

Status of Action Items
Navy/Marine Corps Plan Restricting Government-Unique Contract Clauses/Provisions
On Commercial Contracts

The current status of actions specified in the Navy/Marine Corps Plan, distributed via [DASN\(A&LM\) memorandum of July 29, 2008](#), is as follows:

III. Goals or Objectives:

- (1) **Objective met.** A DON Matrix of FAR, DFARS and other Government Unique Provisions/Clauses has been established and issued via NMCARS Change 08-06 which was released on January 27, 2010. DASN(A&LM)/Policy will update this matrix, as necessary, to reflect properly approved HCA Component provisions/clauses for use in commercial item acquisitions, as these are submitted for approval in accordance with NMCARS 5212.301 and Annex 7.
- (2) **Objective met.** NMCARS Changes 08-5 and 08-6 prescribe the required approval levels governing use of provisions/clauses in solicitations and contracts for commercial items.
- (3) **Objective met.** Developed a DON awareness training brief on provision/clause use in solicitations and contracts for commercial items which is presently being disseminated to the Navy/Marine Corps Contracting Activities via this DASN(A&LM) memorandum for continuing action. This memorandum requires that by September 30, 2010, all contract specialists, contracting officers, and other personnel, who are responsible for preparing and issuing solicitations and contracts for commercial items, receive this briefing via appropriate means.

IV. Plan of Action.

- (1) Action completed. DASN(A&LM) memorandum of July 29, 2008 distributes the Plan to all Navy/Marine Corps contracting activities for appropriate action.
- (2) **Action completed.** The Commercial Items Unique Clauses Working Group successfully developed a DON Matrix of FAR, DFARS, and Other Government-Unique Provisions/Clauses applicable to solicitations/contracts for commercial items; an Annex for NMCARS (i.e. Annex 7, Commercial Item Acquisitions Provision/Clause Use) process to manage and oversee provision/clause use and which was issued via NMCARS Change 08-6 released on January 27, 2010. The team also developed a training brief titled "DON Commercial Items Acquisition Provision/Clause Use Awareness Training, Terms and Conditions in FAR Part 12 Commercial Contracts" which is being disseminated via this memorandum for continuing action.
- (3) **Action completed.** NMCARS Change 08-5 released September 11, 2009 establishes required approval requirements for use of government-unique (e.g. HCA component) provisions/clauses in solicitations/contracts for commercial items. Note: Research revealed that HCAs could not be delegated authority to approve use of unique clauses as intended in the Plan. Therefore, approval authorities for use of unique provisions/clauses are as established in Annex 7, Table 7.1 of NMCARS.

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- (4) **Action deleted given outcome of action item (3) above.** Component provisions/clauses for use in commercial item contracts cannot be approved locally by the HCA and must be submitted to ASN(RD&A) for approval in accordance with NMCARS 5212.301 and Annex 7.
- (5) **In progress.** DASN(A&LM)/PPMAP added the use of commercial item acquisition clauses/provisions as a special interest item during 2nd quarter FY 2010.
- (6) **In progress.** This DASN(A&LM) memorandum requires Navy/Marine Corps CCOs to incorporate, as part of their annual internal assessments/compliance reviews, the requirement to perform random sample reviews of commercial item acquisitions to validate compliance with current policies and procedures governing provision/clause use. NMCARS Change 08-6 released January 27, 2010 includes the DON Matrix of FAR, DFARS, and Other Government-Unique Provisions/Clauses for use in solicitations/contracts for commercial items.
- (7) **In progress.** This DASN(A&LM) memorandum requires CCOs to ensure all contract specialists, contracting officers, and other personnel involved in preparing and executing solicitations/contracts for commercial item acquisitions receive the DON Commercial Item Acquisitions Provision/Clause Use Awareness Training by Sep 30, 2010.