



DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 202 and 234

[Docket DARS-2023-0025]

RIN 0750-AL89

Defense Federal Acquisition Regulation Supplement: Repeal of Major Automated Information Systems Provisions (DFARS Case 2017-D028)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2017 that repealed major automated information systems provisions.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ms. Jeanette Snyder, 703-508-7524.

SUPPLEMENTARY INFORMATION:

I. Background

Section 846 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328) repealed 10 U.S.C. chapter 144A and amended 10 U.S.C. 2334(a)(2) (now 10 U.S.C. 3221(b)(2))

by striking "or a major automated information system under chapter 144A". This final rule amends the definition of "milestone decision authority" in section 202.101, Definitions, by removing the term major automated information system and removes major automated information system programs from section 234.7100, Policy, and the clause prescription at 234.7101, Solicitation Provision and Contract Clause.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41 U.S.C. 1707, Publication of Proposed Regulations. Subsection (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 this rule merely removes references to major automated information system programs from DFARS policy and procedures for DoD contracting officers; therefore, there is no impact on contractors or offerors. These requirements affect only the internal operating procedures of the Government.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Services and Commercial Products, Including Commercially Available Off-the-Shelf Items

This rule does not create any new solicitation provisions or contract clauses. It does not impact any existing solicitation provisions or contract clauses.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801-808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the

Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

VII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 202 and 234

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 202 and 234 are amended as follows:

1. The authority citation for parts 202 and 234 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 202—DEFINITIONS OF WORDS AND TERMS

202.101 [Amended]

2. Amend section 202.101 in the definition of "Milestone decision authority" by removing ", major automated information system,".

PART 234—MAJOR SYSTEM ACQUISITION

234.7100 [Amended]

3. Amend section 234.7100 in paragraph (a) by removing ", and major automated information system programs (as defined in 10 U.S.C. 2445a)".

234.7101 [Amended]

4. Amend section 234.7101 in paragraph (b) introductory text and paragraphs (b)(1) and (2) by removing "or major automated information system programs".

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