

# Subpart 52.1 - Instructions for Using Provisions and Clauses

Parent topic: [Part 52 - Solicitation Provisions and Contract Clauses](#)

## 52.100 Scope of subpart.

This subpart-

- (a) Gives instructions for using [part 52](#), including the explanation and use of provision and clause numbers, prescriptions, prefaces, and the matrix;
- (b) Prescribes procedures for incorporating, identifying, and modifying provisions and clauses in *solicitations* and contracts, and for using *alternates*; and
- (c) Describes the derivation of FAR provisions and clauses.

## 52.101 Using Part 52.

(a) *Definition*. "Modification," as used in this subpart, means a minor change in the details of a provision or clause that is specifically authorized by the FAR and does not alter the substance of the provision or clause (see [52.104](#)).

(b) *Numbering*—

(1) *FAR provisions and clauses*. [subpart 52.2](#) sets forth the text of all FAR provisions and clauses, each in its own separate subsection. The subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the FAR. Each FAR provision or clause is uniquely identified. All FAR provision and clause numbers begin with "52.2," since the text of all FAR provisions and clauses appear in [subpart 52.2](#). The next two digits of the provision or clause number correspond to the number of the FAR subject part in which the provision or clause is prescribed. The FAR provision or clause number is then completed by a hyphen and a sequential number assigned within each section of [subpart 52.2](#). The following example illustrates the makeup of the FAR provision or clause number (see Figure 1 below).

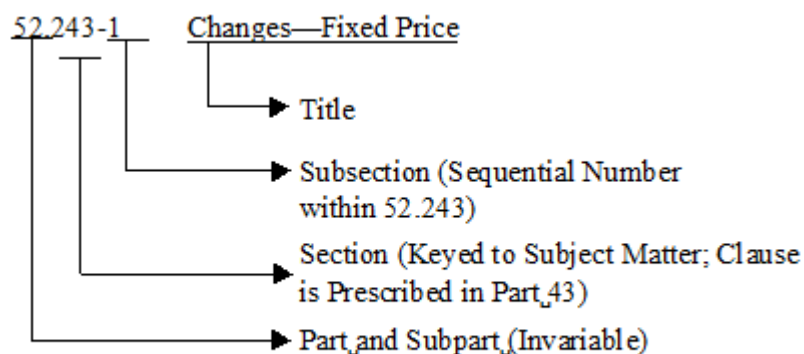


Figure 1

(2) *Provisions or clauses that supplement the FAR.*

(i) Provisions or clauses that supplement the FAR are-

(A) Prescribed and included in authorized agency *acquisition* regulations issued within an agency to satisfy the specific needs of the agency as a whole;

(B) Prescribed and included in a regulation issued by a suborganization of an agency to satisfy the needs of that particular suborganization; or

(C) Developed for use at a suborganizational level of an agency, not meant for repetitive use, but intended to meet the needs of an individual *acquisition* and, thus, impractical to include in either an agency or suborganization *acquisition* regulation. (See [1.301\(c\)](#).)

(ii) Supplemental provisions or clauses published in agency *acquisition* regulations *shall* be in full text and the prescription for the use of each *shall* be included. Supplemental provisions or clauses published in agency *acquisition* regulations *shall* be numbered in the same manner in which FAR provisions and clauses are numbered except that-

(A) If it is included in an agency *acquisition* regulation that is published in the *Federal Register* and is codified in Title 48, *Code of Federal Regulations* (48 CFR), the number *shall* be preceded by the chapter number within 48 CFR assigned by the CFR staff; and

(B) The sequential number *shall* be "70" or a higher number (see [1.303](#)).

(iii) The sequential number at the end of the number of a provision or clause that supplements the FAR, like its counterpart at the end of any FAR provision or clause number, indicates the subsection location of the provision or clause in [subpart 52.2](#) of the agency *acquisition* regulation that contains its full text. If, for example, an agency *acquisition* regulation contains only one provision followed by only one clause supplementing the FAR in its section [52.236](#) (*Construction and Architect-Engineer Contracts*), then the sequential numbers would be "70" for the provision and "71" for the clause.

(c) *Prescriptions*. Each provision or clause in [subpart 52.2](#) is prescribed at that place in the FAR text where the subject matter of the provision or clause receives its primary treatment. The prescription includes all conditions, requirements, and instructions for using the provision or clause and its *alternates*, if any. The provision or clause *may* be referred to in other FAR locations.

(d) *Introductory text*. Within [subpart 52.2](#), the introductory text of each provision or clause includes a cross-reference to the location in the FAR subject text that prescribes its use.

(e) Matrix.

(1) The matrix in [subpart 52.3](#) contains a column for each principal type and/or purpose of contract (*e.g.*, fixed-price supply, cost reimbursement research and development). The matrix lists the-

(i) Required *solicitation* provisions;

(ii) Required-when-applicable *solicitation* provisions;

(iii) Optional *solicitation* provisions;

(iv) Required *contract clauses*;

(v) Required-when-applicable *contract clauses*; and

(vi) Optional *contract clauses*.

(2) For each provision or clause listed, the matrix provides information on-

(i) Whether incorporation by reference is or is not authorized (see [52.102](#));

(ii) The section of the Uniform Contract Format (UCF) in which it is to be located, if it is used in an *acquisition* that is subject to the UCF;

(iii) Its number;

(iv) The citation of the FAR text that prescribes its use; and

(v) Its title.

(3) Since the matrix does not provide sufficient information to determine the applicability of a provision or clause in the "required-when-applicable" and "optional" categories, *contracting officers shall* refer to the FAR text (cited in the matrix) that prescribes its use.

(4) The FAR matrix *may* be reproduced at agency levels, and at subordinate levels, for the purpose of supplementing it with agency-developed provisions and clauses. The resulting consolidated matrices *may* be included in agency *acquisition* regulations.

(f) *Dates*. Since they are subject to revision from time to time, all provisions, clauses, and *alternates* are dated; *e.g.*, (Dec 1983). To avoid questions concerning which version of any provision, clause, or *alternate* is operative in any given *solicitation* or contract, its date *shall* be included whether it is incorporated by reference or in full text.

## **52.102 Incorporating provisions and clauses.**

(a) Provisions and clauses *should* be incorporated by reference to the maximum practical extent, rather than being incorporated in full text, even if they-

(1) Are used with one or more *alternates* or on an optional basis;

(2) Are prescribed on a "*substantially as follows*" or "substantially the same as" basis, provided they are used verbatim;

(3) Require modification or the insertion by the Government of fill-in material (see [52.104](#)); or

(4) Require completion by the *offeror* or prospective contractor. This instruction also applies to provisions completed as annual representations and certifications.

(b) Except for provisions and clauses prescribed in [52.107](#), any provision or clause that can be accessed electronically by the *offeror* or prospective contractor *may* be incorporated by reference in *solicitations* and/or contracts. However, the *contracting officer*, upon request, *shall* provide the full text of any provision or clause incorporated by reference.

(c) Agency approved provisions and clauses prescribed in agency *acquisition* regulations, and provisions and clauses not authorized by [subpart 52.3](#) to be incorporated by reference, need not be

incorporated in full text, provided the *contracting officer* includes in the *solicitation* and contract a statement that-

(1) Identifies all provisions and clauses that require completion by the *offeror* or prospective contractor;

(2) Specifies that the provisions and clauses *must* be completed by the *offeror* or prospective contractor and *must* be submitted with the quotation or *offer*; and

(3) Identifies to the *offeror* or prospective contractor at least one electronic address where the full text *may* be accessed.

(d) An agency *may* develop a group listing of provisions and clauses that apply to a specific category of contracts. An agency group listing *may* be incorporated by reference in *solicitations* and/or contracts in lieu of citing the provisions and clauses individually, provided the group listing is made available electronically to *offerors* and prospective contractors.

(e) A provision or clause that is not available electronically to *offerors* and prospective contractors *shall* be incorporated in *solicitations* and/or contracts in full text if it is-

(1) A FAR provision or clause that otherwise is not authorized to be incorporated by reference (see [sub part 52.3](#)); or

(2) A provision or clause prescribed for use in an agency *acquisition* regulation.

(f) Provisions or clauses *may* not be incorporated by reference by being listed in the-

(1) Provision at [52.252-3](#), Alterations in *Solicitations*; or

(2) Clause at [52.252-4](#), Alterations in Contract.

## **52.103 Identification of provisions and clauses.**

(a) Whenever any FAR provision or clause is used without deviation in a *solicitation* or contract, whether it is incorporated by reference or in full text, it *shall* be identified by number, title, and date. This identification *shall* also be used if the FAR provision or clause is used with an authorized deviation, except that the *contracting officer shall* then insert "(DEVIATION)" after the date. Solicited firms and contractors will be advised of the meaning of this insertion through the use of the (1) provision at [52.252-5](#), Authorized Deviations in Provisions, or (2) clause at [52.252-6](#), Authorized Deviations in Clauses. The above mentioned provision and clause are prescribed in [52.107\(e\)](#) and (f).

(b) Any provision or clause that supplements the FAR whether it is incorporated by reference or in full text *shall* be clearly identified by number, title, date, and name of the regulation. When a supplemental provision or clause is used with an authorized deviation, insert "(DEVIATION)" after the name of the regulation.

(c) A provision or clause of the type described in [52.101\(b\)\(2\)\(i\)\(C\)](#) *shall* be identified by the title, date, and the name of the agency or suborganization within the agency that developed it.

(d) Except for provisions or clauses covered by [52.103\(c\)](#), the following hypothetical examples illustrate how a provision or clause that supplements the FAR *shall* be identified when it is

incorporated in *solicitations* and/or contracts by reference or in full text:

(1) If part 14 (Sealed Bidding) of the X Agency *Acquisition* Regulation, published in the *Federal Register* and codified as Chapter 99 in 48 CFR, prescribes the use of a provision entitled "Bid Envelopes," dated October 1983, and that provision is sequentially the first provision or clause appearing in Section 52.214 of the X Agency *Acquisition* Regulation, then the identification of that provision *shall* be "9952.214-70-Bid Envelopes (Oct 1983)."

(2) Assume that Y, a major organizational element of the X Agency, is authorized to issue the Y *Acquisition* Regulation, which is not published in the *Federal Register* and codified in 48 CFR. If part 36 (*Construction* and Architect-Engineer Contracts) of the Y *Acquisition* Regulation prescribes the use of a clause entitled "Refrigerated Display Cases," dated March 1983, pertaining to a specialized type of *construction* work, and that clause is sequentially the second provision or clause appearing in Section 52.236 of the Y *Acquisition* Regulation, then the identification of that clause *shall* be "52.236-71-Refrigerated Display Cases (Mar 1983)-Y *Acquisition* Regulation."

## **52.104 Procedures for modifying and completing provisions and clauses.**

(a) The *contracting officer* must not modify provisions and clauses unless the FAR authorizes their modification. For example-

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

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

(b) When modifying provisions or clauses incorporated by reference, insert the changed wording directly below the title of the provision or clause identifying to the lowest level necessary (*e.g.*, paragraph, sentence, word), to clearly indicate what is being modified.

(c) When modifying provisions or clauses incorporated in full text, modify the language directly by substituting the changed wording as permitted.

(d) When completing blanks in provisions or clauses incorporated by reference, insert the fill-in information directly below the title of the provision or clause identifying to the lowest level necessary to clearly indicate the blanks being filled in.

(e) When completing blanks in provisions or clauses incorporated in full text, insert the fill-in information in the blanks of the provision or clause.

## **52.105 Procedures for using alternates.**

(a) The FAR accommodates a major variation in a provision or clause by use of an *alternate*. The FAR prescribes *alternates* to a given provision or clause in the FAR subject text where the provision or clause is prescribed. The *alternates* to each provision or clause are titled "*Alternate I*," "*Alternate II*," "*Alternate III*," etc.

(b) When an *alternate* is used, its date *shall* be cited along with the date of the basic provision or clause; *e.g.*, 52.209-3 *First Article Approval-Contractor Testing* (Oct 1983)-*Alternate I* (Dec 1983).

(c) Under certain circumstances, a provision or clause *may* be used with two or more *alternates*. In these circumstances, each of the applicable *alternates shall* be cited, whether incorporated by reference or in full text; *e.g.*, 52.209-3 *First Article Approval-Contractor Testing* (Oct 1983)-*Alternate I* (Dec 1983) and *Alternate II* (Feb 1984). However, under no circumstances *may* an *alternate* to a specific provision or clause be applied to any other provision or clause.

## **52.106 [Reserved]**

## **52.107 Provisions and clauses prescribed in subpart 52.1.**

(a) The *contracting officer shall* insert the provision at 52.252-1, *Solicitation Provisions Incorporated by Reference*, in *solicitations* in order to incorporate provisions by reference.

(b) The *contracting officer shall* insert the clause at 52.252-2, *Clauses Incorporated by Reference*, in *solicitations* and contracts in order to incorporate clauses by reference.

(c) The *contracting officer shall* insert the provision at 52.252-3, *Alterations in Solicitation*, in *solicitations* in order to revise or supplement, as necessary, other parts of the *solicitation* that apply to the *solicitation* phase only, except for any provision authorized for use with a deviation.

(d) The *contracting officer shall* insert the clause at 52.252-4, *Alterations in Contract*, in *solicitations* and contracts in order to revise or supplement, as necessary, other parts of the contract, or parts of the *solicitations* that apply to the contract phase, except for any clause authorized for use with a deviation.

(e) The *contracting officer shall* insert the provision at 52.252-5, *Authorized Deviations in Provisions*, in *solicitations* that include any FAR or supplemental provision with an authorized deviation. Whenever any FAR or supplemental provision is used with an authorized deviation, the *contracting officer shall* identify it by the same number, title, and date assigned to the provision when it is used without deviation, include regulation name for any supplemental provision, except that the *contracting officer shall* insert "(DEVIATION)" after the date of the provision.

(f) The *contracting officer shall* insert the clause at 52.252-6, *Authorized Deviations in Clauses*, in *solicitations* and contracts that include any FAR or supplemental clause with an authorized deviation. Whenever any FAR or supplemental clause is used with an authorized deviation, the *contracting officer shall* identify it by the same number, title, and date assigned to the clause when it is used without deviation, include regulation name for any supplemental clause, except that the *contracting officer shall* insert "(DEVIATION)" after the date of the clause.