

# **PART 5301 - Federal Acquisition Regulations System**

## **2019 Edition**

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## **SUBPART 5301.1 - PURPOSE, AUTHORITY, and ISSUANCE**

### **5301.101 Purpose**

The Air Force Federal Acquisition Regulation Supplement (AFFARS) establishes uniform policies and procedures for the Air Force implementing and supplementing the Federal Acquisition Regulation (FAR), the Department of Defense FAR Supplement (DFARS), and other Department of Defense publications concerning contracting. AFFARS Mandatory Procedures (MP) are companion resources arranged by parts, which correspond to the relevant FAR parts. Supplements to the AFFARS and MPs are prohibited.

### **5301.105-1 Publication and Code Arrangement**

(a)(S-90) The AFFARS is published on [www.Acquisition.gov](http://www.Acquisition.gov).

### **5301.170 Peer Reviews**

(a) *DPC Peer Reviews.*

(2) To facilitate planning for and execution of DoD Peer Reviews (see [DFARS 201.170](#) for applicable competitive and noncompetitive thresholds) and clearances by the DAS(C)/ADAS(C) (see [5301.9001\(i\)\(1\)\(iv\)](#)), the SCO must ensure the rolling forecast data is current in the [reporting tool](#) as of the 15<sup>th</sup> of March, June, September, and December each year. SAF/AQC will submit the consolidated Peer Review forecast to OUSD(A&S)/DPC at the end of each quarter. When DoD Peer Review is required, follow the procedures in [MP5301.9001\(a\)\(1\)\(i\)\(A\)\(2\)\(g\)](#).

(b) Component Peer Reviews. Pre-award peer reviews of solicitations for competitive procurements and pre-award peer reviews for non-competitive procurements not subject to the requirements of [DFARS 201.170\(a\)\(1\)\(i\) or \(ii\)](#) must be accomplished by complying with the clearance requirements in [5301.90](#).

## **SUBPART 5301.2 - ADMINISTRATION**

### **5301.201-1 The Two Councils**

(d)(i) Proposed revisions to the FAR or the DFARS must be submitted through the SCO to [SAF/AQCP](#) in accordance with [DFARS 201.201-1\(d\)\(i\)](#).

### **5301.201-90 Maintenance of the AFFARS**

The AFFARS is prepared and maintained by the Chief, Contract Policy & Field Support Division, Deputy Assistant Secretary (Contracting) (SAF/AQCP).

## **SUBPART 5301.3 - AGENCY ACQUISITION REGULATIONS**

### **5301.301 Policy**

(a)(1)(S-90) The AFFARS is issued by the DAS(C) *on behalf of the Senior Procurement Executive (SPE)*.

### **5301.304 Agency Control and Compliance Procedures**

(c)(4) MAJCOMs, DRUs, AFRCO, SpRCO and SSC must follow the approved [AF Clause Control Plan](#). The use of nonstandard clauses requires an approved D&F addressing the criteria outlined in [DFARS PGI 201.301\(b\)\(iii\)](#). Contracting officers may utilize the [Air Force Non-Standard Clause Control Template](#) to obtain approval of the clause. The approval authority for clauses used in accordance with 4.b., 4.c., and 4.d. of the AF Clause Control Plan has been delegated to one level above the contracting officer. Prior to using a reopener clause, the contracting officer must document the D&F that its use is the most appropriate means of overcoming a contingency that could affect contract price and obtain approval from the SCO. The SCO must submit a copy of the approval to [SAF/AQCP](#) and provide a copy to all SCOs. See paragraph 4 of the AF Clause Control Plan for clauses requiring OUSD(A&S)/DPC approval.

## **SUBPART 5301.4 - DEVIATIONS FROM THE FAR**

### **5301.402 Policy**

(2) Submit requests for deviations requiring USD(A&S)/DPC approval through the SCO to [SAF/AQC](#) for processing. See the tailorable [Deviation Request](#) template.

### **5301.403 Individual Deviations**

(1)(i) SCOs are authorized to approve individual deviations except as described in (ii) below or as described in [DFARS 201.402\(1\)](#) and [DFARS 201.403\(2\)](#).

(ii) SAF/AQC is the approval authority for individual deviations from [FAR 15.3](#), [AFFARS 5315.3](#), and [MP5315.3](#). Contracting officers may use the [Deviation Request template](#). *Deviation requests* must be

submitted through the SCO to [SAF/AQC](#) for approval. This approval authority must not be further delegated. When a proposed deviation, as described herein, also requires a waiver from [DFARS 215.3](#), *DoD Source Selection Procedures*, the waiver process in [MP5315.3](#), para 1.2.4., must also be followed.

### **5301.404 Class Deviations**

(b)(i) USD(A&S)/DPC is the approval authority for any class deviation described in [DFARS 201.402\(1\)](#), class deviations from [DFARS 215.3](#), and class deviations that meet the criteria in [DFARS 201.404\(b\)\(II\)\(A-D\)](#). Submit requests through the SCO to [SAF/AQC](#) for processing to USD(A&S)/DPC for approval.

(ii) The DAS(C)/ADAS(C) is the approval authority for class deviations from [FAR 15.3](#), [AFFARS 5315.3](#), and [MP5315.3](#). Contracting officers may use the [Deviation Request template](#). Requests must be submitted through the SCO to [SAF/AQC](#) for approval.

(iii) SCOs are authorized to approve class deviations except as restricted by paragraphs (i) and (ii) above. Class deviation approval authority is not delegable.

## **SUBPART 5301.6 - CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES**

### **5301.601 General**

(a)(i) Heads of Contracting Activities (HCAs) Responsibilities.

(A) The DAS(C) and Associate Deputy Assistant Secretary (Contracting) (ADAS)(C) are the HCA for the Air Force and are designated the authority to enter into, approve, terminate, and take all other appropriate actions with respect to contracts and agreements (grants, cooperative agreements, and Other Transactions). All nondelegable HCA responsibilities may be exercised only by the DAS(C) and ADAS(C). The DAS(C) makes the delegations for all delegable HCA responsibilities, including the authority to enter into, approve, modify, and terminate contracts, in [MP5301.601\(a\)\(i\)](#). [MP5301.601\(a\)\(i\)](#) also establishes the authority to further redelegate.

### **5301.601-90 Head of Agency (HoA), Senior Procurement Executive (SPE), and Service Acquisition Executive (SAE) Responsibilities**

See [MP5301.601-90](#).

### **5301.601-91 Air Force Contracting Self-Inspection Program**

(a) The Air Force Self-Inspection program assesses compliance with federal laws, regulatory policies, DoD and AF directives, and instructions across the enterprise. It is also used to verify adequacy of contract preparation.

(b) SCOs will manage a self-inspection program, which includes both the assessment of individual contract files and the assessment of contracting management programs contained in the Contracting Self-Assessment Communicator (SAC) as required by [AFI 90-201](#), *The Air Force Inspection System*. As a minimum, contracting offices must perform self-inspections of individual contract files on an annual basis.

(c) For self-inspection of individual contract files reviewed after award, SCOs may use the [Air Force Contracting Self-Inspection Checklist](#); a comparable organizational checklist for post award reviews; or any combination thereof.

(d) SCOs will ensure corrective actions are implemented as a result of any self-inspection. Contracting offices must have a documented program for self-inspection, to include a process for closing resolved findings in a timely manner, ensuring an effective level of review necessary to close a finding, and integrating findings and resolutions into unit training.

### **5301.602-1 Authority**

(a) Contracting officers are authorized to enter into and execute contracts funded either partially or completely with non-appropriated funds.

### **5301.602-2 Responsibilities**

(c)(i) Legal Review

(A) Contracting officers must obtain legal advice during all phases of acquisitions. See the tailorable [Legal Review](#) template. In particular, contracting officers must obtain legal advice, coordination, and review from the supporting legal office for the following situations, regardless of dollar amount:

- (1) When there is doubt or controversy about the interpretation or application of statutes, directives, and regulations;
- (2) When using or applying unique or unusual contract provisions;
- (3) When actions are likely to be subject to public scrutiny or receive higher-level agency attention;
- (4) When a protest or claim is likely;
- (5) When contemplating the use of alternative dispute resolution;
- (6) Use of liquidated damages provisions in contracts for other than construction;
- (7) (deleted);
- (8) Source selection decisions and supporting documentation for actions accomplished pursuant to the requirements of [MP5315.3](#);
- (9) Issues dealing with licensing, technical data rights and patents;
- (10) Mistakes in bid (See [FAR 14.407](#));
- (11) Protests before and after award;
- (12) Ratifications;
- (13) Disputes;
- (14) Contractor claims;
- (15) Termination for default/cause;

(16) Terminations for convenience, except cancellations or terminations of purchase orders;

(17) Debarment or suspension actions;

(18) Individual or class deviations; and,

(19) Any other legal issue at the discretion of the contracting officer or supporting legal office.

(B) All Justifications and Approvals (J&A) requests for actions expected to exceed \$750,000

(C) In addition to the general conditions identified in [5301.602-2\(c\)\(i\)\(A\)](#) above, contracting officers shall exercise good judgement in seeking legal review if the total value of the contract action is less than the thresholds listed in this paragraph and guard against using reviews as a means of quality control. Contracting officers must obtain legal review of Operational contract actions expected to exceed \$1,000,000 and AFDW, AFMC and SSC Non-Operational contract actions expected to exceed \$5,000,000, as follows:

(1) Solicitations and amendments, except administrative amendments;

(2) Proposed contracts and modifications;

(3) Orders for supplies or services issued under indefinite delivery type contracts ([FAR 16.5](#)), including GWACs, and Federal Supply Schedules (FSS), that require negotiation at the order level; and

(4) Orders under Blanket Purchase Agreements (BPA) established under FSS.

(D) Legal review is not normally required for:

(1) Funding actions without any other changes;

(2) Unilateral exercise of pre-priced options that were reviewed and approved at the time of award of the basic contract; or

(3) Except as indicated at [5301.602-2\(c\)\(i\)\(C\)\(3\)](#), order solicitations and orders issued against existing contracts in accordance with all terms and conditions of the basic contract.

(d) For Designation, Assignment, and Responsibilities of a Contracting Officer's Representative, see [MP5301.602-2\(d\)](#).

### **5301.602-3 Ratification of Unauthorized Commitments**

(b) *Policy.*

(2) Ratification approval authority is delegated as follows (see [MP5301.601\(a\)\(i\)](#)):

(A) The SCO for actions equal to or greater than \$30,000.

(B) The COCO for actions less than \$30,000 (not redelegable).

### **5301.603-1 General**

The HCA designees delegated contracting authority in accordance with [MP5301.601\(a\)\(i\)](#) must select and appoint contracting officers and terminate their appointments in accordance with this

section and [MP5301.603-90](#).

(a) The SCO may delegate this authority to the highest contracting official in the contracting chain at geographically separated organizations, but in no event will the designee be lower than a GS-15 (or equivalent) or 0-6. AFICC/CC SCCO may delegate authority to select and appoint contracting officers (and terminate their appointments in accordance with [AFFARS 5301.603-1](#) and [MP5301.603-90](#)) to the AFICA/KO (OL-SOC) Director of Contracting.

(b) Authority to issue limited contracting officer warrants of less than \$5M and authority to terminate appointments of less than \$5M may be delegated, but in no event will the designee be lower than the COCO.

### **5301.603-2-90 Selection**

See [MP5301.603-90](#), *Selection, Appointment, and Termination of Appointment of Contracting Officers* for mandatory procedures regarding the selection, appointment, and termination of contracting officers.

### **5301.603-3 Appointment**

(b) Issuing authorities identified in [5301.603-1](#) above may delegate the purchase authority described in [FAR 1.603-3\(b\)](#) and [DFARS 201.603-3\(b\)](#), to non-contracting DoD civilian employees and members of the U.S. Armed Forces, such as transportation personnel, medical supply personnel, librarians, and chiefs of construction management, provided:

(1) The written delegation specifies a dollar limit per transaction (e.g., per order, per call); the method(s) of award; and the supplies, equipment and/or non-personal services, to include construction, related to the individual's specialty that may be procured. For example, librarians may buy books, but not construction materials or services; and,

(2) Personnel have completed contracting training commensurate with the type of instrument(s) authorized to process and level of responsibility delegated.

### **5301.670 Appointment of Property Administrators and Plant Clearance Officers**

(a) When the Air Force retains contract administration, the PCO must select, appoint, or terminate (in writing) property administrators and plant clearance officers. One level above the PCO shall approve any of these appointments.

## **SUBPART 5301.7 - DETERMINATIONS AND FINDINGS**

### **5301.707 Signatory Authority**

(a) Determinations and Findings (D&F) for actions requiring Senior Procurement Executive (SPE) or SAF/AQ approval must be coordinated with the DAS(C) or the ADAS(C). After coordination with the SCO, the contracting officer must submit determinations to [SAF/AQC](#) for processing to [SAF/AQ](#) for approval. Allow 18 days for staffing and approval after receipt by SAF/AQ. Include the approved acquisition strategy (or a draft acquisition strategy if the strategy document has not been approved) with the D&F package.

(b) The contracting officer must submit D&Fs for actions requiring DAS(C)/ADAS(C) approval to

SAF/AQC after coordination by the SCO. Allow 7 days for staffing and approval after receipt by SAF/AQC unless otherwise specified.

(c) D&Fs involving small business matters must be coordinated with local Small Business Professional and/or MAJCOM/FIELD/COM/DRU Center Small Business Director, as appropriate, and, at SAF level, with SAF/SB. Copy SAF/SB on D&F packages sent to SAF/AQC.

## **SUBPART 5301.90 - CLEARANCE**

### **5301.9000 Scope and Definitions**

(a) This subpart establishes clearance requirements for the contract actions identified below:

(1) An action intended to result in award of any contract or modification of any contract;

(2) An action intended to result in definitization of an undefinitized contract action (UCA), an undefinitized change order, or an undefinitized long lead contract;

(3) An action intended to result in the pricing of:

(i) an unpriced option or an option with a not-to-exceed price;

(ii) provisioned items orders (PIO);

(iii) unpriced orders under Blanket Purchase Agreements (BPAs), and FSS contracts, including GWACs; or

(iv) noncompetitive task or delivery orders under single or multiple award indefinite delivery-type contracts.

(4) An action intended to result in issuance of a modification implementing a unilateral price determination;

(5) Orders issued under BOAs;

(6) An action intended to result in the exercise of an option when the option exercise is not in accordance with the previously approved pricing arrangement or other contract terms and conditions; and

(7) Competitive order solicitations and orders issued in accordance with FAR 8.4, 13, or 16.5 and against existing MAC ID/IQ, GWAC, or FSS contracts that require either one or both of the following:

i. Establishment of specific criteria for the evaluation of proposals and selection of the awardee for the order;

ii. Addition of any terms or conditions that are not included in the basic ID/IQ contract, and/or changes to the existing terms or conditions of the basic ID/IQ contract (except for provisions/clauses required by the FAR, DFARS, or AFFARS).

(b) Excluded from business or contract clearances are:

(1) Actions that create a UCA, undefinitized change order, undefinitized long lead contract;



(2) Modifications for the payment of incentives or award fee that are in accordance with the terms and conditions of the incentive plan or award fee plan;

(3) Funding modifications;

(4) Administrative modifications;

(5) Modifications solely for changes as a result of Service Contract Labor Standards statute wage rates/fringe benefits or Fair Labor Standards Act minimum wages; and

(6) Competitive order solicitations and competitive orders issued in accordance with FAR 8.4, 13, or 16.5 against existing MAC ID/IQ, GWACs, and FSS contracts if they do not require either one or both of the following:

1. Establishment of specific criteria for the evaluation of proposals and selection of the awardee for the order;
2. Addition of any terms or conditions that are not included in the basic ID/IQ contract, and/or changes to the existing terms or conditions of the basic ID/IQ contract.

(c) "Business Clearance" means:

(1) For competitive acquisitions, approval to issue the solicitation.

(2) For noncompetitive contract actions, approval to begin negotiations.

(d) "Begin negotiations" means, for the purpose of noncompetitive contract actions, starting discussions with an offeror for the purpose of reaching agreement on all aspects of the proposal. Initiation of audits and fact-finding necessary to evaluate the proposal and develop the Government's negotiation objective do not constitute negotiations.

(e) "Contract Clearance" means:

(1) For competitive acquisitions conducted without discussions, approval by the clearance approval authority (CAA) for the Source Selection Authority (SSA) to make the decision to award.

(2) For competitive acquisitions with discussions -

(i) Approval by the CAA for the SSA to request final proposal revisions in accordance with FAR 15.307; and

(ii) Approval by the CAA for the SSA to make a source selection decision.

(3) For noncompetitive contract actions, approval by the CAA to award a contract or contract modification/contract action.

(f) "Clearance Reviewer (CR)" means the independent reviewer and the primary advisor to the CAA for clearance. The CR ensures the CAA has the information needed to make an informed decision. The CR identifies deficiencies, assists in resolution, and advises the CAA as appropriate. When the CR is not from the designated CR office and is selected by the CAA, the CR must be an experienced contracting professional, a Government employee, and must not review their own contract action.

(g) "Clearance Approval Authority (CAA)" means the individual identified at 5301.9001(i)(1).

(h) "Clearance Review" means the independent review performed by the designated CR office or as

otherwise selected by the CAA.

## **5301.9001 Policy, Thresholds, and Approvals**

(a) The objectives of the business and contract clearance process are to ensure that:

- (1) Contract actions effectively implement approved acquisition strategies;
- (2) Negotiations and contract actions result in fair and reasonable business arrangements;
- (3) Negotiations and contract actions are consistent with laws, regulations, and policies; and
- (4) An independent review and assessment by the clearance authority for the proposed contract action is accomplished.

(b) The CAA must ensure that the clearance process meets the objectives in paragraph (a) above.

(c) The CAA must seek legal advice (see [5301.602-2\(c\)\(i\)](#)) and ensure that counsel has coordinated on any clearance briefings or presentations, and that counsel's comments are included in the briefing or presentation.

(d) Only one clearance review may be performed prior to the contract action being presented to the CAA. The CR is responsible for the clearance review. The CAA may select an alternate CR who meets the requirements identified in paragraph [5301.9000\(f\)](#). The CAA, in conjunction with the SCO, has the authority to waive the clearance review.

(e) At the discretion of the CAA, contract clearance is not required when the negotiation team stays within the pre-set negotiation range and the parameters approved at the business clearance.

(f) If a CAA requires clearance for competitive order solicitations or orders when excluded in accordance with [5301.9000\(b\)\(6\)](#), the SCO must submit a written justification to [SAF/AOC](#) upon execution.

(g) The Source Selection Authority (SSA) must not be the CAA

(h) The Milestone Decision Authority, PEO, or lead program manager must coordinate and/or participate in business clearance briefings.

(i) Contract actions meeting the contract value thresholds set below must not be awarded without obtaining the required [business and contract clearance approval](#). Contract value is determined by the definition in [FAR 1.108\(c\)](#).

(1) Clearance Approval:

(i) The DAS(C) or ADAS(C) is the business clearance approval authority for all contract actions  $\geq$ \$1B; and any other contract action identified as special interest by the DAS(C) or ADAS(C) regardless of dollar amount. The DAS(C) or ADAS(C) may delegate clearance authority on a case-by-case basis. The procedures in [MP5301.9001\(i\)\(1\)\(i\)](#) must be followed for clearance with the DAS(C) or ADAS(C). SCOs retain contract clearance approval authority.

(ii) The CAA is the approval authority for all contract actions as delegated in TABLE 1 below. The Table 1 thresholds represent the minimum delegation that must be made. SCOs may increase the specified dollar thresholds at their discretion.

(iii) If a SCO reduces the thresholds or withholds the clearance approval authority from the designees in TABLE 1 below, the SCO must notify [SAF/AQC](#). If the SCO reduces or withholds clearance approval authority for more than six months, the SCO must brief the DAS(C) regarding the circumstances surrounding the decision.

Unit	Clearance Approval Authority	Clearance Approval Authority	Clearance Approval Authority ≥ \$1B
Operational	COCO ≤ \$10M	SCO > \$10M to < \$1B	DAS(C) / ADAS(C)
Enterprise	COCO ≤ \$50M	SCO > \$50M to < \$1B	DAS(C) / ADAS(C)
PEO (Systems)	COCO ≤ \$100M	SCO > \$100M to < \$1B	DAS(C) / ADAS(C)

TABLE 1(iv). To facilitate planning for SAF/AQC Clearance approvals, SCOs must use the [reporting tool](#) to project SAF/AQC Clearance approvals.

(2) For PEO and Enterprise contracting, business and contract clearance are required for actions greater than or equal to \$5M.

(3) For Operational contracting, business and contract clearance are required for actions greater than or equal to \$3M.

(4) SCOs are responsible for ensuring all further delegations of clearance approval authorities are included on the [SCO Delegation Letters/Thresholds](#) SharePoint page.

(5) When a contracting official is the Source Selection Authority (SSA) for a particular acquisition, the CAA must be a level above the contracting official. If the SCO or their deputy is the SSA, the CAA for that acquisition must be the DAS(C)/ADAS(C). [Clearance requests](#) must be sent to [SAF/AQC](#) for approval by the DAS(C)/ADAS(C).

## **SUBPART 5301.91 - OMBUDSMAN PROGRAM**

### **5301.9101 Purpose**

The purpose of the Air Force ombudsman program is to foster communication between Government and industry. The primary function of the ombudsman is to hear concerns about specific issues in acquisitions, to communicate these concerns to senior management personnel responsible for oversight and to assist in the resolution of the concerns. In accordance with [5301.9102\(f\)](#) below, employees, managers and customers may use the Air Force component ombudsman when seeking assistance in resolving procurement integrity issues.

### **5301.9102 Policy**

(a) MAJCOM/DRU/AFRCO/SSC/SpRCO Commanders must appoint an experienced senior official who is independent of the contracting officer and program manager as the ombudsman at their organization. For AFMC Centers, an ombudsman is required at each Center, instead of at the MAJCOM. Centers may also have an ombudsman at each Operating Location/Geographically

Separated Unit.

(b) The ombudsman will have the authority to call upon other resources of the activity to assist in resolving acquisition issues or concerns (e.g., administrative support, independent review teams).

(c) Contracting officers must identify the ombudsman in the initial announcement of the acquisition as well as in the draft and final RFP.

(d) The ombudsman must:

(1) Support acquisition personnel in the resolution of issues or concerns raised by interested parties;

(2) Act in a manner that does not compromise the interested party and, if requested, maintain anonymity of the parties;

(3) Avoid any appearance of usurping normal procurement authority (e.g., program manager, contracting officer, and source selection authority);

(4) Ensure all affected or knowledgeable offices and officials are consulted as part of any resolution process;

(5) Inform the Commander/Director, or PEO, as required, of issues raised and actions taken;

(6) Review complaints relative to multiple-award task and delivery order contracts awarded under [10 U.S.C. 3403\(d\)\(1\)\(B\)](#) or [3405\(f\)](#) to ensure that all contractors are afforded a fair opportunity to be considered for task and delivery orders in excess of the micro-purchase threshold, consistent with the procedures in the contract;

(7) Consistent with security requirements, have access to the appropriate offices and be allowed to collect all facts relevant to the resolution of issues raised by interested parties. Ombudsmen are granted access to proprietary information. Source selection information must be obtained through the source selection authority.

(e) The Ombudsman Program does not replace the agency level protest, GAO bid protest or disputes processes.

(f) The Air Force ombudsman is the ADAS(C), who may take action to assist in resolving issues, concerns, disagreements, and recommendations that cannot be resolved at the MAJCOM/DRU/SSC level, or for those having Air Force wide implications. The ADAS(C) is the AF ombudsman for procurement integrity issues (see [OUSD\(AT&L\)/DPAP memo, 1 Oct 09](#)).

(g) Government personnel may use the Ombudsman Program as a way to express concerns about an acquisition.

### **5301.9103 Solicitation Provision and Contract Clause**

Insert a clause substantially the same as the clause at [AFFARS 5352.201-9101](#), Ombudsman, in all solicitations (including draft solicitations) and contracts.