



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(RESEARCH, DEVELOPMENT AND ACQUISITION)
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

MAR 22 2010

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Provision or Clause Use in Commercial Item Acquisitions

Ref: (a) DASN(A&LM) memorandum of July 29, 2008
(b) NMCARS 5212.3 and Annex 7

Over the past year and a half, experts from your contracting activities actively participated in a working group led by this office to implement the Navy/Marine Corps Plan for Restricting Government-Unique Contract Clauses/Provisions on Commercial Contracts (hereinafter referred to as "Plan") established by reference (a). This Plan, mandated by the Director, Defense Procurement and Acquisition Policy (DPAP) in response to Section 821 of the National Defense Authorization Act for Fiscal Year 2008, set forth three overarching objectives to facilitate compliance with current DoD policy requiring that we limit the number of government-unique provisions and clauses in commercial item acquisitions consistent with established statutory and regulatory (*i.e.* Federal Acquisition Regulation (FAR) and Defense FAR Supplement Part 212) requirements. The working group's relentless efforts resulted in the reference (b) policy and procedures, as well as in the attached brief titled "DON Commercial Item Acquisitions Provision/Clause Use Awareness Training, Terms and Conditions in FAR Part 12 Commercial Contracts" which communicates the policy and procedures to our contracting community. The training brief and a list with the current status of specified action items in our Plan are attached and forwarded for your continuing action.

By September 30, 2010, Navy/Marine Corps Chiefs of Contracting Offices (CCOs) shall ensure that all contract specialists, contracting officers, and other personnel, who are responsible for preparing and issuing solicitations and contracts for commercial items, receive the attached briefing via appropriate means. It provides a succinct overview of the policies, procedures, and other relevant information governing provision and clause use in commercial item acquisitions and instills awareness of the unique approval requirements that exist for provision or clause use in such acquisitions. Activities may supplement this training brief with additional material, provided such material does not conflict with existing DON/DOD policy or procedures.

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Finally, as required by our Plan, CCOs shall incorporate, as part of the annual internal assessments and compliance reviews, the requirement to perform random sample reviews of commercial item acquisitions to validate compliance with current policy and procedures governing unique provision and clause use in commercial item acquisitions. Effective immediately, the use of provisions and clauses in commercial item acquisitions will be a special interest item in PPMAPs performed by this office.

Please address any questions regarding this memorandum to Evelyn Ortiz who is available at (703) 614-9640 or by email at evelyn.ortiz@navy.mil.



Elliott B. Branch
Executive Director
DASN(A&LM)

Attachments: As stated

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