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DEPARTMENT OF DEFENSE

Department of the Army

48 CFR Part 5108

[Docket No. USA-2019-DARS-0010]

RIN 0702-AB04

Repeal of Obsolete Acquisition Regulation: Required Sources of Supplies and Services

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This final rule removes an obsolete Army acquisition regulation which was codified to provide Army-specific procedures for industrial preparedness production planning. This rule has been made obsolete by time and change in process.

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

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SUPPLEMENTARY INFORMATION: This final rule will remove 48 CFR part 5108, "Required Sources of Supplies and Services," which was codified on September 20, 1989 (54 FR 38682), and never updated. The purpose of the rule was to provide Army-specific procedures, for a three-year test period, for industrial preparedness production planning. Over the years, the procedures for industrial preparedness planning in the DoD have evolved. For example, coverage of the DoD Industrial Preparedness

Production Planning Program at Defense Federal Acquisition Regulation Supplement (DFARS) subpart 208.72 (Industrial Preparedness Production Planning) was removed on July 11, 2006 (71 FR 39004) because there was no longer a DoD-wide Program. DFARS section 217.208-70, “Additional clauses,” (codified March 9, 1998 (63 FR 11529) and most recently updated December 4, 2018 (83 FR 62503)), prescribes the use of the clause at DFARS 252.217-7001 (Surge Option) when a surge option is needed in support of industrial capability production planning. The clause at DFARS 252.217-7001 (Surge Option) (codified July 31, 1991 (56 FR 36479) and most recently updated December 4, 2018 (83 FR 62503)) informs contractors that the Government has the option to increase the quantity, or accelerate the delivery, of supplies or services under the contract and provides the terms for the exercise of the option and subsequent delivery of the surge quantities. These updates to regulation and process changes made the rule at part 5108 obsolete.

The removal of this text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, “Enforcing the Regulatory Reform Agenda,” which established a Federal policy “to alleviate unnecessary regulatory burdens” on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations. The DoD Task Force reviewed the requirements of 48 CFR part 5108 and determined that the coverage was obsolete and recommended removal.

It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based

on removing obsolete information. Additionally, the statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41 U.S.C. 1707 entitled “Publication of Proposed Regulations.” Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the Army is not issuing a new regulation; rather, this rule merely removes obsolete parts from chapter 51 of title 48 of the CFR.

This rule is not significant under Executive Order (EO) 12866, “Regulatory Planning and Review”; therefore, the requirements of EO 13771, “Reducing Regulation and Controlling Regulatory Costs” do not apply.

List of Subjects in 48 CFR Part 5108

Government procurement.

PART 5108—[REMOVED]

Accordingly, by the authority of 5 U.S.C. 301, 48 CFR part 5108 is removed.

Brenda S. Bowen,
Army Federal Register Liaison Officer.
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