



**DEPARTMENT OF THE NAVY**  
NAVAL FACILITIES ENGINEERING COMMAND  
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IN REPLY REFER TO  
ACQ 021  
17 Aug 00

MEMORANDUM FOR NAVFAC ACQUISITION PERSONNEL

Subj: CHANGE TO NAVY ACQUISITION PROCEDURES SUPPLEMENT  
(NAPS) AND NAVFAC P-68 PERTAINING TO FAR/DFARS PART  
25/225 REWRITE, AND TECHNICAL AMENDMENTS (00-32)

Encl: (1) OASN (RD&A) ABM memo of 26 Jul 00  
(2) P-68 Part 25 revision

1. Enclosure (1) provides NAPS Change #97-12. This change is effective immediately and is incorporated in the NAPS Online at <http://www.abm.rda.hq.navy.mil/naps/index.html>.

2. The NAVFAC Contracting Manual (P-68) Subparts 25.1 through 25.3 have been revised to reflect the FAR Part 25/DFARS Part 225 and NAPS Part 5225 rewrites. The changes identified in enclosure (2) are hereby incorporated into the P-68 Online at <http://acq.navy.mil/pdffiles/p68.pdf>.

A handwritten signature in black ink, appearing to read "Michael F. Howard".

MICHAEL F. HOWARD  
Director, Strategic Management  
Community Management Section



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JUL 26 2000

MEMORANDUM FOR DISTRIBUTION

Subj: CHANGE TO NAVY ACQUISITION PROCEDURES SUPPLEMENT (NAPS)  
PERTAINING TO FAR/DFARS PART 25/225 REWRITE, AND TECHNICAL  
AMENDMENTS

Encl: (1) NAPS Change #97-12

FAR Part 25 and DFARS Part 225 were recently rewritten in their entireties. The associated changes to NAPS Part 5225 are provided herewith. Additionally, a few administrative changes/corrections and technical amendments are also included in this change.

The changes identified in enclosure (1) are hereby incorporated into the August 1997 NAPS.

These changes are effective immediately, and will be reflected in the NAPS Online.

  
Paul P. Buonaccorsi  
Executive Director  
Acquisition and Business  
Management

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PERTAINING TO FAR/DFARS PART 25/225 REWRITE, AND TECHNICAL  
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## **NAVY ACQUISITION PROCEDURES SUPPLEMENT CHANGE #97-12**

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The following changes are hereby incorporated into the August 1997 NAPS.

1. NAPS Section 5207.107 is added as follows:

### **PART 5207**

#### **ACQUISITION PLANNING**

##### **SUBPART 5207.1—ACQUISITION PLANS**

**5207.107 Additional requirements for acquisitions involving bundling of contract requirements.**

- (c) Requests for NAE determinations must be submitted through ABM.

2. NAPS 5216.306 is added as follows:

### **PART 5216**

#### **TYPES OF CONTRACTS**

##### **SUBPART 5216.3 COST REIMBURSEMENT CONTRACTS**

**5216.306 (DFARS 216.306) Cost-plus-fixed-fee contracts.**

(c) *Limitations.*

(ii)(B)(1) COMNAVFAC is delegated authority to approve cost-plus-fixed-fee contracts for environmental work only, provided the environmental work is not classified as construction, as defined by 10 U.S.C. 2801.

(2) Requests for approval of cost-plus-fixed-fee contracts requiring Secretary of Defense approval must be routed through COMNAVFAC and ABM.

3. NAPS 5217.171 is added as follows:

### **PART 5217**

#### **SPECIAL CONTRACTING METHODS**

##### **SUBPART 5217.1—MULTI-YEAR CONTRACTING**

**5217.171 (DFARS 217.171) Multiyear contracts for services.**

(a) *10 U.S.C. 2306(g).*

(3) HCAs are delegated the authority to make the determinations described in DFARS 217.171(a)(3).

## **NAVY ACQUISITION PROCEDURES SUPPLEMENT CHANGE #97-12**

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4. NAPS Subpart 5223.1 is deleted, to reflect the FAC 97-15 removal of FAR Subpart 23.1. Additionally, NAPS 5223.405 is changed as follows:

### **PART 5223**

#### **ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

##### **SUBPART 5223.4 USE OF RECOVERED MATERIAL**

###### **5223.405 Solicitation provisions and contract clause**

(b) When using the clause at FAR 52.223-9, contracting officers shall insert the following address into paragraph (c) of the clause:

Commanding Officer  
Naval Facilities Engineering Service Center  
Code 424 CA, 1100 23rd Avenue  
Port Hueneme, CA 93043-4370

5. NAPS Subparts 5225.1 through 5225.4 are revised in their entireties to reflect the FAR Part 25 and DFARS Part 225 rewrites as follows:

### **PART 5225**

#### **FOREIGN ACQUISITION**

##### **SUBPART 5225.1—BUY AMERICAN ACT—SUPPLIES**

###### **5225.103 Exceptions.**

(b) *Nonavailability.*

(2)(ii) Copies of determinations made under FAR 25.103(b)(2) that are submitted to the DAR Council must be submitted via ABM.

###### **5225.103 (DFARS 225.103) Exceptions.**

(b) *Nonavailability.*

(ii)(D) The HCA is the agency head's designee, without power of redesignation, to make and approve determinations for acquisitions estimated to exceed \$2 million.

**SUBPART 5225.2—BUY AMERICAN ACT—CONSTRUCTION MATERIALS**

**5225.202 (DFARS 225.202) Exceptions.**

(a)(1) *Impracticable or inconsistent with the public interest.* The Commander, NAVFACENGCOM is delegated authority to make this determination.

(2) *Nonavailability.* Authority to make nonavailability determinations which would otherwise require approval of the head of the agency is delegated to the Commander, NAVFACENGCOM.

**SUBPART 5225.4—TRADE AGREEMENTS**

**5225.401 (DFARS 225.401) Exceptions.**

(b)(i) Submit requests to USD(AT&L)DP through ABM in the form of a determination and findings.

(ii)(B) Submit a copy of the justification to USD(AT&L)DP through ABM.

**5225.403 (DFARS 225.403) Trade Agreements Act.**

(c)(iii) Submit requests for national interest waivers to the USD(AT&L)DP through ABM in the form of a determination and findings.

6. NAPS 5245.407 is added as follows:

**PART 5245**

**GOVERNMENT PROPERTY**

**SUBPART 5245.4—CONTRACTOR USE AND RENTAL OF GOVERNMENT PROPERTY**

**5245.407 (DFARS 245.407) Non-Government use of plant equipment.**

(a)(ii) HCAs are delegated approval authority. As noted at DFARS 245.407(a)(ii), any redelegation requires the approval of the Office of the Deputy Under Secretary of Defense (Industrial Affairs and Installations).

7. The following editorial changes/corrections are incorporated:

a. Change the references to "USD(A&T)" in NAPS Sections 5201.304, 5201.402, 5202.101, 5209.103, 5225.802 and 5235.006 to "USD(AT&L)."

b. NAPS 5216.505(b)(4) is renumbered to "(b)(5)" to reflect the FAR renumbering of FAC 97-17.

**NAVY ACQUISITION PROCEDURES SUPPLEMENT CHANGE #97-12**

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- c. NAPS Subpart 5225.3 is deleted.
  - d. NAPS 5236.271 is deleted.
  - e. The ABM address cited in NAPS 5245.505-14(c) (S-90) is corrected.
8. NAPS change pages are attached.

## NAVFAC P-68 Contracting Manual

### Part 25—Foreign Acquisition

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#### SUBPART 25.1—BUY AMERICAN ACT—SUPPLIES

##### 25.103 (DFARS) Exceptions.

(a) *Public interest.*

(ii) (B) A determination whether to grant a public interest exception shall be made after consideration of the factors in 10 U.S.C. 2533—

(1) By the EFD/EFA Commander/Commanding Officer or CCO, without power of redelegation, for acquisitions valued at less than \$100,000.

(2) By the Commander, NAVFAC or Acquisition Proponent Director, for acquisitions valued at \$100,000 or more but less than \$1,000,000. Requests for exceptions shall be forwarded to the NAVFAC Acquisition Proponent.

(b) *Nonavailability.*

(ii) The determination must be approved—

(B) By the EFD/EFA Commander/Commanding Officer or CCO, without power of redelegation, if the acquisition is estimated not to exceed \$250,000.

(C) By the Commander, NAVFAC or NAVFAC Acquisition Proponent Director, for acquisitions valued in excess of \$250,000. Requests for exceptions shall be forwarded to the NAVFAC Acquisition Proponent.

#### SUBPART 25.2—BUY AMERICAN ACT -CONSTRUCTION MATERIALS

##### 25.202 (NAPS) Exceptions.

(a) (1) *Impracticable or inconsistent with the public interest.* The EFD/EFA CCO, without power of redelegation, shall make this determination. The contracting officer should ensure that the foreign construction material offered is the same quality as domestic material and, therefore, meets the specification requirements.

(2) *Nonavailability.* The determination must be approved—

(i) By the EFD/EFA Commander/Commanding Officer or CCO, without power of redelegation, for acquisitions estimated not to exceed \$250,000.

(ii) By the NAVFAC Acquisition Proponent Director for acquisitions valued in excess of \$250,000. Requests for exceptions shall be forwarded to the NAVFAC Acquisition Proponent.

(3) *Unreasonable cost.* The NAVFAC Acquisition Proponent Director, without power of redelegation, shall make this determination. Requests for exceptions shall be forwarded to the NAVFAC Acquisition Proponent.

##### 25.202-100 General guidelines.

(a) Requests for exceptions should be obtained prior to solicitation. An exception may be requested after award. The following are examples of when exceptions may be justified after contract award:

(1) Since contract award, the construction product has ceased to be manufactured or produced in the United States.

(2) The specification is incorrect and the required product can only be procured from a foreign source. Include an explanation why an alternative design cannot be used and what steps are being taken to pursue architect-engineer liability.

(3) A change to the contract requires the use of foreign material. Requests shall be forwarded prior to execution of the change.

# NAVFAC P-68 Contracting Manual

## Part 25—Foreign Acquisition

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(4) The difference in the cost of materials between foreign and domestic exceeds the percentage established by the agency per DFARS 225.102.

### SUBPART 25.3—BALANCE OF PAYMENTS PROGRAM

#### **25.302 (DFARS) Policy.**

(2) (i) Before solicitation, the determinations required by FAR 25.303(b) may be made by the Commanders of the Atlantic and Pacific Divisions. This authority may be redelegated only to Vice Commanders and EFD/EFA CCOs. The determination shall be made during the design phase and prior to solicitation.