

**TRICARE Management Activity (TMA)
Acquisition Management and Support (AM&S) Directorate
Clause Control Plan
(Revised February 15, 2012)**

1. Purpose. This Clause Control Plan (Plan) establishes procedures for controlling clauses other than those prescribed by the Federal Acquisition Regulation (FAR) or the Defense Federal Acquisition Regulation Supplement (DFARS) for TRICARE Management Activity (TMA). This Plan replaces all previous versions and applies to the contracting offices under the authority of the TMA Head of the Contracting Activity (HCA): Contract Operations Division (COD) Aurora, COD-Falls Church, and the Uniformed Services University of the Health Sciences Contracting Directorate.

2. Definition and Key Terms. For the purpose of this Plan, the terms have the following meanings.

a. Clause. Includes provisions and means a term or condition of the type set forth in FAR Part 52/DFARS Part 252.

b. The following matrix reflects additional key terms along with related FAR and DFARS references.

Deviation	FAR Subpart 1.4; DFARS Subpart 201.4
Substantially as follows, or Substantially the same as	FAR 2.101
Modification	FAR 52.101 and 52.104
Alternate	FAR 2.101 and 52.105
Solicitation	FAR 2.101

3. Defense Procurement and Acquisition Policy Requirements Review Procedures

The requirements review procedures below involve certification and deviations that have a significant effect beyond the internal operating procedures of the agency or have significant cost or administrative impact on contractors or offerors. Thus, the certification and deviations listed below require Defense Procurement and Acquisition Policy (DPAP) approval.

a. Certification Requirement. The Contracting Officer shall notify Acquisition Policy and Compliance Division (AP&CD) of the requirement for a new certification. AP&CD shall submit the proposed new requirements for a certification by a contractor to the Chief/Director of the contracting office. The Chief/Director shall review the proposed certification requirement, and upon concurrence, AP&CD shall submit to the HCA for review. The Head of the

Contracting Activity (HCA) shall make the determination on whether to submit the proposed certification requirement to the Director of the Defense Acquisition Regulations (DAR) Council. Upon HCA request, AP&CD shall submit the written justification for a new certification, by a contractor or offeror, to the Director of the DAR Council. The Director of the DAR Council forwards the written justification to the Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) (OUSD(AT&L)) for approval by the Secretary of Defense.

b. Individual Deviation. The Contracting Officer shall notify AP&CD of the requirement for an individual deviation. AP&CD shall submit the request for a new proposed individual deviation, outside of FAR and DFARS, to the Chief/Director of the contracting office. The Chief/Director shall review the request, and upon concurrence AP&CD shall forward to the HCA for review. The HCA shall make a determination on whether to submit the request for proposed new an individual deviation to the Director of the DAR Council. Upon HCA request, AP&CD shall submit the request for an individual deviation approval to the Director of the DAR Council. The Director of the DAR Council forwards the individual deviation request for approval to DPAP.

c. Class Deviation. The Contracting Officer shall notify AP&CD of the requirement for a new class deviation. AP&CD shall submit the request for a proposed new class deviation, outside of FAR or DFARS, to the Chief/Director of the contracting office. The Chief/Director of the contracting office shall review the request, and upon concurrence, AP&CD shall submit to the HCA for review. The HCA shall make a determination on whether to submit the request for a proposed new class deviation to the Director of the DAR Council. Upon HCA request, AP&CD shall submit the request for class deviation approval to the Director of the DAR Council. The Director of the DAR Council forwards the class deviation request for approval to DPAP.

d. Requests for Deviation. All deviation requests for DPAP approval shall include, at a minimum, the information required by DFARS 201.402(2).

4. Clause Review Procedures

The clause review procedures below do not have a significant effect beyond the internal operating procedures of the agency or have significant cost or administrative impact on contractors or offerors. Thus, the clauses listed below do not require DPAP approval because the clauses are local and the impact will be limited to TMA. Nevertheless, the changes must be approved in accordance with this Plan, as prescribed by DFARS 201.304(4)

a. Supplemental Clauses.

The Contracting Officer, in coordination with AP&CD, shall draft the proposed supplemental clause and submit to AP&CD. AP&CD shall initiate the coordination process and submit the draft "supplemental" clause to the Office of General Counsel (OGC) for review and then forward to the Chief/Director of the contracting office for final approval. AP&CD will add all approved "supplemental" clauses to the TMA clause book and clause control repository.

b. “Substantially as Follows” and “Substantially the Same as” Clauses. The Contracting Officer, in coordination with AP&CD, shall draft the proposed individual repetitive use or “substantially as follows” or “substantially the same as” clause, that does not constitute a deviation from the FAR or DFARS and does not require the approval of DPAP and submit to AP&CD. AP&CD shall initiate the coordination process and submit the draft clause to OGC for review and then forward to the Chief/Director of the contracting office for final approval. The reviews are to ensure that the clause does contain material differences from those already authorized for use and that circumstances for use of the clauses are appropriate. AP&CD will add the approved clauses to the TMA clause book and clause control repository.

c. Modifications, Alternatives, and Authorized Deviations. The Contracting Officer, in coordination with AP&CD, shall draft the proposed clause modifications, alternates, and authorized deviations and submit to AP&CD. AP&CD shall initiate the coordination process and submit the draft proposed modification, alternatives and authorized deviations language to OGC for review and then forward to the Chief/Director of the contracting office for approval. Upon approval, the AP&CD shall notify the Contracting Officer that the modification, alternative and authorized deviation language is available for inserting in a solicitation or contract. AP&CD will add the approved clause modifications, alternates, and authorized deviations to the TMA clause book and clause control repository.

d. Tailoring Commercial Items Clauses. The Contracting Officer may tailor the provision at FAR 52.212-1 and the clause at FAR 52.212-4, if consistent with customary commercial practice, after conducting appropriate market research, to adapt to market conditions. The Contracting Officer shall submit the tailored commercial items provision at FAR 52.212-1 and the clause at FAR 52.212-4 to the Chief/Director of the contracting office for approval. If the contract action exceeds the Simplified Acquisition Threshold, the Contracting Officer shall submit the tailored commercial items provision and clause to OGC for review and to the Chief/Director of the contracting office for final approval. The Chief/Director of the contracting office will forward all approved tailored commercial items provisions and clauses to AP&CD. AP&CD will add the approved provisions and clauses to the TMA clause book and clause control repository.

e. Waiver Request. The Contracting Officer will request a waiver through AP&CD and shall not tailor any clause or add terms or conditions in a solicitation or contract for commercial items inconsistent with customary commercial practice without a waiver. AP&CD will submit the waiver request on behalf of the Contracting Officer, to HCA. Upon approval of the waiver request, the Contracting Officer will be authorized to tailor the clause or provision.

5. Clause Numbering

a. All clauses included in solicitations and contracts must adhere to the numbering and identification requirements of FAR Subpart 52.1, as supplemented by DFARS Subpart 252.1.

b. Clauses authorized for one-time use do not have to be numbered, but must be

identified in accordance with FAR 52.103 by the title, date, and name of the contracting office that developed the clause.

6. Requirement Approval Authorities

The types of requirements with corresponding approval authorities are outlined in Table 1.

Table 1. Approval Authorities

Type of Requirement	Reference	Approval Authority
Any new requirement for a certification by a contractor or offeror may not be included unless imposed by statute or written justification is approved by Secretary of Defense (SecDef).	DFARS 201.304(2)	SecDef (without delegation)
Any policy letter, clause book, policy, procedure, clause, or form that has a significant effect beyond internal operating procedures or poses a significant cost or administrative impact on contractors or offerors.	DFARS 201.304(1)(i)(A) & (B)	OUSD(AT&L)DPAP
Individual or class deviations from FAR/DFARS cited in DFARS 201.402(1): (1) FAR 3.104/DFARS 203.104, Procurement Integrity; (2) FAR Subpart 27.4/DFARS Subpart 227.4, Rights in Data and Copyrights; (3) FAR Part 30/DFARS Part 230, Cost Accounting Standards Administration; (4) FAR Subpart 31.1/DFARS Subpart 231.1, Applicability (contract cost principles); (5) FAR Subpart 31.2/DFARS Part 231, Contracts with Commercial Organizations; or FAR Part 32 (except Subparts 32.7 and 32.8 and the payment clauses prescribed by Subpart 32.1) /DFARS 232, Contract Financing.	FAR Subpart 1.4 DFARS 201.402(1)	OUSD(AT&L)DPAP

Individual deviations from FAR and DFARS other than those cited in DFARS 201.402(1).	FAR 1.403 DFARS 201.403(1)	OUSD(AT&L)DPAP
Class deviations from FAR and DFARS other than those cited in DFARS 201.402(1).	FAR 1.404 DFARS 201.404(b)(i)	OUSD(AT&L)DPAP
Proposed “supplemental” provisions and clauses. “Supplemental” provisions and clauses are developed to fulfill a specific and unique requirement of the acquisition, or are a result of negotiations. They do not constitute a deviation from FAR or DFARS or require OUSD(AT&L)DPAP approval.	FAR 52.101(2)(i) DFARS 201.304	Chief/Director of the Contracting Office
Proposed new repetitive use or “substantially as follows” or “substantially the same as” individual provisions or clauses. They do not constitute a deviation from FAR or DFARS or require OUSD(AT&L)DPAP approval.	FAR 1.401 FAR 2.101 DFARS 201.304	Chief/Director of the Contracting Office
Proposed use of modifications, alternates, and authorized deviations.	FAR 1.401	Chief/Director of the Contracting Office
Proposed tailoring by the Contracting Officer of the commercial items provision at FAR 52.212-1, Instructions to Offerors - Commercial Items, and the clause at FAR 52.212-4, Contract Terms and Conditions - Commercial Items (with certain limitations) consistent with commercial practice, subject to limitations of FAR 12.302(b).	FAR 12.302	Chief/Director of the Contracting Office
Proposed tailoring by the Contracting Officer of the commercial items provision at FAR 52.212-1, Instructions to Offerors - Commercial Items, and the clause at FAR 52.212-4, Contract Terms and Conditions - Commercial Items (with certain limitations) inconsistent with	FAR 12.302(c) DFARS 212.302	TMA HCA

commercial practice.		
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7. Focal Point: AP&CD is the focal point for resolution of internal or public inquiries, if any, on authority for use of a particular clause. Inquiries will be directed to:

TRICARE Management Activity
Acquisition Management & Support Directorate
Acquisition Policy & Compliance Division



Michael P. Fischetti
Director, Acquisition Management and Support