Subpart 5101.3 - Agency Acquisition Regulations

Parent topic: Part 5101 - Federal Acquisition Regulation System

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.