

Subpart 5201.1 - PURPOSE, AUTHORITY, ISSUANCE

Parent topic: Part 5201 - FEDERAL ACQUISITION REGULATIONS SYSTEM

5201.101 Purpose.

The Navy Marine Corps Acquisition Regulation Supplement (NMCARS) establishes uniform Department of the Navy (DON) policies and procedures implementing and supplementing the Federal Acquisition Regulation (FAR) and the Defense FAR Supplement (DFARS).

5201.103 Authority.

(b) The NMCARS is prepared, issued, and maintained pursuant to the authority of Secretary of the Navy (SECNAV) Instruction (SECNAVINST) 5400.15.

(S-90) All DON activity acquisition regulation supplements and changes thereto are required to be approved by DASN(P). Requests for review and DASN(P) approval shall be submitted annually via email to Policy@navy.mil with the subject "NMCARS 5201.103 Acquisition Regulation Supplement - Request for Approval", by August 31.

5201.104 Applicability.

The NMCARS applies to all DON activities in the same manner and to the same extent as specified in FAR 1.104 and DFARS 201.104.

5201.105 Issuance.

5201.105-2 Arrangement of regulations.

(c) *References and citations.*

(1) References to this supplement within this supplement will be without a name or acronym prefix. References to FAR citations in this supplement should be read to include any corresponding paragraphs of the DFARS and this supplement and any additional authorizations, restrictions, policies and procedures they may contain. For example, the words "...when authorized under FAR Part 25..." include authorities granted under FAR Part 25, DFARS Part 225, and Part 5225 of this supplement.

5201.105-3 Copies.

The NMCARS and NMCARS Annex templates are available electronically via the internet at <https://www.secnav.navy.mil/rda/DASN-P/Pages/NMCARS.aspx>.

5201.107 Certifications.

In accordance with 41 United States Code (U.S.C.) 1304, a new requirement for a certification by a contractor or offeror may not be included in any activity supplement, clause book, contract clause, solicitation provision, policy letter, policy memorandum or any other similar document unless-

- (1) The certification requirement is specifically imposed by statute; or
- (2) Written justification for such certification is provided to the Secretary of Defense (SECDEF) by Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)), and the SECDEF approves in writing the inclusion of such certification requirement. Submit those requests for certifications to DASN(P) by email at usn.pentagon.asstsecnavrdadc.mbx.pabt@us.navy.mil with the subject "[Activity Name] DFARS 201.107 - Request for Certification."

5201.108 FAR conventions.

(b) *Delegation of authority.* The authorities assigned or delegated within NMCARS may be delegated or redelegated, unless otherwise restricted.

(S-90) When the FAR or DFARS requires submission of a document to an organization outside of the Department of the Navy and the NMCARS directs the submission of that document to DASN(P), DASN(P) assumes the responsibility for complying with the requirement in the FAR or DFARS.

5201.170 Peer reviews.

(a)(1) When Peer Reviews are required to be conducted by the Office of the Principal Director, Defense Pricing and Contracting (DPC), the Head of the Contracting Activity (HCA) shall request the review from DPC with a courtesy copy to DASN(P) by email at usn.pentagon.asstsecnavrdadc.mbx.pabt@us.navy.mil , at least 10 business days prior to the anticipated review.

(2) HCAs shall submit the quarterly rolling forecast of acquisitions requiring peer reviews by DASN(P) or DPC, in the format prescribed by Annex 8, Peer Review Rolling Forecast. Submit the required information to DASN(P) via email to usn.pentagon.asstsecnavrdadc.mbx.pabt@us.navy.mil with the subject "[Activity Name] DFARS 201.170 - Peer Review Rolling Forecast" by March 10, June 10, September 10, and December 10. Negative reports are required.

(b) The HCA shall be responsible for conducting and approving peer reviews unless the approval authority is DASN(P) or DPC. Peer reviews shall be performed on solicitations and contracts with estimated values at \$50,000,000 or more (including options). For peer reviews with estimated values

greater than \$250,000,000, including options, the HCA shall establish a Peer Review Board. The Board shall include contracting personnel at the grade of GS-14 (or equivalent) or higher, from another HCA at the equivalent or higher echelon level. Performance Based Logistics (PBL) acquisitions with an estimated value greater than the approval authority defined in FAR 6.304(a)(4), whether sole source or competitive, shall have a DASN(P) Peer Review. Submit the PBL peer review package to DASN(P) by email at usn.pentagon.asstsecnavrdadc.mbx.pabt@us.navy.mil with the subject “[Activity Name] DFARS 201.170 -DASN(P) PBL Peer Review”. See Annex 4 for Science Technology Reinvention Laboratory (STRL) deviations applicable hereto.

(1) Except for procurements for major defense acquisition programs (MDAPs) valued at or above \$1,000,000,000 for which the USD(A&S) is the milestone decision authority or procurements designated by USD(A&S) as requiring a DPC conducted peer review, preaward peer reviews of solicitations for competitive procurements valued at \$250,000,000 or greater are required as follows:

(i) Services. The HCA shall establish a Peer Review Board and conduct peer reviews for competitive procurements and/or contract actions valued at \$250,000,000 or greater.

(ii) Supplies. The HCA shall establish procedures to conduct peer reviews.

(2) Except for contract actions designated by USD(A&S) as requiring a DPC conducted peer review, preaward peer reviews for noncompetitive procurements valued at less than \$1,000,000,000 are required as follows:

(i) Services. The HCA shall establish a Peer Review Board and conduct peer reviews for non-competitive procurements and/or contract actions valued at \$250,000,000 or greater.

(ii) Supplies. The HCA shall establish procedures to conduct peer reviews.

(3) The HCA shall establish postaward peer reviews of all contracts for services. Peer reviews shall be conducted at the midpoint to allow sufficient time to finalize the disposition of the peer review recommendations prior to exercise of an option.

(S-90) The HCA shall provide a copy of the peer review reports valued at \$250,000,000 or greater within 15 days of completion of the peer review to DASN(P) by email at usn.pentagon.asstsecnavrdadc.mbx.pabt@us.navy.mil with the subject “[Activity Name] NMCARS 5201.170(b) - Peer Review Report.”

(S-91) If a waiver from the peer review process is desired, submit the procurement history, rationale and specific circumstances surrounding the request, including impact to the program if a waiver from the peer review process is not granted, approved by the Deputy/Assistant Commander for Contracts of the cognizant HCA, without power of redelegation, to DASN(P) by email at usn.pentagon.asstsecnavrdadc.mbx.pabt@us.navy.mil with the subject “[Activity Name] NMCARS 5201.170(b)(S-91) - Peer Review Waiver Request.”

5201.170-4 Administration of peer reviews.

(f) Contracting Officers shall submit copies of required memoranda documenting the disposition of peer review results and recommendations to DASN(P)/Director, Program Analysis and Business Transformation (PA&BT) by email at RDAJ&As.fct@navy.mil with the subject “[Activity Name] PGI 201.170-4 - Disposition Of Peer Review Recommendations” followed by the applicable

solicitation/contract number and peer review date.

5201.190 Reports.

Annex 14 contains a consolidated listing of reporting requirements for DON components and field contracting activities. Where there is a difference between the annex and a specific reporting requirement not found in the annex, the specific requirement shall take precedence.