

# **The Department of Defense Regulatory Reform Task Force September 30, 2017 Progress Report and Recommendations**

## **Background**

On February 24, 2017, President Trump issued Executive Order (EO) 13777, “Enforcing the Regulatory Reform Agenda,” to implement regulatory reform initiatives across the federal government and to direct the creation of a Regulatory Reform Task Force within each agency. On April 20, 2017, the Deputy Secretary signed a memorandum establishing the Department of Defense (DoD) Regulatory Reform Task Force (Task Force) under the Deputy Chief Management Officer (DCMO), who is DoD’s Regulatory Policy Officer, and designating the Director of Oversight and Compliance, in the Office of the DCMO, as the DoD Regulatory Reform Officer (RRO), in accordance with EO 13777. EO 13777 also requires agency Task Forces to provide periodic progress reports to the head of the agency detailing the agency’s progress toward the goals of improving implementation of regulatory reform initiatives and identifying regulations for repeal, replacement, or modification. This is the DoD Task Force’s second progress report and recommendations covering the period between May 25, 2017 and August 31, 2017.

After the establishment of the DoD Task Force, the Task Force conducted a data call to DoD Components to obtain an assessment of the regulations under their purview to determine if such regulations should be repealed, replaced, or modified to alleviate unnecessary regulatory cost and burden. Three subgroups under the Task Force have been established to aid in the review of the provisions of the Defense Federal Acquisition Regulation Supplement (DFARS), the regulations of the Army Corps of Engineers, and the amendments to the Defense Health Agency TRICARE regulation.

The work of the Task Force will be conducted in three main phases: 1) assessment of all 716 existing, codified DoD regulations on a biweekly basis; 2) upon approval of recommendations, implement regulatory and deregulatory actions in accordance with law, which may require notice and comment to the public and reviews by other agencies and the Office of Management and Budget (OMB); and 3) sustained implementation of reform efforts on new regulatory actions on an on-going basis. The Task Force has started to evaluate DoD regulations on a biweekly basis. At the outset, the Task Force scheduled reviews of regulations by topic in order to evaluate regulations for consolidation and to eliminate unnecessary, outdated, or ineffective regulations, which is a priority set forth in EO 13777. The deregulatory actions and the cost savings that will be produced as a result of DoD’s reform efforts will help reduce unnecessary burdens on the public and ensure the Department of Defense continues to meet its fiduciary responsibilities to the American public.

## **Progress Report**

Since the last progress report, which was dated May 24, 2017, the Task Force has reviewed an additional 84 regulations and, as detailed in TAB B, recommends 54 for repeal, 9 for replacement, 5 for modification, 13 for retention, and 3 for additional review. Several of the

regulations recommended for repeal can be cancelled only after they are consolidated with other related departmental regulations, which will reduce duplicative rulemaking and unnecessary or conflicting regulatory requirements.

To date, the Task Force has reviewed 120 DoD regulations, including 19 Defense Federal Acquisition Regulation Supplement (DFARS) clauses and provisions. A brief accounting of the Task Force's recommendations and projected cost savings is below. In total, the DoD Components have identified \$10,558,796.00 in estimated regulatory cost savings. For fiscal year 2018, the performance goal of the Department is to reduce its regulations by 25% in order to meaningfully reduce burden to the public, which the Department is on target to meet.

In accordance with Section 3(e) of Executive Order 13777, which requires the department to seek input from the public on which regulations should be repealed, replaced, or modified, the Task Force published two such notices in the *Federal Register* relating to the DFARS and the Army Corps of Engineers' regulations. An additional two notices will soon be published in the *Federal Register* for the TRICARE and DoD non-procurement regulations.

Implementation of the Task Force's initial recommendations, which were approved by the Secretary on June 5, 2017, is expected to begin in October/November 2017, with the issuance of the DoD-level FOIA Program regulation and the repeal of the DoD Component FOIA implementing regulations. As additional recommendations are approved, the Task Force will ensure that the relevant DoD Components implement all deregulatory actions in accordance with law. Progress on implementation of these actions will be provided in future reports.

Below is an accounting of the Department's total proposed and completed regulatory actions and related cost estimates based on "performance indicators" set forth in the OMB M-17-23, "Guidance on Regulatory Reform Accountability under Executive Order 13777, titled 'Enforcing the Regulatory Reform Agenda.'"

| <b>Total Proposed and Completed Regulatory Actions and Costs<br/>(April 27, 2017 – August 31, 2017)</b> | <b>Total Reviewed</b>         | <b>Percent Reviewed</b> |
|---|-------------------------------|-------------------------|
| Task Force Reviewed Regulations   | 120 out of 716                | 17%                     |
| Task Force Recommended Deregulatory/Repeal Actions  | 88 out of 120                 | 73%                     |
| Task Force Recommended Modify/Amend Actions   | 5 out of 120                  | 4%                      |
| Task Force Recommended Replace (Consolidate)/Revise Actions   | 10 out of 120                 | 8%                      |
| Task Force Recommended Retain Actions   | 14 out of 120                 | 12%                     |
| Task Force Deferred Actions for Further Data or GC Review   | 3 out of 120                  | 3%                      |
| Deregulatory Actions Issued After 20 January 2017 <sup>1</sup>  | 0                             | 0                       |
| Significant Regulatory Actions Issued After 20 January 2017   | 0                             | 0                       |
| Deregulatory Actions Issued that included public input/peer review                                      | 0                             | 0                       |
| Total Incremental Cost of New Significant Regulatory Actions  | Estimated \$ TBD              | N/A                     |
| Total Incremental Cost Savings of Proposed Deregulatory Actions   | Estimated<br>-\$10,558,796.00 | N/A                     |

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<sup>1</sup> Deregulatory/Repeal actions are contingent on the revision of other regulatory actions, or are in some phase of the normal regulatory process to be issued.