation, transmission, distribution, and collection of such infrastructure as water, steam, electrical, etc. IT products, when purposed for PIT, become PIT products. Weapons systems PIT are not included.

SUBPART 39.1—GENERAL

39.101 Policy.

(a) Engineering and Expeditionary Warfare Center (EXWC) has unlimited authority to procure IT resources. EXWC must still seek review and approval in accordance with NFAS 1.690. The approval levels at NFAS 1.690 are not redelegable.

(b) Echelon III/IV, other than EXWC, are delegated authority to procure IT resources up to the simplified acquisition threshold (SAT) level.

(c) NAVFAC Headquarters (HQ) is supported by NAVFAC EXWC for all IT procurements at any dollar value.

(d) NAVFAC Atlantic and Pacific Chief of the Contracting Office (CCOs) may request a waiver on a case-by-case basis for increased IT procurement authority. The waiver shall address that the request has been coordinated with the EXWC CCO and document the rationale why the waiver is required. The waiver shall be requested via email with a copy to the EXWC CCO, through the cognizant HQ Division Director for approval by the Assistant Commander for Acquisition/Deputy Director for Acquisition.

(e) Echelon III/IV have the authority to procure PIT within the dollar thresholds established for Contracting Officer warrants in NFAS 1.603-2.

(f) Only Contracting Officers having specific IT procurement authority designated on their warrant shall procure IT resources.

(g) NAVFAC Headquarters Information System (IS) approval is still required for IT and PIT acquisitions.

**PART 40
(RESERVED)**

PART 41
ACQUISITION OF UTILITY SERVICES

SUBPART 41.1—GENERAL

41.102 Applicability.

(a) *Rubbish removal/trash collection.*

(1) The collection and removal of garbage, trash and rubbish are typically considered to be service type requirements covered by the Service Contract Labor Standards statute (29 CFR 4.130). However, where this service is regulated under State, local, or Federal law governing operations of public utility enterprise and the wages paid employees are controlled by a governmental body, the federal government contracts with a local governmental body to provide the service and there is no opportunity to compete this requirement, it may be considered a public utility service exempt from the Service Contract Labor Standards statute (29 CFR 4.115).

(2) If the service is controlled and provided by a governmental body through a franchised or similar mechanism to restrict who may perform the service and the federal government must contract with only authorized providers, the service is exempt from the Service Contract Labor Standards statute provisions.

(3) Contracts entered into with public utility companies to furnish services through the use of service employees, other than those employees subject to the governmental rate requirements, are not exempt from the Service Contract Labor Standards statute (29 CFR 4.120).

(b) *Miscellaneous community services.* Military activities located within corporate or geographical limits of governmental units are entitled to the same community services that are provided to the public generally without charge when such services are supported by taxation. These services may include fire and police protection, snow removal, street cleaning or other miscellaneous community type services. However, if these services are furnished to the public on a contractual basis, or are provided the military activity outside the corporate limits, they may be obtained by contract on a reimbursable basis. All questions concerning the propriety of obtaining these type services by contract should be coordinated with NAVFAC Counsel or coordinated with the NAVFAC Acquisition Proponent.

(c) *Sale of utility service to private parties.* NAVFAC Contracting Officers are authorized to execute contracts for the sale of utility services to private parties authorized by NAVCOMPT Manual 035875 and prevailing policy governing these actions. NAVFAC Form 4330/16, "Utility Sales Contract," may be used as appropriate.

(d) Notwithstanding the prohibition of obtaining community services by contract from governmental units, military installations subject to base closure may be eligible for certain types of services under cooperative agreements. NAVFAC Acquisition Proponent should be contacted for information concerning special rules affecting bases to be closed.

41.103 Statutory and delegated authority.

(a) Echelon III Commanders/Commanding Officer/Echelon IV Commanding Officers have been delegated authority to contract for utility services for periods up to 10 years in accordance with the authority delegated to the Department of Defense by General Services Administration (GSA) in accordance with 40 U.S.C. 501. The overall term of a utility services contract using 40 U.S.C. 501 shall be no more than 30 years, inclusive of the base and all options.

(b) 10 U.S.C 2913 as implemented by the Secretary authorizes military departments to enter into agreements with gas or electric utilities to design and implement cost-effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation.

Further the Secretary of Defense may authorize any military installation to accept any financial incentive, goods, or services generally available from a gas or electric utility, to adopt technologies and practices that the Secretary determines are in the interests of the United States and consistent with the energy performance goals for the Department of Defense.

However, this authority to enter agreements or accept incentives, goods or services does not preclude the requirement to seek competition if appropriated funds are to be expended to study, design or implement energy conservation measures. The authority provided by the statute in and of itself does not justify or permit entering into a sole source contract with the utility. Each proposed non-competitive award must be publicly announced in accordance with FAR 5.207 and if appropriate subsequently supported with a Justification and Approval (J&A) prepared in accordance with the requirements of FAR Part 6.3. Further, any resulting Utility Energy Service Contracts (UESC) are NOT utility contracts but must contain those clauses normally included in contracts for construction or services as appropriate.

While GSA permits UESC actions to be awarded on their area wide utility agreements, as a matter of policy, all NAVFAC actions shall be awarded as stand-alone actions in order to accommodate requirements to properly report this work and distinguish it from true utility type requirements.

(c) 42 U.S.C. 8287, as modified by the Energy Policy Act of 1992, authorizes energy savings contracts with terms up to 25 years.

SUBPART 41.2—ACQUIRING UTILITY SERVICES

41.201 Policy.

(a) *Energy Savings Performance Contracts.*

(1) The Naval Facilities Engineering and Expeditionary Warfare Center (EXWC) at Pt. Hueneme, CA is the only NAVFAC contracting office currently authorized to award Energy Savings Performance Contracts authorized by 42 U.S.C. 8287 as modified by the Energy Policy Act of 1992.

(2) These special authorities are not yet incorporated in the FAR and rules governing the application and use of these special authorities are found in various Executive Orders, Department of Energy final rules, and other assorted instructions and documents. Questions concerning use of these special authorities should be directed to EXWC or NAVFAC Acquisition Proponent.

(3) Use of Department of Energy area-wide Energy Savings Performance Contracts are subject to the procedures governing the Economy Act transfers outside the Department of Defense.

(4) Frequently, contracts awarded subject to these special authorities do not specify a contract value. For the purposes of establishing approval thresholds, the estimated value of the maximum capital investment shall be used to determine the appropriate approval authority.

(b) *Existing contracts.* Actions to correct existing contracts which may not now be considered inappropriate for award under the provisions of FAR Part 41 (i.e., trash collection, cable television, telecommunication services, etc.) are left to the discretion and judgment of the cognizant Contracting Officer. Contracting Officers should coordinate closely all new contract actions with NAVFAC Counsel to assure new awards are consistent with current law and regulation.

(c) *Contract modifications.* Proposed modifications to existing contracts to reduce utility costs by establishing reduced rates (not subject to regulation) or alternate terms and conditions are subject to the same review and approval thresholds as are any other contract action having a similar value. In those situations, where the contract has no fixed term (indefinite term utility contracts), the term shall be considered to be five years for purposes of establishing the contract value for determining review and approval thresholds. Proposed modifications which change regulated rates are not subject to any review and approval beyond that locally established.

(d) *Advance payments.* Any requirement to include provisions for advance payments in a utility contract shall be referred to the NAVFAC Acquisition Proponent. Each request shall document that no other means of financing is available and all attempts to negotiate other payment terms were unsuccessful.

41.202 Procedures.

(a) Procurement of utility services, particularly electricity, is significantly affected by state law and regulation. Contracting Officers are responsible for maintaining an awareness of local regulations governing the acquisition of utility services and the feasibility of competing utility requirements as state laws are changed and utilities become deregulated.

(b) A J&A should be available supporting each contract awarded without competition. Where utility services are procured under an indefinite term agreement, a new J&A should be prepared annually.

(c) GSA areawide contracts for utility services may be used after performing the procedures in FAR 41.202.

(d) Power purchase agreements (PPA) shall only be awarded as a stand-alone and may include multiple sites under a single award.

SUBPART 41.4—ADMINISTRATION

41.401 Monthly and annual review.

Upon completion of the annual review, the Contracting Officer shall make a written determination that the rates are fair and reasonable for the type of service provided.

41.4100 Contract records.

(a) The Contracting Officer shall maintain a record of all utility contracts to include contract number, name of contractor, activity served, type of service and other pertinent information relating to the characteristics of the service and the circumstances under which it is furnished. This record should also contain:

(1) monthly records of billing data for accounts over \$25,000 per year abstracted from invoices;

(2) a complete current inventory of all company-owned facilities and equipment installed at each activity; and

(3) a current file of the rates, rules, and regulations under which service is furnished to the public by the various contractors, including abstracts of special contracts with industrial or other customers.

(b) The using activity shall be instructed to submit annually to the contracting activity a tabulation of the billing data including units of consumption and the amount of billings for all accounts \$25,000 or less per year.

(c) Records of outages, their durations and causes, meter tests, changes, and adjustments should be maintained until all required contract administrative actions have been completed and the final payment made.

**PART 42
CONTRACT ADMINISTRATION AND AUDIT SERVICES**

SUBPART 42.2—CONTRACT ADMINISTRATION SERVICES

42.202 Assignment of contract administration.

(a) Delegating functions. Cognizant Procuring Contracting Officers (PCOs) shall, when appropriate, formally delegate in writing to a Contract Administration Office (CAO), i.e. Facilities Engineering and Acquisition Division (FEAD), Resident Officer in Charge of Construction (ROICC), or Defense Contract Management Agency (DCMA), specific contract administration functions or specialized support services, as outlined in and in accordance with FAR 42.302 and DFARS 242.302. The delegation shall include all the specific information listed at FAR 42.202(b) through (f). The delegation should outline all specific or additional functions or services delegated and shall also include any functions or services that are not delegated to the CAO and retained by the PCO.

(b) Special instructions. As necessary, the Contracting Officer also shall advise the contractor (and other activities as appropriate) in writing of contract administration delegated to a CAO and any functions withheld from or additional functions delegated to the CAO.

42.202-100 Contracting Officer's representatives.

See NFAS 1.602-2 for appointment and responsibilities of Contracting Officer Representatives (CORs), Contracting Officer Authorized Representatives (COARs), and Ordering Officers.

SUBPART 42.12—NOVATION AND CHANGE-OF-NAME AGREEMENT

42.1202 Responsibility for executing agreements.

If the novation agreement affects contracts other than those of the activity, the documentation shall be forwarded to the Echelon III/IV Chief of the Contracting Office (CCO) or the appropriate Echelon II Division Director, as appropriate, for action.

SUBPART 42.15—CONTRACTOR PERFORMANCE INFORMATION

42.1503 Procedures.

42.1503-100 Preparation and use of contractor performance evaluation reports.

(a) All contracts/contract actions that meet Contractor Performance Assessment Reporting System (CPARS) reporting requirements shall include the following statement in the solicitation:

“Contractor’s performance will be evaluated using the respective contractor performance evaluation report entry system located on the website <http://www.cpars.gov/>. Prior to commencement of work the contractor is

required to provide the government with the name, phone number and e-mail address of the "Contractor's Representative" that will be responsible for receipt and review of draft performance evaluations prepared by the government in the appropriate system. It is the contractor's responsibility to keep this contact information current."

(b) Unless otherwise stated, performance evaluations shall be initiated promptly upon the completion of work, at the end of an evaluation period, or when the need to initiate an evaluation is identified. Evaluation reports shall be completed and finalized in CPARS within 120 days from completion or evaluation period.

(c) Architect-Engineer (A-E) Contracts.

(1) For Design Build construction contracts see requirements under Construction Contracts below.

(2) For A-E contractors that are designers of record for construction contracts, prepare two final evaluations in CPARS for the A-E's performance. One final evaluation at the completion of the design contract and one final evaluation for the A-E's performance of construction contract support services at the completion of the construction contract.

(d) Construction Contracts.

(1) For Design Build construction contracts, a brief evaluation of the A-E's performance shall be provided in the remarks section of the construction contractor's final CPARS performance evaluation. This information is to be provided by the NAVFAC office responsible for design review.

(2) See paragraph (b)(2) above for requirements on preparing a performance evaluation on construction contract support services provided by an A-E.

(3) Completed final evaluations are due within 60 days after the Beneficial Occupancy Date (BOD).

(e) All contracts terminated for default must be documented in CPARS.

**PART 43
CONTRACT MODIFICATIONS**

SUBPART 43.1—GENERAL

43.102 Policy.

43.102-100 Execution of modifications.

(a) *General.*

(1) Bilateral modifications shall not be executed by the government until after execution by the contractor. If the contractor places conditions on the modification, a written reply shall immediately be sent to the contractor stating that the government will not execute the modification as returned and will treat it as null and void.

(2) All firm fixed price supplemental agreements shall include the following statement unless waived by the Echelon III/IV Chief of the Contracting Office (CCO):

"Acceptance of this modification by the contractor constitutes an accord and satisfaction and represents payment in full for both time and money and for any and all costs, impact effect, and for delays and disruptions arising out of, or incidental to, the work as herein revised."

(3) A government estimate is not required for contract modifications under the simplified acquisition threshold (SAT). However, in the absence of a government estimate, a determination of price reasonableness must still be made in accordance with local procedures.

(4) Prior to final payment and contract closeout, a unilateral modification shall be prepared to adjust the contract price for any liquidated damages assessed against the contractor.

(5) If a modification includes both additions and deductions, the absolute dollar value determines the warrant level required for approval or execution (e.g., the absolute dollar value of an action that adds \$500,000 of work and deducts \$200,000 of work is \$700,000.)

(b) *Facilities support contract modifications.*

(1) If labor requirements are affected by out-of-scope work, a new Service Contract Act (SCA) wage determination must be requested and made a part of the modification.

(2) A unilateral modification shall be issued to adjust the contract price for unperformed work.

(c) *Construction contract modifications.* All modifications must include either an adjustment of the contract completion date or the statement: "Extension of contract time is not required by reason of this modification."

SUBPART 43.2—CHANGE ORDERS

43.201 (NMCARS) General.

(a) The policies and procedures of DFARS 217.74 and NFAS 17.74 as outlined in this subpart shall be applied to all undefinitized change orders.

(b) Refer to NFAS 32.702(b) for guidance on funding construction modifications on contracts that were awarded in a prior fiscal year.

43.201-100 Policy.

(a) It is NAVFAC policy to negotiate in advance the cost and time associated with all contract changes except in unusual circumstances where it is not possible as a consequence of the character of the changed work. In those instances, an undefinitized change order may be issued in accordance with the policies and procedures outlined below.

(b) The following elements of DFARS 217.74 and NFAS 17.74 shall be applied to all undefinitized change orders, except value engineering change proposals:

(1) Ensure undefinitized change orders are issued only when:

(i) The negotiation of a definitive in-scope modification is not possible in sufficient time to meet the Government's requirements; and

(ii) The Government's interest demands that the contractor be given a binding commitment so that performance can begin immediately.

(2) Ensure undefinitized change orders are as complete and definite as practicable under the particular circumstances.

(3) A Not-To-Exceed (NTE) ceiling price shall be established for each undefinitized change order, unless a written determination is made by the CCO to waive the NTE amount. The NTE ceiling price may be adjusted by modification during the performance if circumstances warrant, but shall not be exceeded at definitization.

(4) Each undefinitized change order shall include a definitization schedule that provides for definitization by (i) or (ii) below, whichever occurs earlier:

(i) The date that is 180 days after issuance of the undefinitized change order. This date may be extended but may not exceed the date that is 180 days after the contractor submits a qualifying proposal; or

(ii) The date on which the amount of funds obligated on the undefinitized change order is equal to more than 50 percent of the not-to-exceed price.

(5) Ensure a qualifying proposal is submitted by the contractor in accordance with the definitization schedule. If the contractor does not submit a timely qualifying

proposal, the contracting office may suspend or reduce progress payments under FAR 32.503-6, or take other appropriate action.

(6) Approval Authority:

(i) Only Contracting Officers having specific undefinitized contract action authority (UCA) designated on their warrant shall execute undefinitized change orders, unless delegated one-time authority on a case-by-case basis.

(ii) See 17.7404-1 for approval levels for UCA actions.

(7) Echelon III/IV CCO:

(i) Provide management oversight of undefinitized change orders issued by the Echelon III/IV activities and field activities under their cognizance to:

(ii) Ensure appropriate use of the instrument.

(iii) Apply management attention to backlog.

(iv) Establish a definitization schedule.

(c) When the government and the contractor cannot reach agreement on the cost and time associated with changed or additional work, a unilateral definitized change order may be issued to direct the contractor to proceed with the work despite the absence of a forward priced agreement of equitable adjustment. In such circumstances, the unilateral definitized change order shall contain an equitable adjustment to the contract, both in terms of time and money, in amounts thought to be reasonable by the Contracting Officer. The equitable adjustment to the contract should be broken down in sufficient detail to clearly document the basis for the Contracting Officer's determination of what was reasonable should the contractor seek additional compensation via the disputes provisions of the contract. Unilateral definitized change orders shall be approved at the level designated for the Post-Negotiation Business Clearance/Post-Negotiation Memorandum. However, for actions up to and including the SAT, the Contracting Officer with appropriate management and oversight of the individual assigned the action shall provide approval.

43.201-101 Use of Lean Modification Process for actions up to SAT.

(a) It is NAVFAC policy to utilize the lean modification process for ALL in-scope bilateral modifications up to the SAT. The lean process has been determined to be the most efficient and effective means to process these lower dollar value modifications. The lean modification process is detailed in Business Management System (BMS) Process S- S-17.4.4.2 Bilateral - Modifications Under SAT Using Lean.

43.204 (NMCARS) Administration.

43.204-70-7 (NMCARS) Plans and reports.

See NFAS 17.7405(a)(2) for reporting requirements.

PART 44
SUBCONTRACTING POLICIES AND PROCEDURES

SUBPART 44.2—CONSENT TO SUBCONTRACTS

44.202 Contracting Officer's evaluation.

44.202-1 (FAR) Responsibilities.

44.202-1-100 Post award subcontractor changes.

(a) Post award subcontractor changes pursuant to FAR 52.244-2 Subcontracts or FAR 52.244-4 Subcontractors and Outside Associates and Consultants (Architect-Engineer Services) shall be conducted as follows:

(i) The Contracting Officer and Program Manager (or equivalent) shall evaluate the contractor's request and supporting data to ensure the subcontractor(s) meets contract requirements and the information clearly presents the business case for the change of the subcontractor(s).

(ii) The proposed change shall be approved one level above the Contracting Officer upon concurrence of individuals specified in subparagraph (i) above, as applicable.

(iii) The Contracting Officer shall modify the contract or task/delivery order to reflect the approved change of subcontractor(s) and document the official contract file accordingly.

**PART 45
GOVERNMENT PROPERTY**

SUBPART 45.1—GENERAL

45.103 General.

45.103-73 Contracting Officer responsibilities.

(ii) Government-furnished property compliance is required to be reported quarterly. Echelon III activities shall consolidate the information for its area of responsibility (AOR) and submit a report by the end of each month following the end of each fiscal quarter (30 January, 30 April, 30 July, 30 October), via email to the Echelon II People, Process and Policy Director. NFAS Appendix A summarizes all reporting requirements.

**SUBPART 45.70—(DFARS) APPOINTMENT OF PROPERTY ADMINISTRATORS
AND PLANT CLEARANCE OFFICERS**

45.7001 Selection, appointment and termination.

(a) The Contracting Officer shall designate a property administrator for each contract involving government property furnished to or acquired by the contractor.

(b) All property administrators shall be members of the Defense Acquisition Workforce and shall attend the DoD training course for property administrators. NAVFAC Contracting Officers shall obtain assurance from customers that properly trained property administrators (if required) will be available prior to the issuance of any solicitation for customer requirements.

**PART 46
QUALITY ASSURANCE**

SUBPART 46.1—GENERAL

46.104 Contract administration office responsibilities.

Quality assurance responsibilities should be assigned by the Contracting Officer according to the quality assurance needs, regardless of the type of contract.

SUBPART 46.2—CONTRACT QUALITY REQUIREMENTS

46.202 Types of contract quality requirements.

46.202-2 Government reliance on inspection by contractor.

Refer to the Capital Improvements Business Line for guidance on its construction quality management program.

46.202-2-100 Construction Surveillance and Inspection (Title II) services.

Refer to the Capital Improvements Business Line for guidelines for architect-engineer (A-E) construction and inspection (Title II) services.

SUBPART 46.4—GOVERNMENT CONTRACT QUALITY ASSURANCE

46.4100 NAVFAC contract quality assurance requirements.

Refer to the appropriate Business Line for specific quality control (QC) and quality assurance (QA) requirements for the construction quality management program, A-E construction and inspection (Title II) services, and environmental contract quality management.

SUBPART 46.7—WARRANTIES

46.704 Authority for use of warranties.

All warranties shall be standard or customary in the trade unless a Level III Contracting Officer has made a written determination documenting that the extra warranty protection is needed.

**PART 47
TRANSPORTATION**

SUBPART 47.5—OCEAN TRANSPORTATION BY U.S.—FLAG VESSELS

47.574 (DFARS) Solicitation provisions and contract clauses.

(a) DFARS Clauses 252.247-7022 Representation of Extent of Transportation by Sea, 252.247-7023 Transportation of Supplies by Sea, and 252.247-7024 Notification of Transportation of Supplies by Sea shall be included in full text in all overseas construction solicitations and contracts.

**PART 48
VALUE ENGINEERING
(RESERVED)**

PART 49
TERMINATION OF CONTRACTS

SUBPART 49.1—GENERAL PRINCIPLES

49.101 Authorities and responsibilities.

49.101-100 Reporting requirements.

A log shall be kept of all contracts terminated.

SUBPART 49.4—TERMINATION FOR DEFAULT

49.402 Termination of fixed-price contracts for default

49.402-3 Procedure for default.

(a) Contracts shall be terminated by Contracting Officer's Final Decision with a copy to the appropriate Echelon II Division Director.

(b) Each Echelon III/IV activity shall maintain a tracking system to assure that applicable field office completion reports, initial and follow-up demand letters, and when appropriate, files forwarded to NAVCOMPT for nonpayment are done in a timely manner.

(c) The title block of a completion contract shall contain a statement: "This contract is for completion of defaulted contract # _____."

49.402-8 (NMCARS) Reporting information.

The Echelon II People, Process and Policy Director shall be copied on the email to the Assistant General Counsel (Acquisition Integrity) (AGC(AI)) when submitting a copy of the Federal Awardee Performance and Integrity Information System (FAPIS) entry required by NMCARS 5249.402-8.

49.403 (NMCARS) Termination of cost-reimbursement contracts for default.

The Echelon II People, Process and Policy Director shall be copied on the email to the AGC (AI) when submitting a copy of the FAPIS entry required by NMCARS 5249.403.

49.405 Completion by another contractor.

49.405-100 Four-party agreements.

If the surety for a failing contractor, prior to termination and with the consent of the failing contractor, offers another firm to take over the work, this shall be accomplished by a four-party agreement (government, existing contractor, new contractor, and surety), patterned after the novation agreement set forth in FAR 42.1204. The surety must state

in the agreement that the existing performance and payment bonds extend to and cover all work by the new contractor, or new bonds must be issued.

SUBPART 49.70—SPECIAL TERMINATION REQUIREMENTS

49.7001 (NMCARS) Congressional notification on significant contract terminations.

(2) When a decision to terminate is contemplated, the Echelon III/IV Chief of the Contracts Office (CCO) shall forward the required documentation to the appropriate Echelon II Division Director for review and further dissemination to Deputy Assistant Secretary of the Navy for Acquisition and Procurement (DASN(AP)) as required by NMCARS 5249.7001(3). The appropriate Echelon II Division shall ensure that the Echelon II People, Process and Policy Director is copied on the email DASN(AP).

PART 50 EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT (RESERVED)

PART 51 USE OF GOVERNMENT SOURCES BY CONTRACTORS (RESERVED)

PART 52
SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBPART 52.1—INSTRUCTIONS FOR USING PROVISIONS AND CLAUSES

52.101 (NMCARS) Using Part 52.

The NMCARS 11-digit numbering system is used for NAVFAC provisions and clauses, using the last four digit sequential numbers of 9300 through 9399.

SUBPART 52.2—TEXTS OF PROVISIONS AND CLAUSES

52.200 [Removed and Reserved]

5252.209-9300 [Removed and Reserved]

5252.236-9301 [Removed and Reserved]

5252.236-9310 [Removed and Reserved]

PART 53 FORMS

SUBPART 53.2—PRESCRIPTION OF FORMS

53.200 Scope of subpart.

The FAR/DFARS/NMCARS and NFAS prescribe forms for use in acquisition. Copies of Standard, Optional and DoD forms may be obtained from the following websites:

General Services Administration (GSA) Forms Library, Standard and Optional Forms
<http://www.gsa.gov/portal/forms/type/TOP>

DoD Electronic Forms
<http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>

SUBPART 53.3—ILLUSTRATION OF FORMS

53.300 Scope of subpart.

This subpart provides an illustration of NAVFACENGCOM forms that may be used in the acquisition process:

<u>Form Number</u>	<u>Form Name</u>
4330/7	Contractor's Release
4330/14	Assignee's Release
4330/16	Utility Sales Contract
4330/36	Construction Contract Non-Compliance Notice
4330/46	Expanded Performance Requirements Summary
4350/1	Labor Standards Enforcement Report
4350/2	Employee Claim for Restitution of Wages
7300/30	Contractor's Invoice
7300/31	Contract Performance Statement
7300/32	Prompt Payment Certification and Deduction

APPENDIX A—NAVFAC REPORTING REQUIREMENTS

The matrix shown below is a summary of required reports, followed by special reporting formats. Unless otherwise noted, all reports shall be submitted to the Echelon II designated representative.

REPORT MATRIX			
	REPORT TITLE	REFERENCE	DUE DATE TO HQ
Monthly	Peer Review Forecast	NFAS 1.170(h)	15 th of the month
Monthly	Monthly Contract Closeout Metric Report	NFAS 4.804-1 (S-90)	15 th of the month
Quarterly	Ratification Reporting	NFAS 1.602-3(e)(2)	20 Jan 20 Apr 20 Jul 20 Oct
Quarterly	Verification and Validation (V&V) Report	NFAS 4.604(3)(i)	1 Feb 1 May 1 Aug 1 Nov
Quarterly	Bridge Contract Awards	NFAS 6.304-101(d)	15 Jan 15 Apr 15 Jul 15 Oct
Quarterly	HCA determination to award in accordance with FAR 15.403-3(a)(4)	NFAS 15.403-3(d)	20 Jan 20 Apr 20 Jul 20 Oct
Quarterly	GFP Compliance Report	NFAS 45.103-73(ii)	30 Jan 30 Apr 30 Jul 30 Oct
Semi-Annual	Consolidated Unfinalized Contract Actions (UCA) Management Report	NFAS 17.7405(a)(2)	10 Apr 10 Oct
Semi-Annual	Labor Standards Enforcement Report	NFAS 22.406-13	15 Apr 15 Oct
Semi-Annual	Unpriced Change Order Report (Combined with Consolidated UCA Management Report)	NFAS 43.204-70-7	10 Apr 10 Oct
Annual	Warrants Annual Report	NFAS 1.603-3(d)	3 Dec
Annual	Internal Business Assessment	NFAS 1.691-2-101	20 Mar
Annual	Contract Action Report, Data Verification and Validation (V&V) Certification	NFAS 4.604-3(ii)	1 Nov
Annual	Long Range Acquisition Forecast	NFAS 5.404	10 Jun
Annual	Competition Report, including project competition goal for current year	NFAS 6.502(b)(2)	15 Dec
Annual	Report on Pilot Program for Acquisition of Military-Purpose Nondevelopmental Items	NFAS 12.7102-2(a)	1 Oct
Annual	Truth in Negotiation Act (TINA) Waivers valued \$19.5M or more and Commercial Item Exceptions to Cost/Pricing Data valued \$19.5M or more	NFAS 15.403-1(c)(4)(B)	15 Oct
Annual	Inter-Intra Agency Logs	NFAS 17.502-2(d)	10 Nov
Annual	DoE Work For Others (WFO) Order Compliance Assessment Results	NFAS 17.502-2(d)	10 Dec

REPORT MATRIX			
	REPORT TITLE	REFERENCE	DUE DATE TO HQ
Annual	Nondefense Agency Certification Report	NFAS 17.703(c)	15 Oct
Annual	Commercial Off The Shelf (COTS) Specialty Metal Exception Report	NFAS 25.7003-3(b)(2)(ii)	07 Oct
Annual	Cost Accounting Standards Waivers over \$15M	NFAS 30.201-5(e)	1 Nov
Annual	Claims Log	NFAS 33.211(c)	31 Oct

APPENDIX B—NAVFAC SUBJECT MATTER EXPERT CONTACT LIST

SUBJECT MATTER EXPERT	PHONE NUMBER
ACQ1 - People, Process, and Policy Community Management COR Labor Congressional Inquires GAO, IG's NFAS BMS Reports	202-685-9155
ACQ2 - PW/CI/EV/CIO/AM Division PW/BOS Capital Improvements Asset Management Construction Facility Support Contracts Environmental, Grants Leasing	202-685-9135
ACQ3 – Expeditionary Support/ATFP/SSPO/Energy & Utility Division Expeditionary Support ATFP SSPO Energy & Utility	202-685-9136
ACQ4 - Electronic Acquisition All CVP FIAR responses All ACQ system FISCAM responses	202-685-9164

Procurement Integrated Enterprise Environment (PIEE) which includes:

- WAWF
- EDA
- CLS
- GFP
- JAM
- CCO
- CDR
- SPM

Integrated Acquisition Environment (IAE)/SAM.gov which includes:

- SAM
- EPLS
- FPDS-NG
- eSRS/FSRS

FBO	
CPARS	
WDOL	
FAADC	
CAFU	
eContracts	
FEDMALL	
Seaport NXG	
SPS	
Government Commercial Purchase Card	619-532-2868
Naval Facilities Institute (NFI)	805-982-5125
NFACT	
Procurement Management Assessment Program (PMAP)	202-685-9153
Office of Small Business Programs (OSBP)	202-685-9129

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APPENDIX C—SUMMARY OF SIGNIFICANT CHANGES NAVFAC ACQUISITION STANDARDS (NFAS)

(October 2018, Change 01 issued 02 August 2019)

The following changes are hereby incorporated in Change 01 to the October 2018 Edition of the NFAS.

(1) The table of contents (TOC) was revised to Add Subpart 6.2 – Full and Open Competition after Exclusion of Sources (new content), Add 6.202 (NMCARS) Establishing or maintaining alternative sources (new content), Add 6.502 (NMCARS) Duties and responsibilities (new content), Add 7.107 (NMCARS) Additional requirements for acquisitions involving consolidation, bundling, or substantial bundling (new content), Add (NMCARS) 7.107-2 Consolidation (new content), Add (NMCARS) 7.107-3 Bundling (new content), Add 8.405-6 (NMCARS) Limiting Sources (new content), Add 9.506 Procedures (new content), Delete the title to 9.507 Solicitation provisions and contract clause and replace it with [Removed and Reserved], Delete the title to 9.507-2 Contract clause and replace it with [Removed and Reserved], Delete the title to 11.104 Use of brand name or equal purchase description and replace it with [Removed and Reserved], Delete the reference to 11.274 (content previously removed), Delete the reference to 11.274-2 (content previously removed), Delete the reference to 11.404 (content previously removed), Delete the (RESERVED) immediately following the Title to Part 12 (new content), Add Subpart 12.1 - Acquisitions of Commercial Items – General (new content), Add 12.102 (NMCARS) Applicability (new content), Add Subpart 12.2 – Special Requirements for the Acquisition of Commercial Items (new content), Add 12.207 (NMCARS) Contract type (new content), Add Subpart 12.70 – Limitation on Conversion of Procurement from Commercial Acquisition Procedures (new content), Add 12.7001 (NMCARS) Procedures (new content), Add Subpart 12.71 – Pilot Program for Acquisition of Military-Purpose Nondevelopmental Items (new content), Add 12.7102-2 (NMCARS) Reporting requirements (new content), Delete the reference to 14.201-6 (content previously removed), Delete the reference to 14.201-6-100 (content previously removed), Add the acronym (LPTA) in the title for 15.101-2, Delete the reference to 15.209 (content previously removed), Add 15.403-1 (NMCARS) Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. Chapter 35) (new content), Add 15.403-3 (DFARS) Requiring data other than certified cost or pricing data (new content), Delete the reference to Subpart 16.2 (content previously removed), Delete the reference to 16.203 (content previously removed), Delete the reference to 16.203-4 (content previously removed), Delete the reference to 16.203-4-100 (content previously removed), Add 16.302-100 Approval of cost-reimbursement type contracts (new content), Delete the reference to 16.406 (content previously removed), Delete the reference to 16.406-100 (content previously removed), Delete the reference to 16.504-90 (content previously removed), Add 16.505-100 Orders for Engineering Services and/or Program Management Services, as identified in NMCARS Annex 22 (new content), Delete the reference to 16.506 (content previously removed), Delete the reference to 16.506-100 (content previously removed), Change the title of 17.202-103 to Use of options in Utility Service contracts, Change the title of Subpart 17.5 to Interagency Acquisitions, Change the title of 17.500-100 to Scope of subpart, Interagency and Intra-Agency Acquisitions, Delete the title (FAR) General of 17.502-1 and replace it with [Removed and Reserved] (content removed), Change the title of

17.502-2 to (NMCARS) The Economy Act, Add Subpart- 17.7 Interagency Acquisitions: Acquisitions by NonDefense Agencies on Behalf of the Department of Defense (new content), Add 17.703 (NMCARS) Policy (new content), Add 17.770 (NMCARS) Procedures (new content), Add 22.101-1 (NMCARS) General (new content), Delete the reference to Subpart 22.10 (content previously removed), Delete the reference to 22.1006 (content previously removed), Delete the reference to 22.1006-100 (content previously removed), Delete the reference to Subpart 23.100 (content previously removed), Delete the reference to 23.1000 (content previously removed), Add Subpart 25.4 – Trade Agreements (new content), Add 25.401 (NMCARS) Exceptions (new content), Add 25.403 (NMCARS) World Trade Organization Government Procurement and Free Trade Agreements (new content), Delete the reference to 28.102-3 (content previously removed), Delete the reference to 28.203-100 (content previously removed), Delete “(RESERVED)” following the title to Part 30 (new content), Add Subpart 30.2 – CAS Program Requirements (new content), Add 30.201-5 (NMCARS) Waiver (new content), Delete the reference to 32.111 (content previously removed), Delete the reference to 32.111-100 (content previously removed), Add 32.607-1 Installment Payment (new content), Delete the reference to 32.613 (content previously removed), Delete the reference to 36.609 (content previously removed), Add 37.103-100 Contracting Officer responsibility (new content), Add 37.502 Exclusions (new content), Delete the reference to 37.1001 (content previously removed), Delete the reference to Subpart 42.5 (content previously removed), Delete the reference to 42.570 (content previously removed), Delete the reference to 42.570-100 (content previously removed), Add 43.201-101 Use of Lean Modification Process for actions up to SAT (new content), Change the title of 45.103-73 to Contracting Officer’s responsibilities (removed the reference to NMCARS), Delete the reference to 45.107 (content previously removed), Delete the reference to 45.107-100 (content previously removed), Delete the reference to 46.407 (content previously removed), Delete the reference to 46.407-100 (content previously removed), Delete the reference to Subpart 48.2 (content previously removed), Delete the reference to 48.201 (content previously removed), Delete the title to 52.200 Scope of subpart and replace it with [Removed and Reserved], Delete the reference to 5252.201-9300 (content previously removed), Delete the title to 5252.209-9300 Organizational Conflicts of Interest and replace it with [Removed and Reserved], Delete the reference to 5252.211-9301 (content previously removed), Delete the reference to 5252.214-9300 (content previously removed), Delete the reference to 5252.214-9301 (content previously removed), Delete the reference to 5252.215-9300 (content previously removed), Delete the reference to 5252.215-9301 (content previously removed), Delete the reference to 5252.215-9302 (content previously removed), Delete the reference to 5252.216-9300 (content previously removed), Delete the reference to 5252.216-9301 (content previously removed), Delete the reference to 5252.216-9302 (content previously removed), Delete the reference to 5252.216-9303 (content previously removed), Delete the reference to 5252.216-9305 (content previously removed), Delete the reference to 5252.216-9306 (content previously removed), Delete the reference to 5252.216-9307 (content previously removed), Delete the reference to 5252.216-9314 (content previously removed), Delete the reference to 5252.216-9315 (content previously removed), Delete the reference to 5252.217-9300 (content previously removed), Delete the reference to 5252.217-9301 (content previously removed), Delete the reference to 5252.222-9305 (content previously removed), “Delete the reference to 5252.223-9300 (content previously removed), Delete the reference to 5252.223-9301 (content previously removed), Delete the reference to 5252.228-9300 (content previously removed), Delete the reference to 5252.228-9305 (content previously removed), Delete the reference to 5252.228-9306 (content previously removed)

removed), Delete the reference to 5252.229-9302 (content previously removed), Delete the reference to 5252.229-9304 (content previously removed), Delete the reference to 5252.232-9300 (content previously removed), Delete the reference to 5252.236-9300 (content previously removed), Delete the reference to 5252.236-9301 “Special Working Conditions and Entry to Work Area” and replace it with “[Removed and Reserved]”, Delete the reference to 5252.236-9302 (content previously removed), Delete the reference to 5252.236-9303 (content previously removed), Delete the reference to 5252.236-9304 (content previously removed), Delete the reference to 5252.236-9305 (content previously removed), Delete the reference to 5252.236-9307 (content previously removed), Delete the reference to 5252.236-9308 (content previously removed), Delete the reference to 5252.236-9309 (content previously removed), Delete the reference to 5252.236-9310 “Record Drawings” and replace it with “[Removed and Reserved]”, Delete the reference to 5252.236-9312 (content previously removed), Delete the reference to 5252.236-9313 (content previously removed), Delete the reference to 5252.237-9300 (content previously removed), Delete the reference to 5252.237-9301 (content previously removed), Delete the reference to 5252.237-9302 (content previously removed), Delete the reference to 5252.242-9300 (content previously removed), Delete the reference to 5252.242-9305 (content previously removed), Delete the reference to 5252.245-9302 (content previously removed), Delete the reference to 5252.246-9303 (content previously removed), Delete the reference to 5252.246-9304 (content previously removed), and, Delete the reference to 5252.248-1 (content previously removed).

(2) 1.170 (NMCARS) Peer Reviews, changed Director, Defense Pricing/Defense Procurement and Acquisition Policy (DPAP) to Director, Defense Pricing and Contracting (DPC) in six (6) locations.

(3) 1.170 (NMCARS) Peer Reviews, subparagraph (a) revised to clarify that the Postaward peer reviews shall be conducted at the midpoint of the performance period to allow time to finalize recommendations prior to exercising the option period.

(4) 1.170 (NMCARS) Peer Reviews, subparagraph (c)(i) revised to clarify that the review shall be independent of the Contracting Officer whose procurement is the subject of the review and when practicable, be independent of the Source Selection Authority (SSA).

(5) 1.602-1-101 NAVFAC solicitation/contract language, Authority, subparagraph (a) revised to specify the location in the two (2) different Construction Specifications Institute (CSI) formats, that the language, if applicable, should be included.

(6) 1.602-2 (DFARS) Authorized representatives of the Contracting Officer, subparagraph (a)(1) revised to clarify that a COR shall be designated for all service contracts.

(7) 1.602-2 (DFARS) Authorized representatives of the Contracting Officer, subparagraph (a)(2) revised to require the COR appointment to be in the Joint Appointment Module (JAM). Due to system constraints, COR appointment shall occur post award and shall use the smartform designation letter in JAM.

(8) 1.602-2 (DFARS) Authorized representatives of the Contracting Officer, subparagraph (a)(3)(i) revised to update COR training requirements, to add CLC 206 COR in a Contingency Environment for CORs supporting contingency operations and to

update the DoD Instruction 5000.72 to include Change 1 of August 2018. Additionally, subparagraph (a)(3)(i) revised to delete the reference to CORT tool and replace it with JAM and the Surveillance and Performance Monitoring module (SPM).

(9) 1.602-2 (DFARS) Authorized representatives of the Contracting Officer, subparagraph (a)(4) revised to clarify that CORs shall maintain an electronic file in SPM and the file must include the items identified in DFARS PGI 202.602-2(d)(vi).

(10) 1.602-2 (DFARS) Authorized representatives of the Contracting Officer, subparagraph (a)(5) revised to clarify that the Contracting Officer's review shall be documented in SPM.

(11) 1.602-2 (DFARS) Authorized representatives of the Contracting Officer, subparagraph (b)(1) revised to clarify that the Echelon III/IV CCOs may delegate COAR authority but are not required to do so.

(12) 1.602-2 (DFARS) Authorized representatives of the Contracting Officer, subparagraph (b)(3)(ii) revised to add new language establishing minimum experience requirements for COAR delegations between \$150,000 and \$250,000. In these instances, a minimum of two years' applicable experience in a FEAD/ROICC environment or equivalent is required along with prior COAR experience.

(13) 1.602-2 (DFARS) Authorized representatives of the Contracting Officer, subparagraph (b)(4) revised to change the dollar threshold to "below \$250,000," that COARs may be delegated authority to negotiate in-scope modification changes on construction contracts.

(14) 1.603-2 (DFARS) Selection, subparagraphs (a)(1)(ii) and (a)(2)(ii) revised to remove the reference to both SAM 101 and IRM 101 as courses that could be used in lieu of ISA 101. The courses are no longer available.

(15) 1.603-2 (DFARS) Selection, subparagraphs (a)(3)(ii) and (a)(4)(ii) revised to clarify the training requirements include those from the previous level and those required for either Level II or Level III as appropriate.

(16) 1.603-3 Appointment, subparagraph (d) revised to clearly identify the Warrants Annual Report requirement and to identify where and when it should be submitted.

(17) 1.691-2-101 Internal Business Assessment, revised to clarify that the Internal Business Assessment is an annual requirement and to add the following note: "An activity receiving a PMAP rating of Satisfactory or Highly Satisfactory will not be required to complete an IBA in the following Fiscal Year. Additionally, based on a reduction in procurement risk, an activity receiving a "Highly Satisfactory" PMAP rating will be automatically granted a waiver to the annual IBA submission requirement for the second Fiscal Year following the PMAP review."

(18) 4.604 (NMCARS) Responsibilities, subparagraph (3)(i) revised to change the due dates of the quarterly report to 1 February, 1 May, 1 August and 1 November.

(19) 4.604 (NMCARS) Responsibilities, subparagraph (3)(ii) revised to change the due date of the annual report to 1 November and to correct the title of the report to Contract Action Report, Data Verification and Validation (V&V) certification.

(20) 4.804-1 (NMCARS) Closeout by the office administering the contract, subparagraph (S-90) revised to eliminate both the quarterly and the annual Backlog of Annual Overaged Contracts report and to replace them with a Monthly Closeout Metric Report that will be submitted by the Echelon II eACQ Director.

(21) 4.805 Storage, handling and disposal of contract files, due to changes in electronic acquisition systems, deleted "CORT Tool" and replace it with Joint Appointment Module (JAM) and Surveillance and Performance Monitoring module (SPM). Also changed SeaPort-e to Seaport NXG.

(22) SUBPART 6.2 – FULL AND OPEN COMPETITION AFTER EXCLUSION OF SOURCES added (new content).

(23) 6.202 (NMCARS) Establishing or maintaining alternative sources, this paragraph with its subparagraphs (b)(1)(i) and (b)(1)(ii) is added to establish the NAVFAC policy on obtaining approval of determinations to exclude a source.

(24) 6.304-101 Bridge contract action approvals, revised to add subparagraph (f) outlining the approval requirements if the bridge action is for Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22) and it does not qualify for an exception at NMCARS 5237.102; and Seaport is not being used.

(25) 6.502 (NMCARS) Duties and responsibilities, subparagraph (b)(2) is added and identifies the annual competition advocate activities report with a due date of 15 December.

(26) 7.103 (NMCARS) Agency-head responsibilities, specifically the approval requirements table for Streamlined Acquisition Plans (STRAPs) located immediately following subparagraph (e), has been revised to include a new row for Total Planned Dollar Value between >\$100M up to and including \$250M (all years) for EXWC ONLY as authorized by FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1, with the Decision Authority/Approval at the NAVFAC EXWC Chief of the Contracting Office (CCO).

(27) 7.103 (NMCARS) Agency-head responsibilities, specifically the first asterisked note following subparagraph (e) has been revised to include the language "For NAVFAC EXWC ONLY: Actions under \$2,000,000 (including task or delivery orders) may utilize the acquisition development plan in NAVFAC BMS in lieu of NMCARS Annex 21, MOPAS-S as authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233)."

(28) 7.103 (NMCARS) Agency-head responsibilities, subparagraph (e), the note preceded by three asterisks is revised to clarify that STRAP documents submitted for approval by DASN(AP)/SSM must be submitted via the Echelon III or IV CCO, the

appropriate Echelon II Division Director and the Associate Director for Small Business. The note also advises that the Echelon II Division Director will coordinate the review by the Associate Director for Small Business.

(29) 7.107 (NMCARS) Additional requirements for acquisitions involving consolidation, bundling, or substantial bundling, new heading paragraph added.

(30) 7.107-2 (NMCARS) Consolidation, new paragraph added providing review/approval thresholds and approval authorities for the determination that use of a consolidated contract is necessary and justified.

(31) 7.107-2 (NMCARS) Consolidation, specifically subparagraph (e)(2)(i)(A), new subparagraph a. that reads as follows has been added: “a. For NAVFAC EXWC ONLY: As authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233), for actions greater than \$50M and less than \$100M, the determination must be submitted for Head of the Contracting Activity (HCA) approval via the Echelon III CCO, the Echelon II Division Director, and the Assistant Commander for Acquisition.”

(32) 7.107-2 (NMCARS) Consolidation, specifically subparagraph (e)(2)(i)(C), new subparagraph a. that reads as follows has been added: “a. For NAVFAC EXWC ONLY: As authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233), for actions greater than \$2,000,000 and up to \$50M, the determination must be submitted for NAVFAC EXWC Commander Officer approval via the Echelon III CCO.”

(33) 7.107-3 (NMCARS) Bundling, new paragraph added and provides guidance on the appropriate review and routing requirements of the determination that use of a consolidated and bundled contract is necessary and justified being submitted for approval by DASN(AP).

(34) 7.470 (DFARS) Statutory requirement, to ensure clarity the term “NAVFAC Commander” is replaced with “HCA” in two locations in this paragraph.

(35) 8.404 Use of Federal Supply Schedules (FSS) subparagraphs renumbered to match that in higher regulations. Additionally, subparagraph (k) and (k)(2) revised to permit use of FSS for roofing repairs.

(36) 8.404 Use of Federal Supply Schedules (FSS), subparagraph (k)(4) the note that read “Knowledge based services procured through GSA One Acquisition Solution for Integrated Services (OASIS) are not limited to SAT” is deleted in its entirety. The information has been relocated to NFAS 16.505(d).

(37) 8.404 Use of Federal Supply Schedules (FSS), subparagraph (k)(4), the second note that read “Note: For COTS orders above the SAT, additional documentation is required in accordance with NFAS 17.502-1” has been deleted in its entirety and replaced with two (2) new notes as follows: Note: For Orders above the SAT, ensure compliance with FAR 8.405-4; and, Note: For Orders above \$550,000, ensure compliance with FAR/DFARS/NMCARS at Subparts 17.5 and 17.7 (as applicable).

(38) 8.404 Use of Federal Supply Schedules (FSS), subparagraph (n) corrected terminology “sole source” to “limited source” to match that used in higher regulation.

(39) 8.405-6 (NMCARS) Limiting Sources, new paragraph added providing guidance that no solicitation for Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22) which negates the use of SeaPort shall be issued earlier than three working days after the limited sources justification is provided to DASN(AP). The paragraph also provides guidance on approval requirements and the required routing. Subparagraph (2)(a) clarifies that if the limited sources justification cites FAR 8.405-6(a)(1)(i)(A) there is no requirement to delay solicitation issuance but the approved justification is required to be submitted via the Echelon II Division Director to DASN(AP) within two working days from approval.

(40) 9.506 Procedures, new paragraph with its subparagraph (b) added to establish NAVFAC’s policy on the process for obtaining review and approval of a recommended course of action (which may include proposed provisions or draft contract clauses) to avoid, neutralize or mitigate a potential organizational conflict of interest

(41) 9.507 Solicitation provisions and contract clause, title deleted and replaced with [Removed and Reserved].

(42) 9.507-2 Contract clause, title and all content deleted and replaced with [Removed and Reserved].

(43) 11.104 Use of brand name or equal purchase descriptions, title and all content deleted and replaced with [Removed and Reserved].

(44) 11.274 [Removed and Reserved] (content deleted).

(45) 11.274-2 [Removed and Reserved] (content deleted).

(46) 11.402 Factors to consider in establishing schedules, the language at subparagraph (3) that read: “All time extensions authorized by FAR clause 52.249-10, Default (Fixed Price Construction) must be justified in writing. The Contracting Officer may approve extensions less than 60 days. Extensions of 60 days or greater must be approved at one level above the Contracting Officer.” Is deleted in its entirety, the requirement is no longer valid. Existing subparagraph (4) renumbered to subparagraph (3).

(47) 11.404 [Removed and Reserved] (content deleted).

(48) 11.404-100 NAVFAC solicitation/contract language, Phased Construction Schedule, revised to specify the location in the two (2) different Construction Specifications Institute (CSI) formats, that the language, if applicable, should be included. Additionally, to ensure consistent use of terminology, “calendar days” changed to “days” in three (3) locations.

(49) 11.502 Procedures, added the acronym (IGE) in subparagraph (a). Additionally, to ensure consistent use of terminology, “calendar days” changed to “days” in eight (8) locations of this paragraph and its subparagraphs.

(50) SUBPART 12.1 – ACQUISITION OF COMMERCIAL ITEMS – GENERAL – new subpart added.

(51) 12.102 (NMCARS) Applicability new paragraph with its subparagraph (a)(i)(C) added to implement NAVFAC's policy for obtaining DASN(AP) concurrence on the determination that expert and consultant services are commercial items.

(52) SUBPART 12.2 – SPECIAL REQUIREMENTS FOR THE ACQUISITION OF COMMERCIAL ITEMS – new subpart added.

(53) 12.207 (NMCARS) Contract type, new paragraph with its subparagraph (b)(iii) added to implement NAVFAC's policy for obtaining DASN(AP) approval on required determinations to use time-and-materials and labor-hour contracts.

(54) SUBPART 12.70 – LIMITATION ON VERSION OF PROCUREMENT FROM COMMERCIAL ACQUISITION PROCEDURES – new subpart added.

(55) 12.7001 (NMCARS) Procedures, new paragraph with its subparagraph (a)(2) added to implement NAVFAC's policy for obtaining Head of Contracting Activity (HCA) determination to convert a procurement from commercial acquisition procedures. The paragraph also provides guidance that in the case of procurement valued at more than \$100M, award must be withheld until a copy of the HCA determination is provided to DPC via DASN(AP).

(56) SUBPART 12.71 – PILOT PROGRAM FOR ACQUISITION OF MILITARY-PURPOSE NONDEVELOPMENTAL ITEMS – new subpart added.

(57) 12.7102-2 (NMCARS) Reporting requirements, new paragraph with its subparagraph (a) added to identify the required annual report with its due date of 1 October.

(58) 13.270 (DFARS) Use of the Government wide commercial purchase card (GCPC), subparagraph (c) added a new sentence at the end of this subparagraph to clarify that the NAVFAC EXWC Echelon III Commanding Officer may make the written determination pursuant to DFARS subpart 213.270(b)(2).

(59) 14.201-6 [Removed and Reserved] (content deleted).

(60) 14.201-6-100 [Removed and Reserved] (content deleted).

(61) 14.402-1 Unclassified bids, subparagraph (a)(4) added the word independent immediately preceding "Government estimate" and added the acronym (IGE).

(62) 14.402-1 Unclassified bids, subparagraph (b)(1) revised to add the contract specialist as an individual authorized to open bids.

(63) 15.102-1 Lowest price technically acceptable (LPTA) source selection process, the acronym (LPTA) was added to the title of the paragraph. Additionally, this paragraph revised to permit the Contracting Officer to limited the number of proposals required to be evaluated for technical acceptability to the lowest priced offer.

(64) 15.209 [Removed and Reserved] (content deleted).

(65) 15.209-100, NAVFAC provision/solicitation language, All or None Offers, revised to specify the location in the two (2) different Construction Specifications Institute (CSI) formats that the language, if applicable, should be included.

(66) 15.303 Responsibilities, specifically subparagraph (c), new subparagraph (3) added and reads as follows: “(3) For NAVFAC EXWC ONLY: As authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233), the NAVFAC EXWC CCO may waive the requirement to use multiple evaluation boards for actions greater than \$100M up to but less than \$250M.”

(67) 15.303 Responsibilities, subparagraph (d)(1) revised to clarify that the online course, NAVFAC CTC-W415 Source Selection, is available in Total Workforce Management Services (TWMS). This subparagraph is also revised to clarify that in cases where board members are individuals outside of NAVFAC, their equivalent training (for CTC 415) will be approved by the CCO on a case-by-case basis.

(68) 15.303 Responsibilities, subparagraph (d)(2) revised to clarify that NAVFAC engineers and architects appointed as members of the SSEB performing evaluations of Non-Cost/Price factors which include engineering, design, construction or oversight of engineering, design and construction must be licensed professional engineers or registered architects unless a waiver is granted pursuant to NAVFACINST 3540.1D. The subparagraph also clarifies that the licensing requirements for the chairperson or team lead shall not be waived under any circumstances. Additionally, language is added to clarify that non-licensed engineers and architects may be appointed to serve on selection boards, evaluation boards, or evaluation teams for contracts that do NOT involve engineering, design, construction or any oversight of design, engineering or construction.

(69) 15.403-1 (NMCARS) Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. Chapter 35) with its subparagraph (c)(4)(B) added to identify the annual report of Truth in Negotiations Act waivers and its due date of 15 October.

(70) 15.403-3 (DFARS) Requiring Data Other than Certified Cost or Pricing Data, new paragraph with its subparagraphs (a)(4) and (d) added to implement NAVFAC’s policy on obtaining HCA determinations and identifies the quarterly report requirement with due dates of 20 June, 20 October, 20 January and 20 April.

(71) 15.404-4 Profit, new subparagraph (b)(1) added to establish the NAVFAC policy for construction execution of POL under the Clean, Inspect, Repair (CIR) process only, Echelon III and IV CCOs may approve the use of maximum profit rates for task or delivery orders that will be binding to modifications to those task or delivery orders.

(72) Subpart 16.2 [Removed and Reserved] (content deleted).

(73) 16.203 [Removed and Reserved] (content deleted).

(74) 16.203-4 [Removed and Reserved] (content deleted).

(75) 16.203-4-100 [Removed and Reserved] (content deleted).

(76) 16.302-100 Approval of cost-reimbursement type contracts, new paragraph added requiring the approval of the Assistant Commander for Acquisition prior to committing to any Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services-Streamlined (MOPAS-S) to enter into or award a cost reimbursement contract (inclusive of options) in excess of \$50M (if awarded prior to October 1, 2019) or in excess of \$25M (if awarded on or after October 1, 2019).

(77) 16.406 [Removed and Reserved] (content deleted).

(78) 16.406-100 [Removed and Reserved] (content deleted).

(79) 16.503 Requirements contracts, subparagraphs renumbered to (e) and (f) to match that used in higher regulation.

(80) 16.504 Indefinite-quantity contracts, subparagraphs (a) and (b) renumbered to (a)(4)(viii) and (a)(4)(ix) to match that used in higher regulation.

(81) 16.504 Indefinite-quantity contracts, new subparagraph (c)(1)(ii)(D) added to implement NAVFAC's policy for obtaining Assistant Secretary of the Navy for Research, Development and Acquisition (ASN(RDA)) determination to award a task or delivery order contract in an amount estimated to exceed \$112M.

(82) 16.504-90 [Removed and Reserved] (content deleted).

(83) 16.504-100 NAVFAC solicitation/contract language, Minimum and Maximum Fees [Architect-Engineer Indefinite Quantity Contracts], subparagraphs (a) and (b) are revised to specify the location in the two (2) different Construction Specifications Institute (CSI) formats, that the language, if applicable, should be included.

(84) 16.505 Ordering, subparagraphs renumbered to match that in higher regulation and new subparagraph (e) to include a note are added to this paragraph to provide guidance and approval requirements for use of Delivery/task orders under non-DoD Governmentwide acquisition contracts (GWACS) and multi-agency contracts. The subparagraph provides policy that these vehicles may be used with written approval of a Contracting Officer a level above the individual assigned the action and are not limited to the simplified acquisition threshold (SAT). GWACs or multi-agency contracts shall not be used for A-E or construction. Additionally, GWACs or multi-agency orders for recurring facilities support services shall be limited to those instances where they cannot be procured as efficiently through a NAVFAC contract and shall use small business set-asides to the maximum extent possible. The note to this subparagraph requires that orders for Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22) must consider use of Seaport and if Seaport is not used and the requirement is not excepted by NMCARS 5237.102, a D&F shall be submitted for approval by DASN(AP).

(85) 16.505-70 Orders under multiple award contracts, subparagraph (c) revised to read as follows: "(c) Capital Improvements (CI) construction projects over \$100M shall not be procured via a MAC task order unless a formal waiver is approved by the Echelon II CI

and ACQ. However, this policy does not apply to the Global Contingency Construction contract and no waiver is required.”

(86) 16.505-100 Orders for Engineering Services and/or Program Management Services, as identified in NMCARS Annex 22, new paragraph added providing guidance that prior to issuing any task or delivery order for Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22) the Contracting Officer shall consider SeaPort for use. If SeaPort is not used and the requirement is not excepted, a D&F shall be submitted for approval by DASN(AP). Subparagraph (a) provides the review and routing requirements for submittal to DASN(AP). Subparagraph (b) provides guidance on preparation and submittal of a class D&F for approval by DASN(AP) in situations where repetitive task or delivery orders for these services are anticipated.

(87) 16.506 [Removed and Reserved] (content deleted).

(88) 16.506-100 [Removed and Reserved] (content deleted).

(89) 17.202-103 Use of options in Utility Service contracts, title revised from Use of options in supplies or services. All previous content eliminated and relocated to NFAS 17.204(f). New content reads “Utility Service contracts, as defined in FAR 41.101, may be awarded for periods not exceeding 10 years in accordance with NFAS 41.103 and FAR 41.103. The overall term of a utility services contract using 40 U.S.C. 501 shall be no more than 30 years, inclusive of the base and all options.”

(90) 17.204 Contracts, subparagraphs renumbered to match those in higher regulation and begin with subparagraph (e). Subparagraph (e)(i)(C) revised to clarify that waiver requests being submitted to DASN(AP) must be submitted with a copy of the approved Streamlined Acquisition Plan (STRAP) or Management and Oversight Process for the Acquisition of Services – Streamlined (MOPAS-S).

(91) 17.204 Contracts, subparagraph (f) includes relocated content from NFAS 17.202-103 and reads: “The ordering period for task or delivery order contracts (excluding facility support contracts that include both recurring and non-recurring work) including contracts for construction, architect-engineering and knowledge based services, Blanket Purchase Agreements, and Basic Ordering Agreements, may be for any period up to five years without requiring separate one-year option periods per DFARS 217.204(e)(i)(A) and must be specified in the basic contract. Written email approval from the respective Echelon III/IV CCO is required when the ordering period will exceed 12 months on indefinite delivery contracts.”

(92) 17.207 Exercise of options, new subparagraph (d) added and provides guidance if exercising the option will extend Engineering Services (not those procured under the Selection of Architects and Engineers statute) and/or Program Management Services (see NMCARS Annex 22) SeaPort must be considered for use to procure the services. If SeaPort is not used and the option does not qualify for an exception at NMCARS 5237.102, a D&F shall be submitted for approval by DASN(AP). The subparagraph also provides guidance on the review and routing requirements for any D&F.

(93) SUBPART 17.5 – INTERAGENCY ACQUISITIONS (title revised to match that used in higher regulations).

(94) 17.500-100 Scope of subpart, Interagency and Intra-Agency acquisitions, expanded to more clearly define interagency and intra-agency acquisitions and provides examples of each. Also includes definitions of terms unique to interagency and intra-agency acquisitions. Title revised slightly to reference intra-agency acquisitions.

(95) 17.502-1 (FAR) General, title and content deleted and replaced with [Removed and Reserved].

(96) 17.502-2 (NMCARS) The Economy Act, title revised to match that used in higher regulations. Subparagraph (a) expanded to provide separate guidance for assisted and direct interagency acquisitions and provided examples for each.

(97) 17.502-2 (NMCARS) The Economy Act, subparagraph (b) expanded the approval table to provide separate approval requirements for Economy Act direct and assisted interagency acquisitions to permit approval of direct acquisitions at a lower level. Additionally, clarified that approval of the D&F will also document the review and approval required by NMCARS 5217.770 (if applicable).

(98) 17.502-2 (NMCARS) The Economy Act, specifically subparagraph (b) note (4) is revised to eliminate the language “the best procurement approach required by FAR 17.502-1(a)(1) and,” This language referenced a best procurement approach requirement that has been eliminated in higher regulations.

(99) 17.502-2 (NMCARS) The Economy Act, subparagraph (d) revised slightly to provide information on how the report should be submitted (using the Inter-Intra Agency Log).

(100) SUBPART 17.7 INTERAGENCY ACQUISITIONS: ACQUISITIONS BY NONDEFENSE AGENCIES ON BEHALF OF THE DEPARTMENT OF DEFENSE – new Subpart added.

(101) 17.703 (NMCARS) Policy, new paragraph with its subparagraph (c) added to implement NAVFAC’s policy that the annual report of nondefense agency certifications of compliance has a due date of 15 October.

(102) 17.770 (NMCARS) Procedures, new paragraph with subparagraphs (a) through (d) added to provide guidance related to documenting the review and approval requirement in NMCARS 5217.770.

(103) 17.7404-1 Authorization, new subparagraph (a)(1)(i) added to implement NAVFAC’s policy for construction execution of POL under the CIR process only, UCA approval authority up to and including \$4,000,000 is delegated to the Echelon III/IV Commanders/Commanding Officers and the CCO. The policy permits redelegation to Contracting Officers up to a maximum of \$250K per UCA.

(104) 17.7404-1 Authorization, new subparagraph (a)(2)(i) added to implement NAVFAC’s policy for construction execution of POL under the CIR process only, UCA approval authority over \$4,000,000 is the appropriate Echelon II Division Director.

(105) 19.805-1 General, paragraph revised to clarify the required routing for requests for approval by the Assistant Commander for Acquisition/Deputy Director for Acquisition.

(106) 22.101-1 (NMCARS General) subparagraph (a) revised to clarify that guidance on labor relations can be obtained in SECNAVINST 4200.36A or successor instruction.

(107) 22.503 (FAR) Policy, paragraph revised to identify paragraph 2.3.2 of NMCARS Annex 18 as the location in the Streamlined Acquisition Plan (STRAP) to be used to document the Contracting Officer's determination whether use of a Project Labor Agreement (PLA) is appropriate.

(108) SUBPART 22.10 [Removed and Reserved] (content deleted).

(109) 22.1006 [Removed and Reserved] (content deleted).

(110) 22.1006-100 [Removed and Reserved] (content deleted).

(111) SUBPART 23.100 [Removed and Reserved] (content deleted).

(112) 23.1000 [Removed and Reserved] (content deleted).

(113) 25.103 (DFARS) Exceptions, subparagraph (a)(ii)(B)(2) revised to clarify that approval of the public interest determination for a procurement value at or below the SAT is a level above the Contracting Officer. Approval above the SAT but less than \$1,500,000 is the HCA.

(114) 25.103 (DFARS) Exceptions, revised to include the dollar value thresholds and respective approval authority. Specifically subparagraph (a)(ii)(B)(3) is revised to clarify that approval of the public interest determination for a procurement valued at \$1,500,000 or more is ASN(RDA).

(115) 25.103 (DFARS) Exceptions, subparagraph (b)(ii)(C) revised to clarify that approval of the nonavailability determination for a procurement value at or below the SAT is a level above the Contracting Officer. Approval for a procurement valued above the SAT but less than \$1,500,000 is the Echelon III/IV CCO. Approval for procurements valued at \$1,500,000 or more is the HCA.

(116) 25.202 (NMCARS) Exceptions, is revised to include the dollar value thresholds and respective approval authority. Approval of the impractical or inconsistent with public interest determination for procurements valued at or below the SAT is a level above the Contracting Officer. Approval for procurements valued above the SAT but less than \$1,500,000 is the Echelon III/IV CCO. Approval for procurements valued at \$1,500,000 or more is the HCA.

(117) SUBPART 25.4 – TRADE AGREEMENTS – new subpart added.

(118) 25.401 (NMCARS) Exceptions, new paragraph with its subparagraph (a)(2)(A) added to implement NAVFAC's policy for obtaining approval by the Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)) of the determination to exclude an acquisition of a product from the provisions of FAR subpart 25.4.

(119) 25.403 (NMCARS) World Trade Organization Government Procurement and Free Trade Agreements with its subparagraph (c)(ii) added to implement NAVFAC's policy for obtaining approval by the Under Secretary of Defense for Acquisition and Sustainment

(USD(A&S)/Director Defense Pricing and Contracting (DPC) of the determination for a national interest waiver.

(120) 28.102-3 [Removed and Reserved] (content deleted).

(121) 28.102-3-100 NAVFAC solicitation/contract language, Notice of Bonding Requirements, subparagraph (a) revised to specify the location in the two (2) different Construction Specifications Institute (CSI) formats, that the language, if applicable, should be included.

(122) 28.102-3-101 Alternate Protection for Construction in a foreign country, subparagraph (b) revised to specify the location in the two (2) different Construction Specifications Institute (CSI) formats, that the language, if applicable, should be included.

(123) 28.103-1 General, subparagraph (a) language revised to clarify that bonds shall not be required for facilities support service contracts awarded pursuant to Section 8(a) of the Small Business Act.

(124) 28.203-100 [Removed and Reserved] (content deleted).

(125) SUBPART 30.2 – CAS PROGRAM REQUIREMENTS – new subpart added.

(126) 30.201-5 (NMCARS) Waiver, new paragraph with its subparagraphs (b) and (e) added and implements NAVFAC's policy on obtaining approval determinations of CAS Waivers and establishes an annual reporting requirement with a due date of 1 November.

(127) 32.111 [Removed and Reserved] (content deleted).

(128) 32.111-100 [Removed and Reserved] (content deleted).

(129) 32.604 Demand for payment, subparagraph (a)(3) deleted in its entirety. The information is duplicative from that in higher regulation.

(130) 32.604 Demand for payment, existing subparagraph (a)(5)(ii) renumbered to (b)(5)(ii) to match that used in higher regulation. Additionally, subparagraph revised to include information on alternate debt payment methods.

(131) 32.604 Demand for payment, new subparagraph (f) added and implements NAVFAC's policy that the contract file must remain open until the debt is collected.

(132) 32.607-1 Installment Payment, new paragraph with its subparagraphs (a) and (b) added to implement NAVFAC's policy should a request for installment payment of debt be received.

(133) 32.607-2 Deferment of collection, existing subparagraphs (a) and (b) are deleted in their entirety. The information is duplicative of that in higher regulation.

(134) 32.607-2 Deferment of collection, existing subparagraphs (c)(1) and (2) are renumbered to (c)(2)(e) and (c)(2)(f) to match that used in higher regulation.

(135) 32.613 [Removed and Reserved] (content deleted).

(136) 32.702 Policy, new subparagraph (a)(1) added to implement NAVFAC's policy for construction execution of POL under the CIR process only to Tank Requirements Repair (TRR) form can be used as a promise to pay if signed by the requestor's financial management or comptroller representative.

(137) 32.1100 Final payment for construction and architect-engineer contracts, subparagraph (e) revised to ensure consistent use of terminology, "calendar days" replaced with "days."

(138) 32.7002 (NMCARS) Policy, subparagraph (a) is revised to clarify that approval from DASN(AP) is required prior to determining that electronic submission of payment requests and receiving reports would be unduly burdensome to the contractor.

(139) 33.9001 Claims approval requirements, specifically subparagraph (a)(2) revised to indicate that claims over \$25M require review/approval by DASN(AP).

(140) 36.5-100 NAVFAC solicitation/contract language, Utilities for Construction and Testing, revised to specify the location in the two (2) different Construction Specifications Institute (CSI) formats, that the language, if applicable, should be included.

(141) 36.5100 NAVFAC provision and contract clauses, subparagraphs (a) and (b) are deleted in their entirety. These subparagraphs reference NFAS clauses that have been removed. Existing subparagraph (c) is renumbered to subparagraph (a).

(142) 36.601-3-100 Indefinite quantity architect-engineer contracts, subparagraph (b) revised to eliminate the language "contracts shall be restricted to small project requiring similar types of work."

(143) 36.601-3-100 Indefinite quantity architect-engineer contracts, subparagraph (c) revised to require approval by the appropriate Competition Advocate on the decision not to compete a task order under a multiple award contract.

(144) 36.602-2 Evaluation boards, subparagraph (a) revised to clarify that engineers and architects serving on boards for contracts which include engineering, design, construction or oversight of engineering, design and construction shall be registered professionals unless a waiver is granted pursuant to NAVFACINST 3540.1D. The subparagraph also clarifies that the licensing requirements for the chairperson shall not be waived under any circumstances. Additionally, this subparagraph clarifies that for board members outside of NAVFAC, their equivalent training (for CTC 466) will be approved by the CCO on a case-by-case basis.

(145) 36.602-2 Evaluation boards, new subparagraph (c) added and clarifies that non-licensed engineers and architects may be appointed to serve on selection boards, evaluation boards, or evaluation teams for contracts that do NOT involve engineering, design, construction or any oversight of design, engineering or construction.

(146) 36.605 Government cost estimate for architect-engineer work, added the acronym (IGE) to ensure consistent use of terminology.

- (147) 36.609 [Removed and Reserved] (content deleted).
- (148) 36.609-100 Instructions for use of NAVFAC language, subparagraphs (b), (c), (e) and (f) revised to specify the location in the two (2) different Construction Specifications Institute (CSI) formats, that the language, if applicable, should be included.
- (149) 36.609-101 NAVFAC solicitation/contract language, Drawings Prepared by an Architect-Engineer, revised to specify the location in the two (2) different Construction Specifications Institute (CSI) formats, that the language, if applicable, should be included.
- (150) 36.609-102 NAVFAC solicitation/contract language, Key Personnel, revised to specify the location in the two (2) different Construction Specifications Institute (CSI) formats, that the language, if applicable, should be included.
- (151) 37.102-100 Policy – Government Estimate of Services cost, added the acronym (IGE) in four (4) locations to ensure consistent use of terminology.
- (152) 37.103-100 Contracting offering responsibility, new paragraph added to establish/incorporate the mandatory SeaPort consideration when procuring Engineering Services or Program Management Services (not those procured under the Selection of Architects and Engineers statute).
- (153) 37.192 Service Acquisition Workshops (SAWs), subparagraph (a) revised to clarify that multi-functional teams for service acquisitions with a total estimated value (including options) or \$500M or more or an annual value of \$250M or more shall participate in a SAW or equivalent program.
- (154) 37.502 Exclusions, new paragraph with its subparagraph (b) added and reads as follows: “(b) For NAVFAC EXWC ONLY: As authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233), the NMCARS requirement to use NMCARS Annex 21 MOPAS-S for supply contracts when incidental services are greater than the SAT is waived.”
- (155) 37.504 Contracting Officer’s Responsibilities, specifically subparagraph (a), new subparagraph (3) added and reads as follows: “(3) For NAVFAC EXWC ONLY: Actions under \$2,000,000 (including task or delivery orders) may utilize the acquisition development plan in NAVFAC BMS in lieu of NMCARS Annex 21, MOPAS-S as authorized under FY2017 NDAA Section 233 Pilot Program for the Enhancement of the Research, Development, Test and Evaluation Centers, Phase II, Sprint 1 (Section 233). Approval authorities remain the same as in the table below.”
- (156) 37.1001 [Removed and Reserved] (content deleted).
- (157) SUBPART 42.5 [Removed and Reserved] (content deleted).
- (158) 42.570 [Removed and Reserved] (content deleted).
- (159) 42.570-100 [Removed and Reserved] (content deleted).

(160) 43.201-101 Use of Lean Modification Process for actions up to SAT, new paragraph added establishing policy that the lean modification process shall be used for all in-scope bilateral modifications up to the SAT.

(161) 45.103-73 Contracting Officer responsibilities, removed reference to NMCARS from the title. Additionally, the quarterly due dates for reporting to Echelon II on Government-furnished property compliance were changed to the 30th of January, April, July, and October.

(162) 45.107 [Removed and Reserved] (content deleted).

(163) 45.107-100 [Removed and Reserved] (content deleted).

(164) 46.407 [Removed and Reserved] (content deleted).

(165) 46.407-100 [Removed and Reserved] (content deleted).

(166) SUBPART 48.2 [Removed and Reserved] (content deleted).

(167) 48.201 [Removed and Reserved] (content deleted).

(168) 52.200 Scope of subpart deleted and replaced with [Removed and Reserved].

(169) 5252.201-9300 [Removed and Reserved] (content deleted).

(170) 5252.209-9300 Organizational Conflicts of Interest deleted and replaced with [Removed and Reserved].

(171) 5252.211-9301 [Removed and Reserved] (content deleted).

(172) 5252.214-9300 [Removed and Reserved] (content deleted).

(173) 5252.214-9301 [Removed and Reserved] (content deleted).

(174) 5252.215-9300 [Removed and Reserved] (content deleted).

(175) 5252.215-9301 [Removed and Reserved] (content deleted).

(176) 5252.215-9302 [Removed and Reserved] (content deleted).

(177) 5252.216-9300 [Removed and Reserved] (content deleted).

(178) 5252.216-9301 [Removed and Reserved] (content deleted).

(179) 5252.216-9302 [Removed and Reserved] (content deleted).

(180) 5252.216-9303 [Removed and Reserved] (content deleted).

(181) 5252.216-9305 [Removed and Reserved] (content deleted).

(182) 5252.216-9306 [Removed and Reserved] (content deleted).

- (183) 5252.216-9307 [Removed and Reserved] (content deleted).
- (184) 5252.216-9314 [Removed and Reserved] (content deleted).
- (185) 5252.216-9315 [Removed and Reserved] (content deleted).
- (186) 5252.217-9300 [Removed and Reserved] (content deleted).
- (187) 5252.217-9301 [Removed and Reserved] (content deleted).
- (188) 5252.222-9305 [Removed and Reserved] (content deleted).
- (189) 5252.223-9300 [Removed and Reserved] (content deleted).
- (190) 5252.223-9301 [Removed and Reserved] (content deleted).
- (191) 5252.228-9300 [Removed and Reserved] (content deleted).
- (192) 5252.228-9305 [Removed and Reserved] (content deleted).
- (193) 5252.228-9306 [Removed and Reserved] (content deleted).
- (194) 5252.229-9302 [Removed and Reserved] (content deleted).
- (195) 5252.229-9304 [Removed and Reserved] (content deleted).
- (196) 5252.232-9300 [Removed and Reserved] (content deleted).
- (197) 5252.236-9300 [Removed and Reserved] (content deleted).
- (198) 5252.236-9301 Special Working Conditions and Entry to Work deleted in its entirety [Removed and Reserved].
- (199) 5252.236-9302 [Removed and Reserved] (content deleted).
- (200) 5252.236-9303 [Removed and Reserved] (content deleted).
- (201) 5252.236-9304 [Removed and Reserved] (content deleted).
- (202) 5252.236-9305 [Removed and Reserved] (content deleted).
- (203) 5252.236-9307 [Removed and Reserved] (content deleted).
- (204) 5252.236-9308 [Removed and Reserved] (content deleted).
- (205) 5252.236-9309 [Removed and Reserved] (content deleted).
- (206) 5252.236-9310 Record Drawings deleted in its entirety [Removed and Reserved].
- (207) 5252.236-9312 [Removed and Reserved] (content deleted).
- (208) 5252.236-9313 [Removed and Reserved] (content deleted).

(209) 5252.237-9300 [Removed and Reserved] (content deleted).

(210) 5252.237-9301 [Removed and Reserved] (content deleted).

(211) 5252.237-9302 [Removed and Reserved] (content deleted).

(212) 5252.242-9300 [Removed and Reserved] (content deleted).

(213) 5252.242-9305 [Removed and Reserved] (content deleted).

(214) 5252.245-9302 [Removed and Reserved] (content deleted).

(215) 5252.246-9303 [Removed and Reserved] (content deleted).

(216) 5252.246-9304 [Removed and Reserved] (content deleted).

(217) 5252.248-1 [Removed and Reserved] (content deleted).

(218) Appendix A – NAVFAC REPORTING REQUIREMENTS, has been revised to add: the new Monthly Contract Closeout Metric Report; revise the due dates for the Quarterly Verification and Validation (V&V) Report; revise the due dates for the Quarterly GFP Compliance Report, add the Warrants Annual Report; revise the due date and correct the report title of the Annual Contract Action Report, Data Verification and Validation (V&V) Certification; add the Annual Competition Report, including projected competition goal for current year; add the Annual Report on Pilot Program for Acquisition of Military-Purpose Nondevelopmental Items; add the Annual Truth in Negotiation Act (TINA) Waivers valued \$19.5M or more and Commercial Item Exceptions to Cost/Pricing Data valued at \$19.5M or more; add the Annual Nondefense Agency Certification Report; add the Cost Accounting Standards Waivers over \$15M; delete the Quarterly Backlog of Overaged Contracts (Close-outs) Report; and, delete the Annual Backlog of Overaged Contracts (Close-outs) Report. Additionally, all reports included in Appendix A are listed by type of report and then in the order they appear within NFAS.

(219) Appendix B – NAVFAC SUBJECT MATTER EXPERT CONTACT LIST, has been revised to: update the telephone number for ACQ2 to 202-685-9135; Delete the reference to NEPO from the ACQ3 list of categories and replace it with Expeditionary Support; Add CVP FIAR responses and FISCAM responses to the ACQ4 list of categories; Remove CORT and Data Lake from the list of modules under PIEE and to replace them with JAM and SPM; Delete PPIRS from the list of modules under IAE/SAM; Add FAADC; Delete eWGL, FIS, and NECO under the stand-alone systems list; Change Seaport e to Seaport NXG; and Correct the title of the Procurement Management Assessment Program (PMAP).