

FAR
DRAFTING
GUIDE

VERSION 5

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FOREWORD

This guide provides the conventions for writing the Federal Acquisition Regulation (FAR). The guide addresses guidelines for clear writing; structure and format of text, solicitation provisions, and contract clauses; writing conventions; and terminology. For general guidance concerning the drafting of clear and simple regulations, refer to the following documents:

- Office of the Federal Register *Drafting Legal Documents* available via the Internet at <http://www.archives.gov/federal-register/write/legal-docs/>
- Office of the Federal Register *Document Drafting Handbook* available via the Internet at <http://www.archives.gov/federal-register/write/handbook/>
- Plain language web site: <http://www.plainlanguage.gov>
- Government Printing Office *Style Manual*.

This guide implements the President's memorandum of June 1, 1998 (Plain Language in Government Writing). The guide encourages clear and simple writing using—

- Active voice;
- Short sentences and paragraphs;
- Vertical lists; and
- Care in using and placing words.

This guide is effective immediately. All amendments to the FAR should comply with this guide.

CHAPTER 1--FAR DRAFTING PRINCIPLES

(a) Draft changes to the FAR using a uniform structure and style that results in an easily understood and unambiguous regulation.

(b) Limit FAR requirements (including provisions and clauses) to the minimum necessary to—

- (1) Implement statutes and Executive branch policy;
- (2) Correct a critical problem or deficiency; or
- (3) Otherwise add value to the overall procurement process.

(c) If the requirement has limited applicability or broad exclusions, assess whether inclusion of the requirement in the FAR is truly necessary.

CHAPTER 2--CLEAR WRITING

(a) Organize coverage. Organize coverage in a logical manner that will be most useful to your reader.

(b) Use short sentences. A sentence should express one idea clearly. Try to use simple terms to express complex and technical material. Strive to use sentences of 20 words or less. Generally, do not let any one sentence exceed 30 words unless you arrange it in a vertical list.

(c) Use short paragraphs. Limit each paragraph to a single topic. Present complex material in a series of related paragraphs.

(d) Use vertical lists to—

- (1) Highlight important topics;
- (2) Help the reader understand the order in which things happen;
- (3) Make it easy for the reader to identify all necessary steps in a process; and
- (4) Break long sentences or paragraphs into smaller segments for easy reading.

(e) Use the active voice. The active voice eliminates confusion by forcing you to name an "actor." It also makes clear to the reader who has the authority or responsibility. Generally arrange the sentence to name the actor first and then the recipient.

Don't Say: The information must be given to the contractor.

Say: The contracting officer must inform the contractor.

(f) Use words with their most common meaning, if there is no common meaning, define the term.

(g) Do not use different words to denote the same thing. Avoid using varying terminology to refer to something, e.g., avoid using "buying activity," "purchasing operation," "contracting organization," and "procuring office" for the same entity.

(h) References for Additional Writing Conventions.

- Refer to the *Style Manual* of the Government Printing Office for format and style not addressed in this guide.
- The Office of the Federal Register provides additional guidance for regulation writing in *Drafting Legal Documents* and *Document Drafting Handbook*. These documents are available via the Internet at <http://www.nara.gov/fedreg/dldhome.html> and <http://www.nara.gov/fedreg/ddhome.html>, respectively.
- NPR plain language web site: <http://www.plainlanguage.gov>

CHAPTER 3--STRUCTURE

(a) Numbering.

(1) The FAR contains parts, subparts, sections, and subsections. Every FAR section and subsection has an identifying number. The number to the left of the decimal point identifies the part number. The numbers between the decimal point and the dash identify the subpart (one or two digits) and the section (two digits). The number to the right of the dash is the subsection. The following is an example of FAR numbering

14.201-2

Part <=====|

Subpart <=====|

Section <=====|

Subsection <=====|

(2) Identify divisions below the section or subsection level by parenthetical alphanumerics, using the following sequence:

(a)(1)(i)(A)(1)(i).

(3) Do not use unnumbered or unlettered paragraphs, except in sections and subsections containing only one paragraph (see paragraph (d)(2) of this chapter for special treatment of definitions).

(4) Number the "Scope" section of each part by placing three zeros after the decimal point (e.g., number a "Scope" section summarizing Part 12 as "12.000").

(5) If using a "Scope" section to summarize a subpart, number the section by placing two zeros after the subpart number (e.g., number a "Scope" section summarizing Subpart 12.3 as "12.300").

(6) For guidance concerning the numbering of solicitation provisions and contract clauses, see paragraph (e) of this chapter.

(b) Headings. Use informative headings that best describe the contents of the division.

(1) Use a heading for all parts, subparts, sections, and subsections.

(2) When necessary, include at the beginning of a part or subpart, under the most appropriate heading, the circumstances under which the part or subpart applies and any exceptions. This section follows any "Scope" or "Definitions" section.

(3) For multiple paragraphs within a section or subsection—

(i) Use headings when necessary to assist the reader in locating material more easily;

(ii) Be consistent in the use of headings (all paragraphs at the same level of division within any section or subsection either should or should not use headings);

(iii) If using a heading, italicize it and begin the text on the same line, immediately following the heading; and

(iv) When a breakdown into lower divisions follows immediately without any preceding text or heading, place the first lower division designation on the same line as the higher division designation.

Examples:

5.207 Preparation and transmittal of synopses.

(a) *Transmittal.* Contracting officers must . . .

(1) *Electronic transmission.* All synopses transmitted . . .

(2) *Hard copy transmission.* When electronic transmission is . . .

(b) *Format.* The contracting officer must . . .

(1) *General.* Format for all synopses must . . .

(2) *Spacing.* Begin each line flush left . . .

14.409-1 Award of unclassified contracts.

(a)(1) The contracting officer must...

(2) For acquisitions subject to the Trade Agreements Act...

(c) **Scope.** Use a "Scope" section to summarize a part. Generally, it is also useful to include a "Scope" section in a subpart.

(d) **Definitions.**

(1) Enclose a defined term in quotation marks followed by the word "means."

(2) List definitions in alphabetical order and do not number or otherwise identify them. If a definition contains more than one paragraph, number the paragraphs starting with "(1)".

(3) If a term requiring definition in the FAR is used in more than one part, define it in Subpart 2.1. Also see FAR 1.108(a).

(4) If a term, as used in a specific part or subpart, has a different meaning than its common meaning or as it is defined in Subpart 2.1, define it in the part or subpart where it is used.

(i) If defining a single term, use the heading "Definition." and insert the phrase, ", as used in this part (or subpart), means...", after the term.

(ii) If defining multiple terms, use the heading "Definitions." and the introductory phrase, "As used in this part (or subpart)—".

(iii) Place a reference to a definition for a specific part or subpart in Subpart 2.1.

Example:

2.101 Definitions.

"Subcontract" means ...,
except as follows:

(1) For use in 3.502, see the
definition at 3.502-1.

(2) For use in Part 12, see
the definition at 12.001.

(5) Include definitions in a separate "Definitions" section at the beginning of the part or subpart, after the "Scope" section if one is included. Number the "Definitions" section in a part by placing "001" after the decimal point; number this section in a subpart by placing "01" after the subpart number.

(6) See paragraph (e)(2)(v) of this chapter for guidance concerning definitions in solicitation provisions and contract clauses.

(e) Solicitation Provisions and Contract Clauses.

(1) *General.* Use—

(i) "Solicitation provision" or "provision" for items used only in solicitations and applying before award; and

(ii) "Contract clause" or "clause" for items used in both solicitations and contracts, applying after award or both before and after award.

(2) *Text.*

(i) Put the text of all provisions and clauses in Subpart 52.2, following the conventions in this document.

(ii) Direct provisions and clauses to the offeror or contractor. Provisions and clauses must adequately convey the responsibility of the offeror or contractor and must be consistent with the subject text.

(iii) Do not use provisions or clauses to prescribe policy not found in the subject text.

(iv) Provisions and clauses also should stand alone. Do not refer to the subject text of the FAR in provisions and clauses, unless necessary to avoid extremely lengthy repetition of passages verbatim from the subject text.

(v) Include definitions, if needed, in the first paragraph. If defining a term in the subject text and using the term in a provision or clause, include the same definition of the term in the provision or clause. Restrict the definition to use in the provision or clause, because the same term may have a different use in another provision or clause. If defining a single term, use the heading "Definition." and insert the phrase, ", as used in this provision (or clause), means...", after the term. If defining multiple terms, use the heading "Definitions." and the introductory phrase, "As used in this provision (or clause)—".

(vi) Do not include instructions to Government personnel in provisions or clauses, other than instructions to the contracting officer for insertion of text. Provide a blank line for the insertion. Italicize the instructions and enclose them in brackets.

(vii) Do not combine provisions and clauses.

(3) *Numbering*. Identify provisions and clauses in Part 52 by number, title, and date. All FAR provision and clause numbers begin "52.2", since all provisions and clauses appear only in Subpart 52.2. The next two digits correspond to the number of the FAR part where the provision or clause is prescribed. Assign the number following the hyphen sequentially within each section of Subpart 52.2. Alternatively, use a number in the appropriate section identified as "Reserved."

Example:

52.203-2, Certificate of Independent Price Determination.

52 - Part (Invariable)

.2 - Subpart (Invariable)

03 - Identifies the part that prescribes the provision

(Part 3, Improper Business Practices and Personal Conflicts of Interest)

-2 - Indicates that this is the second provision/clause in section 52.203.

(4) *Title*. Give each provision or clause a unique, reasonably short descriptive title based on its contents and application. No two provisions or clauses may have the same title.

(5) *Date*. Include the date of provision or clause codification (*Federal Register* publication) by month (abbreviated to first three letters) and year in parentheses after the provision or clause title, e.g., "(JUN 1996)". Also include a date for each provision or clause alternate. When revising a provision, clause, or alternate, revise its corresponding date. If the date is unknown at the time of drafting, use "(DATE)" instead.

(6) *Prescriptions*.

(i) To make it easier to locate provision and clause prescriptions, consolidate the prescriptions in a subpart, section, or subsection with a separate heading at the end of the text that describes the subject matter.

(ii) Do not prescribe a provision or clause in more than one place in the FAR. Use cross-references if necessary.

(iii) Include in the prescription all conditions, requirements, and instructions for using the provision or clause and any alternates. Also include instructions for any optional use of the provision or clause. For example, consider the following:

(A) Where used (solicitation only, contract only, both).

(B) Requirement (mandatory, optional).

(C) Type of acquisition (purchase, lease).

(D) Purchase procedures (simplified acquisition, sealed bidding, negotiated, competitive, sole source, set-asides).

(E) Acquisition value (estimated, actual).

(F) Dollar threshold (micro-purchase, simplified acquisition, trade agreement).

(G) Type of commodity (e. g., supply, service, construction, research and development, architect-engineer, major system, commercial item).

(H) Type of contract (e.g., firm-fixed-price, fixed-price incentive, cost-plus-fixed-fee, award-fee, time-and-materials).

(I) Location of purchasing office (inside, outside U.S.).

(J) Location of item use (inside, outside U.S.).

(K) Contractor location/place of performance (inside, outside U.S.).

(L) Type of contractor (commercial, nonprofit, educational, Federally Funded Research and Development Center).

(M) Size and status of contractor (e.g., large, small, small disadvantaged, women-owned small business).

(iv) Do not use the word "all" in provision or clause prescriptions unless the provision or clause is required in all solicitations or contracts without exception.

(v) Include in the provision or clause prescription any directions for completing (filling in the blanks) or modifying the provision or clause.

Example:**XX.XXX Solicitation provision and contract clause.**

(a) Insert the provision at [specify number and title] in solicitations for research and development contracts.

(b)(1) Except as provided in paragraph (b)(2) of this section, insert the clause at—

(i) [specify number and title] in solicitations and contracts for supplies valued at less than \$; or

(ii) [specify number and title] in solicitations and contracts for services—

(A) Listed in [specify]; or

(B) Valued at less than \$.

(2) Do not use the clauses in paragraph (b)(1) of this section in--

(i) Solicitations issued and contracts awarded by a contracting office located outside of the United States and its outlying areas, if the supplies will be used or the services will be performed outside of the United States and its outlying areas;

(ii) Acquisitions valued at or below the simplified acquisition threshold that are awarded using simplified acquisition procedures;

(iii) Total small business set-asides;

- (iv) Contracts in support of U.S. national security interests;
- (v) Contracts for essential spare, repair, or replacement parts available only from sanctioned European Union member states; or
- (vi) Contracts for which the head of the agency has made a determination in accordance with [specify].

(7) *Introductory Text.*

Include introductory text for each provision or clause as follows:

- "As prescribed in [insert reference to FAR text where the provision or clause is prescribed], insert the following provision (or clause):"

(8) *Modifications.*

(i) Modifications are slight changes in details that do not alter the substance of the provision or clause.

(ii) To permit modifications to a provision or clause to fit various situations, include in the prescription the authorization to make the modifications, as in—

(A) "The contracting officer may use a period shorter than 60 days (but not less than 30 days) in paragraph (x) of the clause"; or

(B) "The contracting officer may substitute the words "task order" for the word "Schedule" wherever that word appears in the clause."

(9) *Variations.*

(i) Variations are more significant changes that retain the salient features of the provision or clause and that are consistent with the intent, principle, and substance of the provision or clause.

(ii) To permit variations, prescribe the provision or clause on a "substantially the same as" basis.

(10) *Alternates.*

(i) Alternates make substantive changes to a provision or clause, and are specifically provided in the FAR. Alternates operate by deleting language from or adding language to the basic provision or clause, or by substituting language for language in the basic provision or clause.

(ii) Put provision or clause alternates directly after the basic provision or clause.

(iii) Since alternates do not stand alone, word the provision or clause prescription to include both the basic provision or clause and any alternates (e.g., if a clause is prescribed only for fixed-price contracts, it cannot have an alternate for use in cost-reimbursement contracts).

(iv) Do not use the term "basic provision" or "basic clause" in the prescription of a provision or clause alternate. Use the terms in the introductory text of the provision and clause alternates in Part 52. The introductory text gives instructions on the specific changes to be made to the basic provision or clause. After changing the basic provision or clause as required by the introductory text, it no longer is the "basic" provision or clause.

Examples:

(1) *Prescriptions for Clause Alternates.*

"If [specify], use the clause with its Alternate I."

(2) *Introductory Text for Clause Alternates.*

"Alternate I (DATE). As prescribed in [specify], add the following paragraph (d) to the basic clause: [specify]"

"Alternate I (DATE). As prescribed in [specify], substitute the following paragraph (a) for paragraph (a) of the basic clause: [specify]"

"Alternate I (DATE). As prescribed in [specify], delete paragraph (a) of the basic clause and renumber the remaining paragraphs accordingly."

"Alternate I (DATE). As prescribed in [specify], delete the second sentence from paragraph (a) of the basic clause."

"Alternate I (DATE). As prescribed in [specify], delete paragraph (a) of the basic clause, renumber the remaining paragraphs accordingly, and add the following paragraph (g): [specify]"

(11) *Flow Down.*

(i) To flow a clause down to first-tier subcontracts only, use a final paragraph such as—

"(d) The Contractor shall insert the substance of this clause in each first-tier subcontract that exceeds \$100,000."

(ii) To extend the flow down to lower-tier subcontracts, use a final paragraph such as—

"(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$100,000, at any subcontract tier."

(f) Clause Matrix.

The solicitation provisions and contract clauses matrix at FAR 52.301 is a useful tool for contracting officers. To keep the matrix current, include a Matrix Data Form (Exhibit 1) with each proposed FAR revision that adds, deletes, or revises the prescription for a solicitation provision or contract clause.

(g) Forms.

(1) Place optional and standard forms prescribed by the FAR in Part 53. Include in Part 53 only those forms prescribed by the FAR.

(2) Include the prescription for use of a form in the appropriate FAR subject text.

(3) Do not prescribe a form in more than one place in the FAR. Use cross-references if necessary.

(4) Refer to optional and standard forms by number and title, e.g., Standard Form 1449, Solicitation/Contract/Order for Commercial Items, the first time mentioned in a subpart. You may abbreviate subsequent references within the subpart, e.g., SF 1449.

(h) Index.

Identify terms for inclusion in or deletion from the FAR index when drafting an interim or final FAR revision containing or removing any of the following types of terms:

(1) Terms defined in FAR subject text, provisions, or clauses.

(2) Common search terms.

(3) Popular or unique terms applicable to the material, e.g., A-76 or NAFTA.

(4) Major nouns in headings that identify the unique substance of the text.

(5) Terms that explain the purpose or the issue being resolved by the text.

(i) Impact on Commercial and Simplified Acquisition Provisions and Clauses.

(1) When adding, deleting, or amending a clause, consider the impact on the clauses at—

(i) 52.212-4, Contract Terms and Conditions—Commercial Items;

(ii) 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items;

(iii) 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items); and

(iv) 52.244-6, Subcontracts for Commercial Items and Commercial Components.

(2) When adding, deleting, or amending a provision, consider the impact on the provisions at—

(i) 52.212-1, Instructions to Offerors—Commercial Items;

(ii) 52.212-2, Evaluation—Commercial Items; and

(iii) 52.212-3, Offeror Representations and Certifications—Commercial Items.

CHAPTER 4--DRAFTING CONVENTIONS

(a) Avoid overuse of abbreviations. Do not abbreviate terms that you use only a few times in a Part.

(b) Abbreviations/Acronyms.

(1) When using an abbreviation or acronym--

(i) Spell out the word the first time it is used in the text of a subpart; and

(ii) Follow the word with the abbreviation or acronym in parentheses, e.g., Internal Revenue Service (IRS).

(2) Well-known, universally familiar abbreviations and acronyms need not be spelled out, e.g., U.S., DoD, NASA, and OMB. (But only abbreviate "U.S." when used as an adjective.)

(3) Do not put an abbreviation or acronym in a title, unless it is a well-known, universally familiar abbreviation or acronym.

(4) Use "i.e." to mean "that is" and use "e.g." to mean "for example."

(5) The Government Printing Office *Style Manual* provides correct abbreviations for many standard terms. Check to see whether periods are included in the abbreviation. Some common abbreviations:

Code of Federal	CFR
-----------------	-----

Regulations	
Executive order	E.O. (If identifying a specific Executive Order. Otherwise, use a lower case "o")
Public Law	Pub. L.
Standard Form	SF
United States Code	U.S.C.

(c) Addresses.

If it is necessary to include an address in the FAR, use the following format:

(1) For a mailing address:

General Services Administration

Federal Supply Service

Specifications Section

Suite 8100

470 East L'Enfant Plaza, SW

Washington, DC 20407

(2) For an Internet address:

"... is available via the Internet at <http://...>"

(d) Capitalization.

(1) Use a capital letter to begin the first word of a section, subsection, or paragraph heading and the first word of each item in a vertical list. Capitalize other words of a heading or vertical list only if required for other reasons.

(2) Use a capital letter to begin each major word of a subpart heading.

(3) Write names of parts, provisions, clauses, and forms entirely in capital letters when they appear as titles. When referring to them in text material or in headings, capitalize only the major words (e.g., see the clause entitled "Restrictions on Certain Foreign Purchases").

(4) Capitalize the following terms:

(i) "State" when referring to one of the fifty United States, whether or not a specific State is intended.

(ii) "Government" or "Department" when referring to specific national governmental units. (When capitalized, "Government" refers to the U.S. Government).

(iii) "Contractor" and "Contracting Officer" only in acquisition forms, solicitation provisions, and contract clauses.

(iv) "Schedule" when referring to that part of a contract (Part I of the uniform contract format).

(5) Unless capitalization is required for other reasons do not capitalize—

(i) "Title," "chapter," subchapter," "part," and "subpart" even when they are followed by the number of the division. This is a change from previous usage. (per GPO Style Manual) Also, as previously, the word "section," "subsection," or "paragraph," whether or not a number follows.

(ii) Words naming individuals in a general sense, such as head of an agency, contractor, contracting officer, offeror, supplier, architect, or engineer;

(iii) Words referring to an entity in a general sense, such as a department, an agency, or a possession;

(iv) The word "government" when referring to State, local, or foreign governments;

(v) The word "clause" when citing a specific clause by name, such as "Termination clause"; or

(e) Cross-References.

(1) Use cross-references only when necessary to ensure comprehensive understanding of the meaning of the guidance or to save excessive repetition.

(2) When using cross-references, refer to a—

(i) Part or subpart by the title "part" or "subpart," respectively, followed by the part or subpart number, e.g., "part 22" or "subpart 22.10";

(ii) Section by the number only, e.g., "22.1012" or "22.1012-2";

(iii) Paragraph within a section, provision, or clause by using the following format: "paragraph (a) of this section (provision, or clause);

(iv) Paragraph of another section by the section number followed by the paragraph designation, e.g., "22.1012-3(d)(2)"; and

(v) Paragraph of a provision or clause, in the subject text, by the paragraph designation and provision or clause number and title, e.g., "paragraph (a) of the clause at 52.222-50, Nondisplacement of Qualified Workers."

(3) Use the term "paragraph" to refer to all levels of paragraph division. Do not use the term "subparagraph."

(4) Do not use terms such as "herein," "above," "below," and "as set forth elsewhere."

(5) When referring to a designation that is uncertain at the time of drafting, insert an "X" in the uncertain part of the designation, e.g., SF XXXX, 4.804-X, or 52.204-X. Use "Y" or "Z" as necessary to refer to additional uncertain designations, e.g., SF XXXY, 4.804-Y, 4.804-Z, 52.204-Y, 52.204-Z.

(f) Dates.

Write dates included in text in the sequence of month, day, and year, e.g.,

"June 27, 2010."

Abbreviate dates following provision and clause titles, using the following format: "(JUN 2010)."

(g) Delegation of Authority.

Individuals granted authority in the FAR may delegate that authority, unless the FAR specifically states that the authority is not delegable. See FAR 1.108(b). Therefore, do not use terms such as "the agency head or a designee" or "the agency head or an authorized representative" for functions that are delegable; and clearly identify functions that are not delegable.

(h) Dollar Thresholds.

(1) Dollar thresholds in the FAR include the value of the basic contract and all p options, unless otherwise specified. (see FAR 1.108(c).)

(2) Use terms such as "exceeding," "or more," "less than," or "or less" to define thresholds based on dollar amount.

(3) Statutory acquisition-related thresholds are adjusted for inflation every 5 years. Some acquisition-related threshold based on policy are also escalated at the same time. Thresholds established by Executive order are not subject to automatic escalation. See FAR 1.109.

Examples:

The contracting officer must request a report for each proposal exceeding \$500,000.

If the contractor received contracts or subcontracts totaling \$50 million or more,

If the contract amount is \$150,000 or less,

Use the clause at . . . in solicitations and contracts if the expected value of the contract exceeds the micro-purchase threshold but does not exceed \$30,000.

(i) Gender.

Do not use gender-specific terminology.

(j) Numbers.

(1) When a number is spelled out, do not repeat it in figures, e.g., "two (2)." Instead, just use "two."

(2) Express dollars as figures, e.g., \$186,000; do not spell out except large even amounts, e.g., "\$20 million."

(k) Punctuation.

(1) *Periods*. Insert periods after headings.

(2) *Colons, semi-colons, and dashes*. Use colons or dashes to introduce vertical lists.

(i) If the introductory language of a vertical list is a complete sentence (as in this example), use the following conventions:

(A) End the introduction with a colon.

(B) Do not connect items by conjunctions.

(C) End each item with a period, unless the last item introduces another list, in which case the last item ends with a dash or a colon.

(ii) If the introductory language of a vertical list is not a complete sentence (as in this example)—

(A) End the introduction with a dash;

(B) End all but the last item with a semicolon;

(C) Connect the last two items with a conjunction; and

(D) End the last item with a period, unless it introduces another list, in which case the last item ends with a dash or colon.

(I) Quotations.

(1) Use quotation marks to enclose a direct quotation.

(2) Place periods and commas inside the closing quotation mark. Place semicolons and colons outside the closing quotation mark. The only exception to this rule is when showing changes to current FAR language where the punctuation is not part of the revised material.

Examples:

Do not use terms such as "herein," "above," "below," and "as set forth elsewhere."

Review the following items in the file labeled "In Process": the latest draft agreement and activity comments.

Amend Part 13 by deleting the words "small purchase limitation" and inserting the words "simplified acquisition threshold".

(m) References to Statutes, Executive Orders, and Regulations.

(1) *General.* When a FAR text segment, provision, or clause implements a statute, Executive order, OMB circular, OFPP policy letter, or relevant portion of the Code of Federal Regulations, cite that authority. (2) *Citations in text.* To make it easier to refer to sources, observe the following guidelines when citing specific authorities:

(i) Place a parenthetical citation pertaining to a single sentence at the end of the sentence, before the period. If the citation relates only to part of the sentence, place the citation immediately after that part of the sentence. Place a citation relating to an entire paragraph at the end of the paragraph, following the final period.

(ii) Do not use the term "as amended" in a citation. Citations include reference to all applicable amendments unless otherwise stated. (See FAR 1.108(e).)

(3) *Federal statutes.* Cite Federal statutes observing the following rules:

(i) Normally use the short title or popular name of the act first.

(ii) If the statute is in the United States Code and the citation is not cumbersome, cite the United States Code without the public law number.

Examples:

Anti-Deficiency Act (31 U.S.C. 1341)

Clean Air Act (42 U.S.C. 7401, *et seq.*)

Javits-Wagner-O'Day Act (41 U.S.C. 46-48c)

(iii) If a statute appears in many scattered sections or titles of the United States Code and citation to all parts would be cumbersome, give the public law number.

(iv) If only one section or paragraph of a statute is relevant, cite that section or paragraph specifically.

(v) If a statute is not in the United States Code, give the public law number.

Examples:

Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355)

Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423)

(4) *Executive orders.* Cite an Executive order by its number, date, and title, as they appear in the Executive Order, e.g., Executive Order 12969 of August 8, 1995, Federal Acquisition and Community Right-To-Know. When citing an

Executive order in the Federal Register, also provide the cite for date and location of publication in the Federal Register (e.g., 76 FR 3255, April 5, 2011).

(n) Telephone and Facsimile Numbers.

Telephone and facsimile numbers change often. Therefore, include them in the FAR only when necessary.

CHAPTER 5--FAR TERMINOLOGY

Certification/representation.

(a) The FAR uses various forms of affirmation when requiring an offeror or contractor to provide assurance regarding the accuracy of information provided to the Government. "**Certification,**" "**representation,**" and "**declaration**" are common terms of affirmation.

(b) Congress has specifically prohibited the requirement for a "**certification**" by a contractor or offeror unless—

(1) The "**certification**" is required by statute; or

(2) The FAR Council obtains approval of the "**certification**" requirement from the OFPP Administrator. Sufficient justification must exist to support the request.

(c) The limitations regarding "**certification**" also apply when implementing a Federal agency regulation or other policy directive, including an Executive order that contains a "**certification**" requirement. If a statute does not impose the "**certification,**" the OFPP Administrator must approve the "**certification**" requirement.

(d) Restrict the use of other terms of affirmation. Use the term "**represents**" when asking the offeror to provide information upon which the Government will rely in awarding a contract. The imposition of such a requirement does not need approval by the OFPP Administrator, but provide a justification for the requirement in the background section of the *Federal Register* notice.

(e) Do not use the term "warranty" when referring to an affirmation that is a certification or representation. For usage of the term "warranty," see the end of this section.

Contractor. Use "**contractor**" to refer to the prime contractor only. (Also see "Potential offeror, offeror, prospective contractor, contractor.")

Offer/bid/proposal/quotation.

(a) When referring to a response solely to—

- (1) An invitation for bids (IFB), use the term "**bid**";
- (2) A request for proposals (RFP), use the term "**proposal**";
- (3) A request for quotations (RFQ), use the term "**quote**" or "**quotation**."

(b) When referring to responses to both IFBs and RFPs, use the term "**offers**."

(c) When referring to responses to IFBs, RFPs, and RFQs, use the term "**offers and quotes**."

Offeror/bidder/quoter.

(a) When referring to a respondent solely to—

- (1) An IFB, use the term "**bidder**";
- (2) A RFP, use the term "**offeror**";
- (3) A RFQ, use the term "**quoter**."

(b) When referring to respondents to both IFBs and RFPs, use the term "**offerors**."

(c) When referring to respondents to IFBs, RFPs, and RFQs, use the term "offerors and quoters."

Potential offeror/offeror/prospective contractor/contractor. Distinguish between these as follows: A "**potential offeror**" is an entity that possibly will submit an offer to perform a contract. Once an entity submits an offer, that entity becomes an "**offeror**." A "**prospective contractor**" is one being considered or tentatively

selected for award but to whom award has not yet been made. A "**contractor**" is one to whom award has been made.

Shall/must/ should/will/may.

(a) Use the term "**shall** " to indicate an obligation to act. In the FAR, "**shall**" and "**must**" have the same meaning. "**Shall**" is the preferred term to use In provisions and clauses, do not state an obligation for the Government to act. State that the Government "will."

(b) Use the term "**should**" to indicate an expected course of action or policy to be followed unless inappropriate for a particular circumstance.

(c) Use "**will**" to indicate an anticipated future action or result.

(d) Use "**may**" to indicate a discretionary action.

Solicitation. Use the term "**solicitation**" to refer to an invitation for bids, a request for proposals, or request for quotations. Use the more limited term, i.e., invitation for bids, if the policy only applies in sealed bidding, or request for proposals (or request for quotations, as appropriate), if the policy only applies to negotiation.

Solicitation amendment/ contract modification. Use—

(a) "**Amendment**" to refer to a change made to a solicitation before contract award (FAR 14.208 and 15.206).

(b) "**Contract modification**" to refer to a written change to the terms of a contract.

Warranty. Use the term "**warranty**," only when referring to a contractor's promise or affirmation regarding the nature, usefulness, or condition of supplies or services furnished under a contract, does not require separate justification. Do not use the term when referring to an affirmation that is a certification or representation.

CHAPTER 6 - PROPER USE OF ASTERISKS

If you add or revise only certain units of a section, the amendatory language must state exactly which units are added or revised, and only those units are printed. Use asterisks to represent text which is not changed.

Use of 5 asterisks. Use 5 asterisks to show that a whole paragraph, including its subordinate paragraphs, is not changed.

In this example, the 5 asterisks before revised paragraph (d) show that paragraphs (a), (b) and (c) remain unchanged. The 5 asterisks that follow revised paragraph (d) show that the remaining text in the section is also unchanged.

Example: Use of 5 asterisks.

Revise paragraph (d) of 166.15 to read as follows:

166.15 State status.

* * * * *

(d) The following States issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, but do not have primary enforcement responsibility under the Act: Kentucky, Maryland, Puerto Rico, Texas, and Washington.

* * * * *

Use of 3 asterisks. Use 3 asterisks when you change text at a subordinate level. This shows that the higher level paragraphs remain unchanged.

In this example, the 5 asterisks before paragraph (b) show that paragraph (a) remains unchanged. The 3 asterisks following "(b)" show that (b)(1) through (b)(4) remain unchanged, and the 3 asterisks following "(5)" show that the introductory text of (b)(5) is unchanged.

The 5 asterisks that follow revised paragraph (b)(5)(i) show that the remaining text in the section is unchanged.

Example: Use of 3 asterisks.

Revise 202.3(b)(5)(i) to read as follows:

202.3 Registration of copyright.

* * * * *

(b) * * *

(5) * * *

(i) The Library of Congress receives two complimentary copies promptly after publication of each issue of the serial.

* * * * *

We strongly recommend that you use no more than 3 paragraph levels. Use of more than 3 paragraph levels makes your rule hard to read and use.

The smallest unit you may revise is a sentence. When you revise only a sentence of a paragraph, use 3 asterisks to show that the remaining sentences in the paragraph are unchanged.

Example:

Revise the first sentence of 416.916 to read as follows:

416.916 What will happen if I fail to submit medical and other evidence?

You (and, if you are a child, your parent, guardian, relative, or other person acting on your behalf) must cooperate in furnishing us with, or in helping us to obtain or identify, available medical or other evidence about your impairment(s). * * *

Example: Use of both 3 and 5 asterisks in the same document.

PART 216--REGULATIONS GOVERNING THE TAKING Part Heading
AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 Authority Citation
continues to read as follows:

Authority: 16 U.S.C. 1361-1407.

2. Revise paragraph (b)(1)(v), the Amendatory Language
first sentence of paragraphs (b)(3)
and (c)(2), and paragraph (c)(4)(i)
introductory text; and add paragraph
(b)(1)(vi) to 216.24 to read as follows:

216.24 Taking and related acts Section Heading
incidental to commercial fishing
operations.

* * * * * Indicates Paragraph
(a) Unchanged

(b) * * * Indicates Paragraph
(b) Introductory Text
Unchanged

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- (1) * * * Indicates Paragraph (b)(1) Introductory Text And (b)(1)(I) through (Iv) Unchanged
- (v) Category 5: Other gear. Commercial fishing operations utilizing trolling, gillnets, hook and line gear, and any gear not classified under paragraphs (b)(1)(i) and (b)(1)(ii) of this section. Revises Paragraph (b)(1)(v)
- (vi) Category 6: Commercial passenger fishing vessel operation. Commercial fishing operations from a commercial passenger fishing vessel for the purpose of active sport fishing as defined in 216.3. Adds Paragraph (b)(1)(vi)
- * * * * * Indicates Paragraph (b)(2) Unchanged
- (3) Submit the original and two copies of the application for general permit to the Assistant Administrator. * * * Indicates Remainder of Paragraph (b)(3) Unchanged
- * * * * * Indicates Paragraphs (b)(4) through (7) Unchanged
- (c) * * * Indicates Paragraph (c) Introductory Text and (c)(1) Unchanged
- (2) Operator's certificate of inclusion. You must hold a valid operator's certificate of inclusion if you are the person in charge of and actually controlling fishing operations (after this referred to as the operator) on a vessel engaged in commercial fishing operations for which a Category 2 or Category 6 general permit is required under this subpart. You may not transfer this certificate. You have a valid certificate only for a vessel having a valid vessel certificate of inclusion for the same category. In order to receive a certificate of inclusion, the operator must satisfactorily complete required training. You must renew your operator's certificate of inclusion annually. Revises Paragraph (c)(2).
- * * * * * Indicates Paragraph (c)(3) Unchanged
- (4) * * * Indicates Paragraph

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(i) Category 1, 3, 4, 5, and 6 applications:

* * * * *

(c)(4) Introductory
Text Unchanged

Revises Paragraph
(c)(4)(i)
Introductory Text

Indicates Remainder of
Section Unchanged