Part 5101 - Federal Acquisition Regulation System

The official AFARS regulation resides on the Army's Knowledge Management Portal PAM. If you do not have CAC access to PAM, please visit the Army Contracting Enterprise's public facing website "Army Connect" at https://www.army.mil/armycontracting#org-afars. The AFARS will return to Acquisition.gov upon completion of the RFO.

(Revised 17 June 2025)

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Subpart 5101.1 - Purpose, Authority, Issuance

5101.101 Purpose.

The Army Federal Acquisition Regulation Supplement (AFARS) implements and supplements the Federal Acquisition Regulation (FAR), the Defense FAR Supplement (DFARS) and the DFARS Procedures, Guidance and Information (PGI) to establish uniform policies for Army acquisition. It does not restrict the exercise of good business judgment or stifle innovation.

5101.105 Reserved.

5101.105-3 Copies.

The AFARS is available electronically on Procurement.Army.mil (https://procurement.army.mil) at https://spcs3.kc.army.mil/asaalt/procurement/AFARS/Home.aspx. The Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)), Procurement Policy Directorate, SAAL-PP will issue notices of AFARS revisions to all senior contracting officials (SCOs).

5101.108 FAR conventions.

(b) *Delegation of authority.* Each authority is delegable within the contracting chain of authority unless otherwise indicated by law, statute, or regulation. All delegations must reference the applicable AFARS citation. Delegations that do not include expiration dates remain effective until a higher authority supersedes or cancels them.

5101.108-1 Introduction of delegations matrix at Appendix GG and instructions for use.

(b)(S-90) Delegations of certain procurement authorities are identified throughout the AFARS with a pointer to a matrix, labeled Appendix GG . Appendix GG outlines all delegations of authority within the FAR, DFARS and AFARS, and specifies whether the authority prohibits or allows for further delegation. The Army level of authority identified in the matrix is the lowest level of delegation.

5101.170 Peer reviews.

(a) *DoD peer reviews.*

(1) The SCO will concur, in writing, on all solicitation and contract packages submitted for each

phase of any DoD peer review. For the first phase only, the SCO will send a copy of the written concurrence to the DASA(P) (see AFARS 5101.290) and provide a copy to the HCA. See AFARS PGI 5101.170-2.

(2) Contracting activities shall provide their rolling annual forecast of acquisitions that will be subject to DoD peer reviews to the address at 5101.290(b)(2)(ii)(A) at the end of each quarter. See AFARS 5104.802(f)(4) for peer review forecast requirements. See AFARS PGI 5101.170-3.

(b) *Component peer reviews.*

(i) Army peer reviews. Army pre-award reviews will be conducted when the SPE, HCA, or SCO designates procurements not subject to the procedures at DFARS 201.170(a)(1)(i) or 201.170(a)(1)(ii) as a special interest program. See AFARS PGI 5101.170 for procedures.

(ii) *Independent Management Reviews (IMRs) (Postaward peer reviews) of contracts for services.* Independent Management Reviews shall be conducted if the base period is greater than one year, the IMR takes place prior to the end of the second year of the base period of performance. If the base period of performance is one year or less, the IMR occurs prior to the exercise of the second option period.

(a) The ODASA(P) will conduct an Independent Management Review (IMR) for contracts for services valued at $1 billion or more. The reviews will be conducted in accordance with AFARS PGI 5101.170-4(a).

(b) The HCA will conduct an IMR for contracts for services valued at $100 million or more but less than $1 billion. See Appendix GG for further delegation. For HCA reviews, the HCA will provide the Senior Services Manager a summary report. The summary report will address the independent management review required elements in DoDI 5000.74 Defense Acquisition of Services and shall be filed within PCF in accordance with AFARS PGI 5101.170-4(b); no later than 45 days after completion of the review.

Subpart 5101.2 - Administration

5101.290 Routing documents and mailing addresses.

(a)(1) Contracting activities will obtain either HCA or, if delegated, SCO concurrence on all procurement document packages submitted for Headquarters, Department of the Army (HQDA) review, coordination, and/or approval. The SCO may not delegate this authority. Procurement document packages will include all reviews and coordination completed prior to submission to HQDA, including legal reviews. Unless otherwise specified in this regulation, individual and class deviations to this AFARS provision are prohibited. Send document packages via the Army's Enterprise Task Management Software Solution (ETMS2) to the ODASA(P) directorate groups associated with the email addresses listed in AFARS 5101.290 Routing documents and mailing addresses.(b)(2)(ii)(C) (except as provided elsewhere in this regulation).

(2) The Contracting officer shall include the contract type determination required by FAR 16.103(d)(1) and 5116.103 Negotiating contract type.(d)(1) in HQDA-level approval packages that reference contract type, including the approvals required by FAR 6.304 and FAR 16.504(c)(1)(D)(*1*). If a written acquisition plan is required for the associated contract action, include the acquisition plan in the submission package and provide the acquisition plan citation in the applicable paragraph

of the document submitted for review. If a written acquisition plan is not required, include the contract type determination from the contract file in the submission package.

(b) Frequently used addresses:

(1) For the Deputy Assistant Secretary of the Army (Procurement), use the following:

Deputy Assistant Secretary of the Army (Procurement)

Attn: SAAL-ZP

103 Army Pentagon

Room 2D528

Washington, DC 20310-0103.

(2)(i) For the Office of the Deputy Assistant Secretary of the Army (Procurement), use the following:

Office of the Deputy Assistant Secretary of the Army (Procurement)

usarmy.pentagon.hqda-asa-alt.list.zp-current-operations@mail.mil)

Zachary Taylor Building – 5th Floor

2530 Crystal Drive

Arlington, VA 22202.

The email addresses for the directorates appear in paragraph (2)(ii). Submit document packages requiring HQDA review, coordination, and/or approval via the ETMS2.

(ii) Specify the directorate and email address within paragraph (2)(i) as follows:

(A) SAAL-ZP-PP Procurement Policy, usarmy.pentagon.hqda-asa-alt.list.saal-zp-pp@army.mil.

(B) SAAL-ZP-PS Procurement Support, usarmy.pentagon.hqda-asa-alt.list.saal-ps-staff@army.mil.

(C) SAAL-ZP-PE Procurement Systems, usarmy.pentagon.hqda-asa-alt.list.saal-zp-pe@armymil.

(D) SAAL-ZP-SSM Senior Services Manager, usarmy.pentagon.hqda-asa-alt.list.saal-zp-ssm@army.mil.

(E) SAAL-ZP-FSD Field Support, usarmy.pentagon.hqda-asa-alt.list.saal-zp-fsd@army.mil.

(3) For the Office of the Assistant Secretary of the Army (Financial Management and Comptroller), use the following:

Office of the Assistant Secretary of the Army (Financial Management and Comptroller)

109 Army Pentagon

Washington, DC 20310-0109.

(4) For the Office, Chief of Legislative Liaison, use the following:

The Office, Chief of Legislative Liaison (OCLL)

Attn: SALL-SPA

1600 Army Pentagon

Washington, DC 20310-1600.

(5) For the Chief, Procurement Fraud Branch, U.S. Army Legal Services Agency, use the following:

Chief, Procurement Fraud Branch

Contract and Fiscal Law Division

U.S. Army Legal Services Agency

9275 Gunston Road, BLDG 1450

Ft Belvoir, VA 22060-5546.

(6) For the Office of the Command Counsel, Headquarters, U.S. Army Materiel Command, use the following:

Office of the Command Counsel

Headquarters U.S. Army Materiel Command

Attn: AMCCC

4400 Martin Road

Redstone Arsenal, AL 35898-5340.

(7) For the U.S. Army Contracting Command, use the following:

U.S. Army Contracting Command

ATTN: AMSCC

3334A Wells Road

Redstone Arsenal, AL 35898-5000.

(8) For the Directorate of Contracting, U.S. Army Corps of Engineers, use the following:

U.S. Army Corps of Engineers

Directorate of Contracting

CECT-ZA

441 G Street, N.W.

Washington, DC 20314-1000.

(9) For the Chief, Army Power Procurement Office, U.S. Army Center for Public Works, use the following:

Chief, Army Power Procurement Office

U.S. Army Center for Public Works (CECPW-C)

7701 Telegraph Road

Alexandria, VA 22315-3862.

Subpart 5101.3 - Agency Acquisition Regulations

5101.301 Policy.

(a) The Deputy Assistant Secretary of the Army (Procurement) (DASA(P)) acts for the Assistant Secretary of the Army (Acquisition, Logistics and Technology) in developing, coordinating, issuing and maintaining the AFARS.

(b) SCOs will coordinate with the Office of the Deputy Assistant Secretary of the Army (Procurement) (ODASA(P)) Procurement Policy Directorate, SAAL-PP, to publish proposed internal acquisition regulations or instructions, policy letters, clause books, policies, procedures, clauses, or forms in the *Federal Register* for public comment when required. (See FAR 1.301(b) and DFARS 201.301(b).) Contracting activities will format coordination packages in accordance with FAR 1.304, DFARS 201.304, and AFARS 5101.304 and route them in accordance with AFARS 5101.290. SAAL-PP will assist the contracting activity with preparing the proposed notice, forward it to the *Federal Register*, and receive public comments. At the close of the public comment period, SAAL-PP will send all public comments to the contracting activity for analysis. When the contracting activity completes its analysis, it will –

(1) Send an updated request for deviation in accordance with AFARS 5101.402; or

(2) Send an updated request for approval, which does not involve a deviation, in accordance with AFARS 5101.304(1)(i); and

(3) Include the results of the publication and analysis under the heading “IV Collaterals.”

5101.303 Publication and codification.

(a)(i) The Code of Federal Regulations codifies the AFARS under chapter 51, in Title 48.

(ii) To the extent possible, number all AFARS text, whether implemental or supplemental, as if it were implemental. Use supplemental numbering only when the text cannot be integrated intelligibly with its FAR or DFARS counterpart.

(A) The AFARS implemental numbering sequence is the same as the FAR except–

(1) Insert the number “51” before the primary citation;

(2) Insert “0” if the primary citation is to a single digit part number; and

(3) When the text exceeds one paragraph, number subdivisions by skipping a unit in the FAR 1.105-2(b)(2) prescribed numbering sequence.

(B) The AFARS supplemental numbering sequence is the same as the FAR except –

(1) Insert the number “51” before the primary citation;

(2) Insert “0” if the primary citation is to a single digit part number;

(3) Add “90” to parts, subparts, sections, or subsections;

(4) Add “S-90” to subdivisions; and

(5) When the text exceeds one paragraph, number subdivisions without skipping a unit in the FAR 1.105-2(b)(2) prescribed numbering sequence.

(D) Examples of AFARS implemental and supplemental numbering are in Tables 5101-2 and 5101-3 respectively:

TABLE 5101-2, AFARS IMPLEMENTAL NUMBERING

	FAR	AFARS
1 paragraph implementing FAR 19.501	19.501	5119.501
3 paragraphs implementing FAR 19.501	19.501	5119.501 (1) (2) (3)
1 paragraph implementing FAR 19.501(a)	19.501(a)	5119.501(a)
3 paragraphs implementing FAR 19.501(a)	19.501(a)	5119.501 (a)(i) (ii) (iii)
3 paragraphs implementing FAR 19.501(a)(1)	19.501(a)(1)	5119.501 (a) (1)(A) (B) (C)
Further subdivisions follow the prescribed sequence	19.501(a)(1)(i)(A)*(1)(i)*	5119.501(1)(i)(A)*(1)(i)*

TABLE 5101-3, AFARS IMPLEMENTAL AND SUPPLEMENTAL NUMBERING

FAR	Is Implemented As*	Is Supplemented As
19	5119	5119.90
19.5	5119.5	5119.590
19.501	5119.501	5119.501-90
19.501-1	5119.501-1	5119.501-1-90
19.501-1(a)	5119.501-1(a)	5119.501-1(a)(S-90)
19.501-1(a)(1)	5119.501-1(a)(1)	5119.501-1(a)(1)(S-90)

*Assumes one AFARS paragraph implementing one FAR or DFARS paragraph.

(iii) Contracting activities will contact SAAL-PP to obtain numbers for acquisition instruction or guidebook text and clauses.

(A) Chapter 51 reserves subsection numbers 90-99 for AFARS supplementary material with no FAR or DFARS counterpart.

(*1*) Headquarters, Department of the Army (HQDA) reserves numbers 100-199 for the Army Commands, the Army Service Component Commands, and the Direct Reporting Units with a HCA for unique implementing material with no counterpart in higher-level regulations.

(*2*) HQDA reserves numbers 200 and above for Army Materiel Command and major subordinate command unique implementing material with no counterpart in higher-level regulations.

(B) Chapter 51 reserves numbers 9000 and above for supplementary clauses approved for use Army-wide, in specific commands, subordinate commands or contracting offices. (See AFARS 5152.101.)

5101.304 Agency control and compliance procedures.

5101.304-90 Army control and compliance.

(a) *Definitions*. As used in this section—

(1) “Acquisition instruction” means the set of governing local processes and procedures developed and maintained by the head of each contracting activity.

(2) “Policy” means direction to contracting organizations implementing statute, executive order, regulation, or other governing directives.

(3) “Procedure” means an outline of how to perform a process – who performs what action, what sequence they perform the steps in the task, and the criteria (i.e., standard) they must meet to accomplish the goal/end-state.

(4) “Process” means a high-level view or map of the tasks required by the policy described in sufficient detail to direct the user to a desired outcome.

(b) All Army procurement policy is centralized under the ODASA(P), and ODASA(P) is the only Army organization authorized to issue procurement policy.

(c) HQDA and Army contracting activities will not supplement the FAR, DFARS, or AFARS or issue internal acquisition regulations or instructions except as provided in this section. HCAs, on a non-delegable basis, are responsible for procurement processes and procedures, to include processes and procedures intended for issuance below the HCA level, within their contracting activity. These shall be codified in an acquisition instruction. HCAs shall obtain DASA(P) approval for their baseline acquisition instruction. HCAs are to maintain, review, and update their acquisition instruction as necessary.

(1) Acquisition instructions require recurring certification by the Procurement Policy Directorate. The Procurement Policy Directorate shall evaluate the integrity of the acquisition instruction to ensure compliance with established procurement policies, procedures, and regulations. All substantive issues shall be resolved prior to recertification of the acquisition instruction.

(2) The first recertification evaluation shall be conducted in fiscal year 2022 between the months of January and March and every three years thereafter. HCAs shall submit their acquisition instruction for review to the DASA(P) in accordance with AFARS 5101.290(b)(2)(ii)(A).

(3) Acquisition instructions will be submitted electronically for evaluation as follows:

ACC AI 1 January 2022 and every three years thereafter

MEDCOM AI 1 February 2022 and every three years thereafter

NGB AI 1 February 2022 and every three years thereafter

USACE AI 1 March 2022 and every three years thereafter

(d) HCAs must obtain prior DASA(P) approval for actions that require Under Secretary of Defense (Acquisition and Sustainment) approval. (See DFARS 201.304(1)(i) and AFARS Appendix FF, Department of the Army Plan for Control of Nonstandard Clauses, for approval of nonstandard clauses or provisions.)

(e) HCAs shall submit requests for new Army policy to the DASA(P) in accordance with AFARS 5101.290(b)(2)(ii)(A). The DASA(P) will coordinate with the HCAs to validate the need for new policy and determine how the policy will be issued to the contracting enterprise.

Subpart 5101.4 - Deviations From the FAR

5101.402 Policy.

(2) The Contracting officer will prepare all deviation requests in accordance with DFARS 201.402(2) and follow the procedures at AFARS 5101.301(b) to publish the deviation in the Federal Register.

5101.403 Individual deviations.

(1) SCOs, after obtaining a legal review, approve individual deviations from the FAR, DFARS, DFARS PGI, and AFARS other than those specified in DFARS 201.402(1) and DFARS 201.403(2).

5101.403-90 Deviation copy and control number.

The contracting activity will –

(a) Send one copy of each deviation to the address at AFARS 5101.290(b)(2)(ii)(A) at the time the approval authority grants the deviation; and

(b) Assign a control number to each deviation.

5101.404 Class deviations.

(b)(ii) The The senior procurement executive approves class deviations from the FAR, DFARS, DFARS PGI, and AFARS. This authority does not extend to deviations specified in DFARS 201.402(1) and DFARS 201.403(2). See Appendix GG for further delegation.

Subpart 5101.5 - Agency and Public Participation

5101.501-2 Opportunity for public comments.

(b) Army contracting personnel may submit agency, organizational, or individual comments on FAR and DFARS cases published in the Federal Register (see FAR 1.501-2(b)) in one of two ways:

(i) Official Army comments. Army contracting personnel may submit comments through their chain of command to the Army Policy Member to the Defense Acquisition Regulations (DAR) Council in the Office of the Deputy Assistant Secretary of the Army (Procurement) Procurement Policy Directorate, SAAL-PP. The DAR Council member will determine if the comments are consistent with the Deputy Assistant Secretary of the Army (Procurement)’s official Army position and if they are, forward them to the Director of the DAR Council for adjudication with public comments. If the comments are inconsistent with the Deputy Assistant Secretary of the Army (Procurement)’s official Army position, the DAR Council member will contact the commenter to address his or her comment within the Army.

(ii) Comments as a private citizen. Army contracting personnel may submit comments as a private citizen by following the instructions in the Federal Register notice. Private citizens must clearly state that their comments represent a personal opinion rather than an official position. They may refer to the extent of their relevant experience within the body of the comments. Private citizens will not submit comments using Army letterhead or reference the Army in a signature block; however, they

may use Army email and fax, in accordance with Section 2-301(a)(2) of the Department of Defense Joint Ethics Regulation, DoD 5500.7-R.

Subpart 5101.6 - Career Development, Contracting Authority and Responsibilities

5101.601 General.

(1) Army contracting activities are listed in DFARS PGI 202.101.

5101.601-90 Department of the Army contracting authorities and responsibilities.

(a) General. Heads of the Contracting Activity (HCAs) have the authority to procure supplies and services to support all customer requirements, unless such procurements fall within the scope of unique contracting authorities assigned to another HCA as described in paragraph (b) below. This framework supports Category Management (CM) reforms, and promotes habitual customer relationships that leverage subject matter expertise to achieve greater contracting outcomes. The list of unique contracting authorities set forth in paragraph (b) is not all-inclusive and will continue to update as CM initiatives evolve. See AFARS PGI 5101.601-90-1 for Guidance for Alignment of Contracting Activities to Categories. Additionally, the authorities described in paragraph (b), sub-paragraphs (2-4), do not apply to contingency requirements outside the continental United States and overseas.

(1) Delegation of any Army HCA contracting authority is limited to officials within the Department of Army at the levels prescribed in Appendix GG .

(2) If a requiring activity presents a requirement in one of the designated commodity areas, to a contracting office not listed in paragraph (b) of this section, that contracting office shall refer the requiring activity to the designated HCA and coordinate with the designated HCA to determine which organization will provide support. If an HCA other than the designated HCA retains that requirement and executes a contract action for the designated commodity:

(A) The supporting HCA shall coordinate with the designated HCA as early as practicable in the procurement planning process, to leverage the subject matter expertise of the designated HCA and ensure the solicitations and contracts are properly structured.

(B) The supporting HCA should ensure the requisite contracting and technical/program personnel are properly trained in the contract award and administration of the designated commodity.

(C) The supporting HCA and designated HCA shall maintain a record of the coordination for contract award. The ODASA(P) will review the records during the Procurement Management Reviews.

(b) Assignment of Unique Contracting Authorities to Army HCAs. The assigned responsibilities are as follows:

(1) The Deputy Assistant Secretary of the Army (Procurement) has the following overarching authorities and responsibilities:

(A) Serves as the Enterprise HCA for the Department of the Army.

(B) Serves as the principal advisor to the Army Senior Procurement Executive (SPE).

(C) Subject to the authority, direction, and control of the SPE, directs other Army HCAs in connection with any procurement or procurement-related matter.

(D) Reviews all Senior Contracting Official (SCO) selections prior to SCO appointment by an Army contracting activity's HCA.

(E) Acts in the absence of another Army contracting activity's specifically-designated HCA.

(F) Chairs the Army Contracting Enterprise Executive Committee.

(G) Appoints Program or Project-specific SCOs on a temporary basis within the responsible Army contracting activity. The Program or Project-specific SCO focuses solely on the management of that program's contract action(s).

(2) The HCA for the U.S Army Contracting Command is responsible for awarding and administering the following contract actions:

(A) Ammunition.

(B) Aviation and Missiles. [Army Contracting Command-Redstone Arsenal is the exclusive contracting center for Army Fixed Wing and non-tethered lighter than air platform aircraft and supporting services; and non-standard rotary wing aircraft].

(C) Combat and Tactical Vehicles.

(D) Construction related materials and services [Mission and Installation Contracting Command (MICC) is the secondary contracting center; the U.S. Army Corps of Engineers (USACE) is the primary contracting activity].

(E) Environmental services.

(F) Facility related materials and services [MICC is the primary contracting center; USACE is the secondary contracting activity].

(G) Information Technology, to include: software (including software development), hardware, consulting, security, outsourcing, and telecommunications. [Contracts or agreements primarily for software development efforts will not be executed by the MICC; however USACE, NGB, and MEDCOM may continue to execute contracts for software development, subject to the guidance issued by the Contracting Center of Excellence for Digital Capabilities at ACC-APG.]

(H) Transportation and Logistics Services, to include: logistics support services, transportation of things, motor vehicles (non-combat), and transportation equipment. .

(3) The HCA for USACE is responsible for awarding and administering the following contract actions:

(A) Architect-Engineer services. (See also 5136.601-90 for other Army contracting offices with architect-engineer contracting authority).

(B) Civil works.

(C) Construction related materials and services [USACE is the primary contracting activity; MICC is the secondary contracting center].

(D) Environmental services.

(E) Facility related materials and services [USACE is the secondary contracting activity; MICC is the primary contracting center].

(F) Facilities purchase and lease.

(4) The HCA for the U.S Army Medical Command is responsible for awarding and administering the following contract actions:

(A) Medical equipment accessories and supplies.

(B) Healthcare services.

(5) The HCA for the National Guard Bureau (NGB) is responsible for awarding and administering the contract actions, grants, and agreements for supplies and services to support the Army and Air National Guard in 50 states, District of Columbia, and 3 U.S. Territories.

(6) The HCA for the Rapid Capabilities and Critical Technologies Office (RCCTO) is responsible for awarding and administering the following contract actions, grants, and agreements:

(A) Rapid Prototyping and initial equipping of strategically important capabilities to meet commanders' warfighting needs, consistent with the Army's modernization priorities.

(B) Technologies that address urgent and emerging threats on an accelerated timeline while supporting acquisition reform efforts.

(7) The HCA for the Small Business Innovative Research (SBIR) is responsible for awarding and administering Phase I and Phase II SBIR contract actions, grants, and agreements.

(c) Information on contracting responsibility with regards to traceability of funds is provided at AFARS PGI 5101.601-90(c)-1 .

5101.602 Contracting officers.

5101.602-1 Authority.

5101.602-1-90 Departmental review and approval.

(a) At any time during the procurement process, the Deputy Assistant Secretary of the Army for Procurement (DASA(P)) may designate a proposed contractual action as Special Interest, and direct the responsible SCO or source selection authority to submit the proposed contractual action to the Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)) for review, notation, and/or approval.

(1) The SCO or source selection authority will provide any information, documents, and briefings requested, and will not take, or permit anyone else to take, final action on the proposed contractual

action during the period of the DASA(P) review. The SCO shall coordinate all proposed major decision points (e.g. Source Selection Authority appointments), with the DASA(P).

(2) The DASA(P) will customize the departmental review requirements on a case-by-case basis..

(3) In accordance with FAR 3.104-4(a), the ASA(ALT) has authorized personnel within the Office of the DASA(P), the Office of the Army General Counsel, and other personnel designated by the DASA(P) to receive full access to contractor bid or proposal information and source selection information in connection with such review. The Contracting officer, under SCO direction, shall ensure the Virtual Contracting Enterprise Paperless Contract File contains all documents related to the proposed contractual action. (See AFARS 5104.802 Contract files).

(b) The DASA(P), as Enterprise HCA, or other Army HCAs may appoint Program or Project-specific SCOs in conjunction with this subpart. (See AFARS 5101.693-90)

5101.602-2 Responsibilities.

(a) Refer to AFARS 5132.7 for instructions with regard to ensuring funds are available.

5101.602-2-90 Legal coordination.

Contracting officers will obtain a legal review and consider counsel’s advice as follows:

(a) Include legal counsel as a member of the acquisition team (see FAR 1.102-3) throughout the acquisition process;

(b) Obtain a legal review for proposed contracting actions in accordance with locally established procedures and as otherwise required by law, regulation, or policy. It is not practicable to specify, in the AFARS, an inclusive list of actions requiring legal review at each contracting activity. Instead, counsel will routinely review a full range of acquisition-related actions that have potential legal significance. SCOs will work with local chief counsels, or equivalent official, to develop specific legal review protocols that are consistent with this provision.

(c) Obtain legal reviews on proposed actions to determine if the action is legally sufficient based on statute, regulation, and policy, and request details and a recommended course of action to resolve any insufficiency. Contracting officers will address and resolve counsel’s objections at the lowest possible level. Contracting officers and counsel will elevate unresolved objections within the acquisition and legal channels, as appropriate, and in exceptional cases, to the HCA.

(d) The Contracting officer, under SCO direction, retains sole authority to determine matters that relate to the exercise of business judgment.

5101.602-2-91 Contracting officers representative appointments.

(a) Contracting officers will appoint a properly trained Contracting officer’s representative (COR) upon contract award, consistent with DFARS 201.602-2. SCOs may specify additional training at their discretion within their contracting activity. Contracting officers shall execute the COR appointment in the DoD Procurement Integrated Enterprise Environment (PIEE) Joint Appointment

Module (JAM) no later than one business day after receipt of the contract in the Electronic Data Access (EDA) system has been confirmed.

(b) Contracting officers will allow 45 calendar days after receipt of the procurement request (PR) package for the requiring activity (RA) to satisfy all COR requirements. If, after the 45 days, a COR has not been properly trained and nominated in PIEE JAM, Contracting officers will cease further action on the PR package and return it to the supported RA.

(c) Contracting officers will validate COR and ordering officer records every 12 months in accordance with DFARS PGI 201.602-2(d)(vii) to ensure contractor compliance with the terms of the contract. Contracting officers will document the review in the contract file.

5101.602-2-92 Ordering officer appointments.

(a) *Policy.* The official (see AFARS 5101.603-1) appointing an ordering officer will state in the appointment letter that the ordering officer's authority may not be delegated further (see AFARS 5153.303-2 for a sample appointment letter).

(b) *Appointment and termination authority.* An appointing official may appoint an ordering officer, pursuant to 5101.603-3-90(a) through (f), when the official determines that the appointment is essential for the operation of the contracting mission. The purposes for which an appointing official may appoint an ordering officer and references to limitations of their authority are –

(1) To make purchases using imprest funds (FAR 13.305);

(2) To make purchases using Standard Form 44 (FAR 13.306, DFARS 213.306);

(3) To place orders against indefinite delivery contracts awarded by Contracting officers of the Military Departments for the preparation for shipment, Government storage, and intra-city or intra-area movement of personal property, provided contract terms permit (see FAR subpart 47.2);

(4) To place Service Orders for Personal Property (DD Form 1164) against Commercial Warehousing and Related Services for Household Goods contracts for military and civilian personnel subject to the criteria and procedures prescribed in Chapter 2, DoD 4500.34-R, provided that no service order will be in excess of $10,000; and

(5) To place orders against indefinite delivery contracts, in addition to those in (4), that Contracting officers award, as long as the contract terms permit and provided all orders placed are within monetary limitations specified in the contract.

(c) *Responsibilities of appointing authority.*

(1) *Training and orientation.* The appointing authority will orient and instruct ordering officers either personally or in writing about –

(i) The proper procedure(s) the appointing authority will authorize the ordering officer to use;

(ii) The standards of conduct for Army personnel prescribed in the Joint Ethics Regulation (DoD 5500.7-R) and the procurement integrity provisions at FAR 3.104; and

(iii) The preparation and submission of information for contract action reporting purposes.

(2) *Surveillance.* The appointing authority will provide technical supervision of ordering officers. At least once each year, the appointing authority will examine ordering officer purchase documents and records. Any individual designated to perform this review must be well qualified in the contracting procedures that ordering officers use.

(i) Write inspection or review findings and include specific comments as to whether the ordering officer is –

(A) Operating within the scope and limitations of authority delegated and FAR subpart 3.1;

(B) Maintaining the standards of conduct prescribed in DoD 5500.7-R;

(C) Engaging in improper practices, including but not limited to splitting purchase transactions to avoid monetary limitations or delegating authority to others; and

(D) Submitting correct and timely information for reporting purposes.

(ii) Retain copies of inspection and review findings for one year in the ordering officer's files and the inspector's or reviewer's files.

(iii) If an appointing authority finds that an ordering officer is not properly performing assigned duties or promptly correcting the deficiencies noted in inspections or reviews, the appointing authority will terminate the ordering officer's appointment.

(3) *Termination.*

(i) An ordering officer's appointment will remain in effect until the ordering officer leaves his position via reassignment or termination or the appointing authority revokes the appointment. Appointing officials will not revoke an appointment retroactively.

(ii) Appointing officials will terminate appointments in writing except terminations that result when a contract expires.

(d) *Procedures.* Appointing officials will –

(1) Appoint ordering officers by a letter of appointment substantially in the format at AFARS 5153.303-2, but tailored to fit the circumstances of the appointment;

(2) Maintain the file of appointments and justification for the appointments;

(3) Require individuals appointed as ordering officers to acknowledge receipt of their letters of appointment and termination in writing;

(4) Distribute appointment letters to ordering officers, imprest fund cashiers, disbursing officers and other interested personnel as necessary;

(5) List the names of ordering officers appointed to place orders against the contracts in the contract, or furnish copies of ordering officer appointment letters to contractors, imprest fund cashiers, disbursing officers and other interested personnel; and

(6) Furnish copies of termination letters to imprest fund cashiers, disbursing officers and other interested personnel.

5101.602-3 Ratification of unauthorized commitments.

(b) *Policy.*

(3) HCAs may ratify unauthorized commitments and may delegate this authority as specified in Appendix GG .

5101.602-3-90 Ratification procedures.

(a) HCAs may ratify an unauthorized commitment. See Appendix GG for further delegation.

(b) The individual making the unauthorized commitment must send the following documentation, at a minimum, to the cognizant ratifying authority:

(1) A signed statement describing the circumstances, the reason normal contracting procedures were not followed, what bona fide Government requirement necessitated the unauthorized commitment, the benefit received and its value, and any other pertinent facts.

(2) All other relevant documents, including orders, invoices or other evidence of the transaction.

(c) If the commander concurs that the unauthorized commitment should be ratified, the documentation must be sent to the chief of the contracting office with an endorsement that –

(1) Verifies the accuracy and completeness of the documentation;

(2) Describes the measures taken to prevent a recurrence of unauthorized commitments, including a description of any disciplinary action to be taken; and

(3) Provides a complete purchase description and funding for the ratifying contract.

(d) The chief of the contracting office will assign the action to an individual Contracting officer who will be responsible for –

(1) Reviewing the case and determining the adequacy of all facts, records, and documents and obtaining any additional material required; and

(2) Preparing a summary of facts to include a recommendation as to whether the individual responsible for approving the ratification (see AFARS 5101.602-3(b)) should ratify the transaction and reasons for the recommendation. In a recommendation not to ratify, include an explanation as to whether the contracting activity should process the transaction under FAR part 50 and DFARS part 250, Extraordinary Contractual Actions and the Safety Act or by means of the claims or disputes process set forth in FAR subpart 33.2.

(e) Upon receipt and review of the complete file, the individual responsible for approving the ratification may approve the ratification if he or she considers it to be in the best interest of the Government, or may direct other disposition.

(f) HCAs must monitor compliance with this subsection, AFARS 5101.602-3-90, and take all necessary corrective action.

5101.603 Selection, appointment, and termination of appointment for Contracting officers.

5101.603-1 General.

The Secretary of the Army or one of the following individuals may select, appoint, and terminate Contracting officers:

(1) The ASA(ALT).

(2) The DASA(P).

(3) The HCA. See Appendix GG for further delegation.

5101.603-2 Selection.

The HCA will establish criteria and procedures to ensure that prospective Contracting officers with authority to award or administer contracts for amounts above the simplified acquisition threshold, have the knowledge and experience to effectively and efficiently support their customers and successfully fulfill their fiduciary responsibilities as required by DFARS 201.603-2 and 10 U.S.C. 1724. The HCA shall follow the policy set forth in the Army Warranting Guide. The policy is available on the Army Warranting Program tile on https://procurement.army.mil (PAM).

5101.603-3 Appointment.

(a) Appointing officials will utilize the Virtual Contracting Enterprise (VCE) Warrant Tool to appoint, suspend, terminate and otherwise document and maintain a complete file for each Contracting officer. The file will include documentation of qualifications and the continuation of professional proficiency. The appointing official will update the files in the VCE Warrant Tool upon any change in the Contracting officer's authority, and will review the files no less than biennially to ensure compliance with statutes and regulations.

5101.603-3-90 Other individuals authorized to procure supplies and services on behalf of the Army.

In addition to the ordering officers identified in AFARS 5101.602-2-92, a Contracting officer or one of the appointing officials identified in AFARS 5101.603-1 may designate individuals to procure supplies or services on behalf of the Army as specified in paragraphs (a) through (f) in this subsection. Individuals in paragraphs (a) through (c) will prepare and submit information for reporting purposes to the supporting contracting office as specified by that office policy. Individuals in (d) will report to the contracting office supporting the mobilization base.

(a) Contracting officers may authorize individuals to place calls under blanket purchase agreements. (See FAR subpart 13.3, DFARS subpart 213.3, and subpart AFARS 5113.3.)

(b) Appointing officials may authorize Army aviators and masters of Army-owned or operated vessels to use Standard Form 44 (see FAR 13.306 or provisions of Army Regulation 710-2 and Department

of the Army Pamphlet 710-2-2) for emergency purchases of supplies (e.g., fuels, oils, parts) and services (e.g., mechanical services, hangar services, landing and docking fees and employment of civilian guards or watchmen to safeguard Government property) under any of the following conditions:

(1) Authorized flights or voyages during which mechanical or meteorological conditions prevent obtaining required supplies and services from Government facilities.

(2) Conditions under which continuation of flight, voyage or mission would constitute a hazard to safety or endanger public property.

(3) Conditions under which procurement of supplies and services from Government facilities would interfere with approved flight plans or voyages.

(c) Appointing officials may issue the Governmentwide commercial purchase card to individuals to use in accordance with FAR 13.301.

(d) Appointing officials may authorize individuals in Reserve Components to procure supplies or services on behalf of the Army in the event of mobilization using Standard Form 44 and U.S. Army Forces Command Mobilization and Deployment System, Volume III. Reserve Component unit commanders may purchase over-the-counter type items not exceeding the micro-purchase threshold per transaction. The commander will use Standard Form 44 when a Federal Mobilization Order, requiring unit movement to a mobilization station or site, or where procurement support is not readily available from a supporting installation. This temporary authority will expire upon resumption of procurement support by the contracting office at the mobilization station or supporting installation.

(e) Appointing officials may issue U.S. Government Travel Charge Cards to individuals for use on official travel.

(f) Appointing officials may authorize individuals identified in Army Regulation 725-50 to order supplies from General Services Administration Stores Depots using the Governmentwide commercial purchase card procedures.

5101.603-3-91 Restrictions.

(a) Personnel in the 1101 job classification series will not be appointed or serve as Contracting officers. This requirement is not subject to an individual or class waiver.

(b) Commanders and others having administrative supervision over Contracting officers must bear in mind that actions exceeding the authority of a Contracting officer are not binding on the Government. Therefore, they will not direct, or otherwise exert influence, upon Contracting officers to take such actions.

5101.690 Procurement management review assistance.

(a) Office of the Deputy Assistant Secretary of the Army (Procurement), Procurement Insight/Oversight Directorate, manages the Procurement Management Review (PMR) Program to perform oversight of Army contracting activities in accordance with Appendix CC.

(b) Once every 36 months, all HCAs will conduct PMRs for each of their contracting offices to ensure compliance with, at a minimum, laws, policies, regulations, directives, FAR, DFARS, AFARS and AFARS Appendix CC. HCAs will furnish copies of review reports to the HQDA PMR Team Leader at the address at usarmy.ncr.hqda-asa-alt.mesg.pi-pmr-team@army.mil within 60 days of completing a review.

5101.691 Management controls.

See AFARS PGI 5101.691-1 for guidance on the Army Enterprise Audit Tracker.

Management controls within each contracting organization are an element of day-to-day operations. Managers at all levels should refer to Appendix BB, Management Control Evaluation Checklist, to evaluate their organization's compliance with key management controls and to identify and correct weaknesses. The list of questions in Appendix BB is not all-inclusive nor are managers required to respond to all of them. Managers should tailor the list to include areas specific to each contracting office, and should include the Areas of Special Interest, which the DASA(P) issues each fiscal year.

5101.692 Head of the contracting activity.

(a) HCAs will ensure that only Contracting officers selected and appointed in accordance with AFARS 5101.603 enter into contracts on behalf of the Army.

(b) HCAs will appoint a SCO. When selecting the SCO, the HCA must comply with the requirements of Department of Defense Instruction (DoDI) 5000.66 governing the selection of senior contracting officials. Prior to appointing the SCO, the HCA shall coordinate the proposed SCO selection directly with the Enterprise HCA.

(1) The HCA must assign to the SCO, or give him/her direct access to, the personnel and other essential resources necessary to perform all the functions that the HCA delegates to him/her.

(2) The HCA may appoint Program or Project-specific SCOs on a temporary basis within the responsible Army contracting activity. The Program or Project-specific SCO focuses solely on the management of that program's contract action(s). (See AFARS 5101.693-90)

(3) The HCA must notify in writing the addressee in AFARS 5101.290(b)(2)(i) when there is a newly appointed SCO.

5101.693 Senior contracting official.

(1) A SCO, defined as a critical acquisition position in 10 U.S.C. 1735 and a key leadership position in the DoDI 5000.66, must meet the additional position requirements listed in DoDI 5000.66, Table 1.

(2) SCOs will exercise procurement authority in accordance with the FAR and its supplements and perform delegated HCA contracting authorities. Procurement authority is delegated by the HCA and is not position dependent.

(3) The SCO, by virtue of the organizational position occupied, may execute command functions for

the contracting activity, but these functions are separate and distinct from procurement authority.

(4) SCOs will –

(i) Report directly to the HCA on all matters regarding procurement.

(ii) Be evaluated by the HCA for performance appraisals, as required by the DoDI 5000.66.

(iii) Minimize the potential for undue influence and protects contracting professionals from internal or external pressure to perform improper actions.

5101.694-90 Program or Project-specific Senior contracting official.

(1) A Program or Project-specific SCO focuses solely on the management of that program's or project's contract action(s). The appointment may be tailored to align with the risk or complexity, and dollar value of the pertinent program or project. The Program or Project-specific SCO will exercise procurement authority in accordance with the FAR and its supplements and perform delegated HCA contracting authorities. Procurement authority is delegated by the HCA and is not position dependent.

(2) Program or Project-specific SCOs may be appointed on a temporary basis, typically for the duration of that contract action(s), within an Army contracting activity. The individual must meet the position requirements listed in DoDI 5000.66.

(3) Program or Project-specific SCOs will –

(i) Report directly to the HCA on all matters regarding the pertinent contract action(s).

(ii) Have direct access to the personnel and other essential resources necessary to perform all assigned functions.

Subpart 5101.7 - Determinations and Findings

5101.707 Signatory authority.

The HCA or the SCO and the Contracting officer will sign each Secretarial determination request.

Subpart 5101.90 - Nonappropriated Funds

5101.9001 Policy.

DoD policy for contract actions using nonappropriated funds is in DoD Directive 4105.67. See Army Regulation (AR) 215-1 and AR 215-4 for implementing policies and procedures for Army nonappropriated fund acquisitions.

5101.9002 Contracting authority.

SCOs may designate appropriated fund Contracting officers as nonappropriated fund Contracting officers. (See AR 215-4.)

Subpart 5101.91 - Authority to Award and Administer Grants, Cooperative Agreements, Technology Investment Agreements, and Other Transactions

5101.9101 Authority and responsibilities.

(a) Procedures governing grants, cooperative agreements, and technology investment agreements are set forth in the DoD Grant and Agreement Regulations (DoDGAR), currently codified at Chapter I, Subchapter C of Title 32, Code of Federal Regulations (CFR) and Chapter XI of Title 2, CFR (see Department of Defense Directive Number 3210.06). In the absence of an Army supplement to the DoDGAR this AFARS subpart provides a record of the Army's implementation of 32 CFR 21.425 – 21.435.

(b) Procedures governing Other Transaction Authority are set forth at 10 U.S.C. section 2371b and in the Other Transactions Guide for Prototype Projects, issued January 2017 by the Director for Defense Pricing, Contracting and Acquisition Policy (DPCAP). In the absence of an Army supplement this subpart provides a record of the Army's implementation of 10 U.S.C section 2371b and the DPCAP guide.

(b)(1) HCAs with grant and cooperative agreement responsibilities are authorized to make and administer grant and cooperative agreement awards in accordance with specific delegations of authority from the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)) and as otherwise authorized in 32 CFR 21.420(c).

(2) HCAs with other transaction responsibilities are authorized to make and administer other transaction agreement awards in accordance with specific delegations of authority from the ASA(ALT) and as otherwise authorized in 10 U.S.C. section 2371b.

(c) HCAs also are authorized to appoint grants officers and agreements officers and to broadly manage their contracting activity's functions related to assistance instruments.

(d) HCAs are responsible for grant and cooperative agreement awards made by their contracting activity and shall supervise and establish and maintain internal policies and procedures for that activity's awards.

(e) HCAs shall utilize the Virtual Contracting Enterprise (VCE) Warrant Tool to appoint, suspend, terminate and otherwise document and maintain a complete file for each grants and agreements officer. The file will include documentation of qualifications and the continuation of professional proficiency. The appointing official will update the files in the VCE Warrant Tool upon any change in the grants and agreements officer's authority, and will review the files no less than biennially to ensure compliance with statutes and regulations.

The HCA shall follow the policy set forth in the Contracting officer Warranting Program Guide. The

policy is available in the Warranting tile on https://procurement.army.mil (PAM) at https://spcs3.kc.army.mil/asaalt/procurement/warrant/Home.aspx.