



**DEPARTMENT OF TRANSPORTATION**

**4910-9X**

**Office of the Secretary**

**48 CFR Parts 1201 and 1202**

**[Docket No. OST-2014-0119]**

**RIN 2105-AE34**

**Organization and Delegation of Powers and Duties in the Transportation Acquisition Regulation**

**AGENCY:** Office of the Secretary (OST), Department of Transportation (DOT).

**ACTION:** Final rule.

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**SUMMARY:** This rule amends the Transportation Acquisition Regulation (TAR) to reflect the elevation of the Research and Innovative Technology Administration into the Office of the Secretary, creating the Office of the Assistant Secretary for Research and Technology. The amendment to TAR allows the Assistant Secretary for Research and Technology to have the same authority as the former Research and Innovative Technology Administrator. The change provides the Office of the Assistant Secretary for Research and Technology (formerly the Research and Innovative Technology Administration) the same authority as an Operating Administration, and provides the Assistant Secretary for Research and Technology to have the same authority as a Head of an Operating Administration.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Lenita Ahmadi, Office of the Senior

Procurement Executive, M-61, 1200 New Jersey Ave, SE, Washington, DC 20950, (202) 366-4974.

**SUPPLEMENTARY INFORMATION:** This final rule reflects changes made in Public Law 113-76, Division L, Title I—Department of Transportation, which states, “Notwithstanding section 102 of title 49 and section 5315 of title 5, United States Code, there shall be an Assistant Secretary for Research and Technology within the Office of the Secretary, appointed by the President with the advice and consent of the Senate, to lead such office: *Provided further*, that any reference in law, regulation, judicial proceedings, or elsewhere to the Research and Innovative Technology Administration shall be deemed to be a reference to the Office of the Assistant Secretary for Research and Technology of the Department of Transportation.”

Accordingly, the Transportation Acquisition Regulation (TAR) has been revised to update references of the Research and Innovative Technology Administration to references of the Assistant Secretary for Research and Technology. This rule also provides for the Assistant Secretary for Research and Technology to have the same authority under TAR as the former Research and Innovative Technology Administrator.

#### **A. Background**

The U.S. Department of Transportation (DOT) has determined that changes to TAR are necessary to implement and align it with the Consolidated Appropriations Act, 2014. These changes are necessary in order to update references to the Research and Innovative Technology Administration (RITA) by replacing them with references to the Office of the Assistant Secretary for Research and Technology (OST-R). The changes are also necessary to ensure that the Assistant Secretary of OST-R continues to exercise the same authority under TAR as the Administrator of the former RITA.

## **B. Public Participation**

This final rule does not impose new substantive requirements. It simply updates the CFR to reflect changes made by other law and represent the current organizational posture of the Department with regard to the Office of the Assistant Secretary for Research and Technology. The final rule is ministerial in nature and relates only to Departmental management, procedure, and practice. Therefore, the Department has determined that notice and comment are unnecessary and that the rule is exempt from prior notice and comment requirements under 5 U.S.C. 553(b)(3)(A). This rule will not have a substantive impact on the public, as it is purely organizational. Therefore, the Department finds that there is good cause under 5 U.S.C. 553(d)(3) to make this rule effective less than 30 days after publication in the *Federal Register*.

## **C. Regulatory Analysis and Notices**

### **1. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures**

The DOT has considered the impact of this rulemaking action under Executive Orders 12866 and 13563 (January 18, 2011, “Improving Regulation and Regulatory Review”), and the DOT’s regulatory policies and procedures (44 FR 11034; February 26, 1979). The Department has determined that this rule is not a significant regulatory action, and therefore, was not subject to review by the Office of Management and Budget under Executive Order 12866. There are no costs associated with this rule. The rule updates references to RITA to reflect its elevation into the Office of the Secretary as OST-R.

## **2. Executive Order 13132 (Federalism)**

The Department has analyzed this final rule under the principals and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined that it does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the preparation of a Federalism Assessment is not necessary.

## **3. Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act, 5 U.S.C. 553, the provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) do not apply. Even so, DOT has evaluated the effects of these changes on small entities and does not believe that this rule would impose any costs on small entities as it merely revises and clarifies TAR. Therefore, I hereby certify that this final rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

## **4. National Environmental Policy Act**

The Department has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the Department must also consider whether extraordinary circumstances

are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration’s implementing procedures, “[p]romulgation of rules, regulations, and directives.” 23 CFR 771.117(c)(20). The purpose of this rulemaking is to update TAR regulations to make them consistent with current law and to provide clarifications. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

#### **5. Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, et seq.), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The DOT has determined that this action does not contain a collection of information requirement for the purposes of the PRA.

#### **6. Unfunded Mandates Reform Act of 1995**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4, 109 Stat. 48, March 22, 1995) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. The UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A “Federal mandate” is a new or additional enforceable duty, imposed on any State, local, or tribal Government, or the private sector. If any Federal mandate causes those entities to spend, in aggregate, \$143.1 million or more in any one year (adjusted for inflation), an UMRA analysis is required. This action would not impose Federal mandates on any State, local, or tribal governments or the private sector.

## List of Subjects

### 48 CFR Part 1201

Government procurement, Reporting and recordkeeping requirements

### 48 CFR Part 1202

Government procurement

This rule is issued this 28 day of August 2014, at Washington, DC, under authority delegated in 49 CFR 1.38a(a)(1):

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Willie H. Smith,

Senior Procurement Executive

For the reasons set out in the preamble, 48 CFR Chapter 12 is amended as follows:

#### **PART 1201—FEDERAL ACQUISITION REGULATIONS SYSTEM**

1. The authority citation for part 1201 is revised to read as follows:

Authority: Pub. L. 113-76; 5 U.S.C. 301; 41 U.S.C. 418(b); (FAR) 48 CFR 1.3.

2. Amend section 1201.104 by adding paragraph (e) to read as follows:

#### **1201.104 Applicability.**

\* \* \* \* \*

(e) For purposes of the (FAR), (TAR) and (TAM), the Office of the Assistant Secretary for Research and Technology (formerly the Research and Innovative Technology Administration; see Public Law 113-76; Consolidated Appropriations Act, 2014) shall have the same authority as an Operating Administration as defined in (TAR) 1202.1, and the Assistant Secretary for Research and Technology shall have the same authority as a Head of the Operating Administration as defined in (TAR) 1202.1.

3. In section 1201.105-2, revise paragraph (a) to read as follows:

**1201.105-2 Arrangement of regulations.**

(a) *General.* The (TAR) 48 CFR chapter 12, which encompasses both Department and Operating Administration (OA)/Office of the Assistant Secretary for Research and Technology (OST-R)-specific guidance (see (TAR) 48 CFR 1201.3), conforms with the arrangement and numbering system prescribed by (FAR) 48 CFR 1.104. Guidance that is OA/OST-R-specific contains the OA/OST-R's acronym directly after the heading. The following acronyms apply:

FHWA--Federal Highway Administration

FMCSA--Federal Motor Carrier Safety Administration

FRA--Federal Railroad Administration

FTA--Federal Transit Administration

MARAD--Maritime Administration

NHTSA--National Highway Traffic Safety Administration

OST--Office of the Secretary

OST-R—Office of the Assistant Secretary for Research and Technology

PHMSA—Pipeline and Hazardous Material Safety Administration

SLSDC--Saint Lawrence Seaway Development Corporation

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**PART 1202—DEFINITIONS OF WORDS AND TERMS**

4. The authority citation for part 1202 is revised to read as follows:

Authority: Pub. L. 113-76; 5 U.S.C. 301; 41 U.S.C. 418b; (FAR) 48 CFR 1.3.

5. In section 1202.1, in the definition of “Operating Administration (OA),” revise paragraph (10) to read as follows:

**1202.1 Definitions.**

\* \* \* \* \*

Operating Administration (OA) \* \* \*

(10) Office of the Assistant Secretary for Research and Technology (OST-R).

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[FR Doc. 2014-21673 Filed 09/11/2014 at 8:45 am; Publication Date: 09/12/2014]