

CHANGE REQUEST COVER SHEET

Change Request Number: 11-13

Date Received: 12/6/2010

Title: Tailoring of Mandatory Clauses and Provisions

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Policy OR Guidance: Policy

Section/Text Location Affected: 3.13.2.1

Summary of Change: AMS Policy 3.13.2.1 is revised to expressly allow a Contracting Officer to make a determination to tailor or remove an AMS clause that has a mandatory prescription.

Reason for Change: The change is made to clarify that Contracting Officers are allowed to tailor or remove an AMS clause that has a mandatory prescription upon making a "rational basis" determination and obtaining approval from (i) the AGC and (ii) the chief of the contracting office (COCO). The clarification is needed in response to a contrary interpretation in a decision from the ODRA in Protest of Adstech 09-ODRA-00508.

Development, Review, and/or Concurrence: The document was reviewed by the Procurement Policy Team manager, AGC-500 and ARC (ALO-400). Each group concurred.

Target Audience: The intended audience is all AMS Policy users.

Potential Links within FAST for the Change: None

Briefing Planned: No

ASAG Responsibilities: Approve

Potential Links within FAST for the Change: None

Links for New/Modified Forms (or) Documents (LINK 1)

Links for New/Modified Forms (or) Documents (LINK 2)

Links for New/Modified Forms (or) Documents (LINK 3)

SECTIONS EDITED:

Acquisition Management Policy:

Section 3.13.2.1 : AMS Contract Clauses and Provisions [\[Old Content\]](#)[\[New Content\]](#)

[\[RedLine Content\]](#)

SECTIONS EDITED:

Section 3.13.2.1 : FAA Contract Clauses and Provisions

Old Content: Acquisition Management Policy:

Section 3.13.2.1 : FAA Contract Clauses and Provisions

FAA clauses and provisions should be used when applicable in screening information requests and contracts and should be consistent with the procurement guidance and prescriptions in the FAST Procurement Toolbox.

New Content: Acquisition Management Policy:

Section 3.13.2.1 : AMS Contract Clauses and Provisions

AMS clauses and provisions used in screening information requests and contracts must be consistent with the procurement guidance and prescriptions in the FAST Procurement Toolbox, unless there is an approved rational basis for adopting a different approach. The General Counsel's office and Chief of the Contracting Office must approve in advance each such rational basis determination regarding the use or tailoring of a mandatory clause or provision.

Red Line Content: Acquisition Management Policy:

Section 3.13.2.1 : ~~FAA~~AMS Contract Clauses and Provisions

~~FAA~~AMS clauses and provisions ~~should be~~ used ~~when applicable~~ in screening information requests and contracts ~~and should~~must be consistent with the procurement guidance and prescriptions in the FAST Procurement Toolbox, *unless there is an approved rational basis for adopting a different approach. The General Counsel's office and Chief of the Contracting Office must approve in advance each such rational basis determination regarding the use or tailoring of a mandatory clause or provision.*
