

**The Department of Defense Regulatory Reform Task Force  
Progress Report  
(December 1, 2017 through March 30, 2018)**

**I. Reviews During Reporting Period**

During this reporting period, December 1, 2017 through March 30, 2018, the Department of Defense Regulatory Reform Task Force (Task Force) reviewed 124 regulations and, as detailed in the attached list, recommends 44 for repeal, 8 for replacement, 3 for modification, and 65 for retention. There are 4 regulations that require additional review.

A significant recommendation is to repeal and consolidate multiple DoD Component claims regulations and remove content internal to the Department making claims processing easier to understand and more transparent. These consolidations will reduce the number of claims regulations from 11 to 4. These regulations cover claims against and on behalf of the United States, administrative and general claims, personnel and property claims, admiralty claims, non-appropriated fund activities claims, and affirmative claims. The public will have fewer regulations to review that will cover the many types of claims that may be filed. Consolidation of all claims regulations into a single DoD-level regulation was not recommended as OSD does not actively manage the services' claims programs.

**II. Total Reviews**

Since the Task Force began its work in April 2017, it has conducted 336 reviews of 331 DoD regulations, including Defense Federal Acquisition Regulation Supplement clauses and provisions. Five regulations were reviewed twice and each time the Task Force overturned its previous recommendation. An estimated \$ \_\_\_\_\_ in regulatory cost savings for the public has been identified and approved by the Office of Management and Budget (OMB). That savings number should continue to grow as the Task Force and DoD Components work with the OMB to analyze the cost savings that may result from additional proposed deregulatory actions. This information will be provided in future reports, as it is approved by OMB.

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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.'" For FY 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.

<b>Total Proposed and Completed Regulatory Actions and Costs (April 27, 2017 – March 30, 2018)</b>	<b>Total Reviewed</b>	<b>Percent Reviewed</b>
Task Force Reviewed Regulations	331 out of 716	46%
Task Force Recommended Deregulatory/Repeal Actions	165 out of 331	50%
Task Force Recommended Modify/Amend Actions	20 out of 331	6%
Task Force Recommended Replace (Consolidate)/Revise Actions	27 out of 331	8%
Task Force Recommended Retain Actions	115 out of 331	35%
Task Force Deferred Actions for Further Data or GC Review	4 out of 331	1%
Administrative Repeal Actions Issued After 20 January 2017 (not counted as deregulatory actions for purposes of EO 13771)	11	
Deregulatory Actions Issued After 20 January 2017 <sup>1</sup>	0	
Significant Regulatory Actions Issued After 20 January 2017	0	
Deregulatory Actions Issued that included public input/peer review	0	
Total Incremental Cost of New Significant Regulatory Actions	Estimated \$ TBD	
Total Incremental Cost of Proposed Deregulatory Actions	Estimated	

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<sup>1</sup> Many deregulatory/repeal actions recommended are contingent on the revision of other regulatory actions, and all regulatory actions must be submitted to OMB for review and approval, in accordance with law.

### **III. Implementation**

DoD Components have already begun to implement the Task Force's approved recommendations. For example, 15 regulations on various topics have been repealed. As additional recommendations are approved, the Task Force will ensure that the relevant DoD Components implement all regulatory and deregulatory actions in accordance with the law.

Additionally, in accordance with Executive Order 12866, "Regulatory Planning and Review" and the Department's reform initiatives, DoD Components are prioritizing the regulations they need to issue in the next 12 months. The components will be asked to reprioritize their list of regulations on a semi-annual basis at the same time the DoD Unified Agenda of Regulatory and Deregulatory Actions is submitted to OMB.

### **IV. Public Comments**

In accordance with Section 3(e) of Executive Order 13777, four notices were published in the *Federal Register* to seek input from the public on which DoD regulations should be repealed, replaced, or modified. Below is a summary of the comments received:

The Army Corps of Engineers subgroup received 1,456 public comments (153 unique comments from individuals, 22 federal, tribal, and state agency comments, 60 non-governmental organizational comments, and 1,221 wetland comments). Some of the most common topics contained in the comments included firearms on Corps projects, sections of the Clean Water Act, Corps water resource projects, National Environmental Policy Act, waters of the United States, and historic properties.

The Defense Federal Acquisition Regulations Supplement (DFARS) subgroup received 192 comments from 20 respondents. The DFARS subgroup is sharing comments that extend beyond the DFARS solicitation provisions and contract clauses with the Section 809 Panel tasked to review and recommend streamlining for the acquisition system.

The TRICARE subgroup received 10 comments from the American Psychological Association, the American Podiatric Medical Association, the National Center for Transgender Equality, the Coalition for Government Procurement, and a healthcare resource group.

The primary Task Force, on behalf of the OSD Components, received 65 comments on various regulations. The Task Force has provided these comments to the appropriate OSD Components for consideration.

### **V. Conclusion**

The Task Force will continue to review DoD regulations in accordance with EO 13777 to support the Department's regulatory reform initiatives to reduce unnecessary regulatory burden on the public. The next Task Force report will include the reviews conducted by the Task Force during the months of April 2018 through June 2018.

**DoD Regulatory Reform Task Force's Fourth Set of Recommendations  
(December 1, 2017 through March 30, 2018)**

<b>RECOMMENDATION: REPEAL (REMOVE)</b>	
<b>CFR PART AND TITLE</b>	<b>RATIONALE</b>
32 CFR 165 - Recoupment of Nonrecurring Costs (NCs) on Sales of U.S. Items	<b>Outdated, unnecessary or ineffective.</b> Internal DoD guidance. Should be incorporated into DoD 7000.14-R, Volume 15, Chapter 7. A notice will be published in the Federal Register. NOTE: Previously deferred for further review.
32 CFR 172 - Disposition of Proceeds from DoD Sales of Surplus Personal Property	<b>Outdated, unnecessary or ineffective.</b> Internal DoD guidance. Should be incorporated into DoD 7000.14-R, Volume 11A, Chapter 5.
32 CFR 282 – Procedures for Settling Personnel and General Claims and Processing Advance Decision Requests	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into a departmental level regulation on the same subject.
32 CFR 510 – Chaplains	<b>Outdated, unnecessary or ineffective.</b> Internal DoD guidance. Incorporate into an internal Army regulation 165-1.
32 CFR 537 – Claims on Behalf of the United States	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into a departmental level regulation on the same subject.
32 CFR 538 – Military Payment Certificates	<b>Outdated, unnecessary or ineffective.</b> Military Payment Certificates have not been used since the Vietnam War. EagleCash Stored Value Cards are now in use, and are under the purview of the Department of Treasury.
32 CFR 542 - Schools and Colleges	<b>Outdated, unnecessary or ineffective.</b> Claim military affairs exemption which covers anything that should be handled directly by the military due to their unique experience. This part does not include requirements beyond what is in statute. Requirements can be handled in internal DoD guidance. NOTE: Previously deferred for further review.

32 CFR 562 - Reserve Officers' Training Corps	<b>Outdated, unnecessary or ineffective.</b> Claim military affairs exemption which covers anything that should be handled directly by the military due to their unique experience. This part does not include requirements beyond what is in statute. Requirements can be handled in internal DoD guidance. NOTE: Previously deferred for further review.
32 CFR 571 - Recruiting and Enlistments	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into a departmental level regulation on the same subject. NOTE: Previously deferred for further review.
32 CFR 631 – Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations	<b>Outdated, unnecessary or ineffective.</b> Internal Department of the Army policy. Associated internal Army Regulation 190-24.
32 CFR 633 – Individual Requests for Access or Amendment of CID Reports of Investigation	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into another regulation. Recommend this part be merged with 32 CFR part 635.
32 CFR 643 – Real Estate	<b>Outdated, unnecessary or ineffective.</b> Internal USACE policy such as authority, policy, responsibility and delegations for real property actions under the control of the Department of the Army.
32 CFR 644 – Real Estate Handbook	<b>Outdated, unnecessary or ineffective.</b> Internal USACE policy such as authority, policy, responsibility and delegations for real property actions under the control of the Department of the Army.
32 CFR 700 – United States Navy Regulations and Official Records	<b>Outdated, unnecessary or ineffective.</b> Internal Department of the Navy guidance. DON has a public facing website that is up to date and fully accessible.
32 CFR 701, Subpart E - Indexing, Public Inspection, and Federal Register Publication of Department of the Navy Directives and Other Documents Affecting the Public	<b>Outdated, unnecessary or ineffective.</b> Internal Department of the Navy guidance on their Federal Register process.
32 CFR 705 - Public Affairs Regulations	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into a departmental level regulation on the same subject.

<p>32 CFR 706 - Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea (COLREGS), 1972</p>	<p><b>Outdated, unnecessary or ineffective.</b>          Implements the COLREGS treaty. Both 33 USC 1605 and EO 11964 require the Navy to publish notice in the Federal Register of any certification of alternate compliance. Repeal rule and publish a Federal Register notice.</p>
<p>32 CFR 707 - Special Rules With Respect to Station and Signal Lights</p>	<p><b>Outdated, unnecessary or ineffective.</b>          Implements the COLREGS treaty. Both 33 USC 1605 and EO 11964 require the Navy to publish notice in the Federal Register of any special station or signal lights used on naval vessels. Repeal rule and publish a Federal Register notice.</p>
<p>32 CFR 716 – Death Gratuity</p>	<p><b>Outdated, unnecessary or ineffective.</b>          Internal Department of the Navy guidance. DON instructions and policies are consistent with 10 USC 1475-1480.</p>
<p>32 CFR 718 - Missing Persons Act</p>	<p><b>Outdated, unnecessary or ineffective.</b>          This Navy regulation does not add any requirements beyond what is statute. DoD Instruction 2310.05 provides internal requirements for the DoD regarding missing persons.</p>
<p>32 CFR 727 – Legal Assistance</p>	<p><b>Outdated, unnecessary or ineffective.</b>          Internal Department of the Navy guidance. Sets out internal structure and procedures that do not affect how members of the public engage the DON regarding legal assistance.</p>
<p>32 CFR 728 – Medical and Dental Care for Eligible Persons at Navy Medical Department Facilities</p>	<p><b>Outdated, unnecessary or ineffective.</b>          Superseded by 32 CFR part 108 and 32 CFR part 199.</p>
<p>32 CFR 732 – Non-naval Medical and Dental Care</p>	<p><b>Outdated, unnecessary or ineffective.</b>          Superseded by 32 CFR part 199.16.</p>
<p>32 CFR 736 - Disposition of Property</p>	<p><b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into a departmental level regulation on the same subject.</p>
<p>32 CFR 744 – Policies and Procedures for the Protection of Proprietary Rights in Technical Information Proposed for Release to Foreign Governments</p>	<p><b>Outdated, unnecessary or ineffective.</b>          Duplicative of 32 CFR part 264, section 264.4(d)(3), which covers the international exchange of patent rights and technical information and grants authority to the "Secretary of the Military Department concerned, or his designee" to release technical information.</p>

32 CFR 746 – Licensing of Government Inventions in the Custody of the Department of the Navy	<b>Outdated, unnecessary or ineffective.</b> Department of Commerce rule at 37 CFR part 404 covers this area. There is a SECNAV Instruction that implements 37 CFR part 404.
32 CFR 751 – Regulations for Implementing the Military Personnel and Civilian Employees’ Claims Act (PCA)	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into a departmental level regulation on the same subject.
32 CFR 752 – Admiralty Claims	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into a departmental level regulation on the same subject.
32 CFR 755 – Claims for Injuries to Property under Article 139 of the Uniform Code of Military Justice	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into a departmental level regulation on the same subject.
32 CFR 756 – Procedures for Processing Claims Involving Non-Appropriated Fund Activities (NAFI) and Their Employees Activities	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into a departmental level regulation on the same subject.
32 CFR 757 –Regulations for Implementing the Federal Claims Collection Act (FCA) -- Affirmative Claims Regulations	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into a departmental level regulation on the same subject.
32 CFR 766 –Use of DON Aviation Facilities by Civil Aircraft	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into another regulation on a similar subject. Incorporate this part into 32 CFR 855.
32 CFR 807 - Sale to the Public	<b>Outdated, unnecessary or ineffective.</b> Directs AF management & delivery of products. There is a current public access website unless something is classified.
48 CFR 252.211-7000 - Acquisition Streamlining	<b>Outdated, unnecessary or ineffective.</b> Clause is no longer necessary as the corresponding internal guidance has been cancelled and industry participation in acquisition streamlining can be considered and addressed when drafting an acquisition plan.
48 CFR 252.216-7005 - Award Fee	<b>Outdated, unnecessary or ineffective.</b> The information contained in this clause is included in the award fee plan in accordance with FAR 16.401.

<p>48 CFR 252.223-7002 - Safety Precautions for Ammunition and Explosives</p>	<p><b>Outdated, unnecessary or ineffective.</b>  The information in this clause is related to contractor performance in accordance with a DoD Instruction and should be included in the performance work statement.  Instructions to contracting officers.</p>
<p>48 CFR 252.223-7007 - Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives</p>	<p><b>Outdated, unnecessary or ineffective.</b>  The information in this clause is related to contractor performance and responsibilities in accordance with a DoD Instruction and should be included in the performance work statement.</p>
<p>48 CFR 252.228-7004 - Bonds or Other Security</p>	<p><b>Outdated, unnecessary or ineffective.</b>  Solicitation provision. FAR clause 52.228-16, Performance and Payment Bonds—Other than Construction, and FAR provision 52.228-1, Bid Guarantee, already provides this information.</p>
<p>48 CFR 252.236-7009 - Option for Supervision and Inspection Services</p>	<p><b>Outdated, unnecessary or ineffective.</b>  Clause is of limited use and then only under atypical circumstances. Contracting activities can better address these requirements, to the extent needed, within the scope of a contract. The need for architect-engineers to perform supervision and inspection services during construction is unusual.</p>
<p>48 FR 252.239-7006 – Tariff Information</p>	<p><b>Outdated, unnecessary or ineffective.</b>  Clause added in 1970 because it was difficult to get appropriate tariff information to contracting officer. Due to advancements and the implementation of regulation (47 CFR 42.10) that requires all tariff and non-tariff documents to be electronically published, this clause has become obsolete.</p>
<p>48 CFR 252.247-7004 - Indefinite Quantities-Fixed Charges</p>	<p><b>Outdated, unnecessary or ineffective.</b>  Clause provides no additional protection for the contractor or the Government.  Descriptions, quantities, units of measure, and negotiated costs are contained in the contract’s incorporated schedule of rates.  Stevedoring services are ordered utilizing this information.</p>

48 CFR 252.247-7005 - Indefinite Quantities-No Fixed Charges	<b>Outdated, unnecessary or ineffective.</b> FAR Clause 52.216-19, Order Limitations, advises the contractor of minimum and maximum order quantities for ordering under the contract. The FAR clause can be utilized to reflect appropriate ordering limitations for stevedoring services. There is no need for a separate DFARS clause.
48 CFR 252.247-7006 - Removal of Contractor's	<b>Outdated, unnecessary or ineffective.</b> When necessary, the information in this clause belongs in a work statement, instead of a contract clause. Included in solicitations and contracts for stevedoring services.
48 CFR 252.247-7024 - Notification of Transportation of Supplies by Sea	<b>Outdated, unnecessary or ineffective.</b> This regulation is unnecessary because it can be consolidated into another clause on the same subject. NOTE: The RRTF overturned its previous retain recommendation as a determination was made to incorporate the contents into 48 CFR 252.247-7023.
<b>TOTAL RULES FOR REPEAL: 44</b>	

<b>RECOMMENDATION: REPLACE (REVISE)</b>	
<b>CFR PART AND TITLE</b>	<b>RATIONALE</b>
32 CFR 281 – Settling Personnel and General Claims and Processing Advance Decision Requests	<b>Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies.</b> The revision of this regulation will incorporate and consolidate duplicative regulations to eliminate any inconsistencies and increase efficiency.
32 CFR 507 – Manufacture, Sale, Wear, and Quality Control of Heraldic Items	<b>Outdated, unnecessary or ineffective.</b> Revision will simplify and streamline the petition process for manufacturers when they are decertified for quality assurance issues.
32 CFR 536 – Claims Against the United States	<b>Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies.</b> The revision of this regulation will incorporate and consolidate duplicative regulations to eliminate any inconsistencies and increase efficiency.
32 CFR 842 – Administrative Claims	<b>Outdated, unnecessary or ineffective.</b> The outdated policy will be updated to reflect current practice and all unnecessary parts, which reflect policy internal to the department, will be removed from the CFR.

32 CFR 750 – General Claims Regulations	<b>Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies.</b> The revision of this regulation will incorporate and consolidate duplicative regulations to eliminate any inconsistencies and increase efficiency.
32 CFR 776 – Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General	<b>Outdated, unnecessary or ineffective.</b> This rule governs professional conduct of military and civilian lawyers. The public will not know how to file a complaint with the JAG without the rule. Revision will update policy and remove content internal to the department.
32 CFR 855 – Civil Aircraft Use of USAF Airfields	<b>Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies.</b> The revision of this regulation will incorporate and consolidate duplicative cross-service regulations to eliminate any inconsistencies and increase efficiency. Incorporate 32 CFR 766 into this part.
48 CFR 252.223-7003 - Change in Place of Performance – Ammunition and Explosives	Separate provision and clause. Clause should require the contractor to define the place of performance within the clause and to notify the Government before issuing any subcontract that involves ammunition or explosives.
<b>TOTAL RULES FOR REVISION: 8</b>	

<b>RECOMMENDATION: MODIFY (AMEND)</b>	
<b>CFR PART AND TITLE</b>	<b>RATIONALE</b>
32 CFR 66, Qualification Standards for Enlistment, Appointment, and Induction	<b>Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies.</b> The modification of this regulation will incorporate and consolidate duplicative regulations to eliminate any inconsistencies and increase efficiency. NOTE: The RRTF overturned its previous retain recommendation as a determination was made to incorporate the contents of Army’s regulation at 32 CFR 571.

32 CFR 761 – Naval Defensive Sea Area; Naval Airspace Reservations, Areas Under Navy Administration, and the Trust Territory of the Pacific Islands	<b>Outdated, unnecessary or ineffective.</b> The modification of this regulations will include administrative updates to definitions, commands and commander names, and forms. NOTE: Requires a change to the Executive Order.
48 CFR 252.247-7023 - Transportation of Supplies by Sea	<b>Creates a serious inconsistency or otherwise interferes with regulatory reform initiatives and policies.</b> The modification of this clause will incorporate and consolidate duplicative clauses/provisions to eliminate any inconsistencies and increase efficiency. NOTE: The RRTF overturned its previous retain recommendation as a determination was made to incorporate the contents of 48 CFR 252.247-7024.
<b>TOTAL RULES FOR AMENDMENT: 3</b>	

<b>RECOMMENDATION: RETAIN (NO CHANGES)</b>	
<b>CFR PART AND TITLE</b>	<b>RATIONALE</b>
32 CFR 157 - Investigative and Adjudicative Guidance for Issuing the Common Access Card	This part outlines the criteria by which a contractor can obtain a CAC card. While OPM works to codify guidance in the CFR, DoD needs to keep its CFR part for appropriate coverage. OPM estimates this may take two plus years for them to publish a final rule. NOTE: The RRTF overturned its previous repeal recommendation based on the length of time it will take OPM to get a CFR part in place.
32 CFR 767 – Guidelines for Permitting Archaeological Investigations and Other Activities Directed at Sunken Military Craft and Terrestrial Military Craft Under the Jurisdiction of the Department of the Navy	Prohibits removal and/or injury of Sunken Military Craft. Permit program for the Navy. Covers US citizens. Civil penalties for violators. Rule reflects current policy.
48 FR 252.201-7000 - Contracting Officer's Representative	Discusses designation and authorities of a COR. There is no similar FAR clause. NOTE: The RRTF overturned its previous repeal recommendation based on litigation concerns.
48 CFR 252.209-7002, Disclosure of Ownership or Control by a Foreign Government	Provision helps ensure that DoD Foreign Ownership, Control, and Influence (FOCI) procedures are used to prevent foreign interests from gaining unauthorized access to classified, export-controlled, or all communications security (classified or unclassified) information that would

	adversely affect the performance of classified contracts and undermine U.S. security and export controls.
48 CFR 252.209-7004 - Subcontracting with Firms that are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism	Clause ensures the prohibition at 10 U.S.C. 2327(d)(3) is incorporated as a term of the contract and that sanctions resulting from a designation as a state sponsor of terrorism are implemented at the DoD-contract level.
48 CFR 252.215-7002 - Cost Estimating System Requirements	Not covered in the FAR, unique to the DoD. Clause provides contractors with standardized information on what factors a system must contain to be considered acceptable by DoD, and a compliance mechanism that allows contracting officers to withhold a percentage of payments, under certain conditions, when a contractor's business system contains significant deficiencies.
48 FR 252.217-7028 - Over and Above Work	Clause provides an efficient and standardized approach to executing necessary additional work uncovered during the performance of maintenance, overhaul, modification, and repair of aircraft, engines, ground support equipment, and ships. By allowing over and above work to be handled under the existing contract, as opposed to requiring a new contract award, this clause facilitates efficiencies in the contracting process and during contract performance that save time and money for both the Government and the contractor.
48 CFR 252.219-7003 - Small Business Subcontracting Plan (DoD Contracts)	Statutory. Clause provides clarity for the federal workforce and industry on DoD subcontracting plan requirements, which promotes compliance with federal laws to award federal contracts to small businesses.
48 CFR 252.219-7004 - Small Business Subcontracting Plan (Test Program)	Test program authorized through December 2027. Clause provides contractors with the necessary information to properly comply with section 834 of Pub. L. 101-189. Section 834 is valuable as it lowers administrative costs for the Government and the contractor, while increasing opportunities for small businesses and eliminating the need to negotiate individual subcontracting plans.

48 CFR 252.219-7009 - Section 8(a) Direct Award	Clause ensures contractor compliance with the agreed upon terms and conditions of the Partnership Agreement. Streamlines process for contractors, DoD and SBA. Efficiency which eliminated need for triple approval previously required for 8(a) contracts.
48 CFR 252.219-7010 - Notification of Competition Limited to Eligible 8(a) Concerns -- Partnership Agreement	Clause ensures contractor compliance with the agreed upon terms and conditions of the Partnership Agreement. Streamlines process for contractors, DoD and SBA. Allows DoD to award contracts set aside for 8(a).
48 CFR 252.219-7011 - Notification to Delay Performance	Clause ensures contractor compliance with the agreed upon terms and conditions of the Partnership Agreement. Streamlines process for contractors, DoD and SBA. Included in solicitations and 8(a) contracts \$150,000 or less.
48 CFR 252.223-7006 - Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials	Clause implements law that protects the public's safety and DoD real property when contractors have or may have access to DoD installations.
48 CFR 252.225-7003 - Report of Intended Performance Outside the United States and Canada-- Submission with Offer	Solicitation provision included in solicitations with a value exceeding \$13.5 million. The reporting requirement is a means to oversee contracting for supplies and services from foreign entities. DoD is required to report this information annually to Congress as part of the Foreign Entities Report. The law serves as an inducement for contractors to perform or contract for supplies or services within the United States and Canada.
48 CFR 252.225-7000 - Buy American--Balance of Payments Program Certificate	Provision implements the Buy American statute and the Balance of Payments Program. Provides information necessary for awarding contract.
48 CFR 252.225-7001 - Buy American and Balance of Payments Program	Clause helps to ensure contractor and DoD compliance with the Buy American statute, the Balance of Payments Program, DoD's reciprocal defense procurement MOUs, and international agreements, as well as providing a standardized set of definitions for all parties to apply to the rule.

<p>48 CFR 252.225-7004 - Report of Intended Performance Outside the United States and Canada-- Submission after Award</p>	<p>Clause included in solicitations with a value exceeding \$13.5 million. The reporting requirement is a means to oversee contracting for supplies and services from foreign entities. DoD is required to report this information annually to Congress as part of the Foreign Entities Report. The law serves as an inducement for contractors to perform or contract for supplies or services within the United States and Canada.</p>
<p>48 FR 252.225-7006, Acquisition of the American Flag</p>	<p>Clause helps to ensure DoD complies with 10 U.S.C. 2533a by notifying offerors and contractors of the manufacturing requirement under the contract.</p>
<p>48 CFR 252.225-7007 - Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies</p>	<p>Clause helps ensure that DoD complies with the International Trafficking in Arms Regulations via contracts.</p>
<p>48 CFR 252.225-7008 - Restriction on Acquisition of Specialty Metals</p>	<p>Clause ensures DoD and contractor compliance with 10 U.S.C. 2533b. Specifically, this clause adds value by providing a common understanding for the contracting officer and the contractors. Additionally, this clause is strongly supported by U.S. steel, titanium, and other specialty metals manufacturers.</p>
<p>48 CFR 252.225-7009 - Restriction on Acquisition of Certain Articles Containing Specialty Metals</p>	<p>Clause ensures DoD and contractor compliance with 10 U.S.C. 2533b. Specifically, this clause adds value by providing a common understanding for the contracting officer and the contractors by defining the restrictions and limitations of the use of metals and how they are assembled and integrated. This clause is widely perceived as saving jobs in the United States and maintaining the industrial base.</p>
<p>48 CFR 252.225-7010 - Commercial Derivative Military Articles-Specialty Metals</p>	<p>Provision ensures DoD and contractor compliance with 10 U.S.C. 2533b. Specifically, this provision adds value by providing a common understanding for the contracting officer and the contractors by defining the restrictions and limitations of the use of metals and how they are assembled and integrated. This clause is strongly supported by U.S. steel, titanium, and other specialty metals manufacturers.</p>

48 CFR 252.225-7012 - Preference for Certain Domestic Commodities	Clause implements the Berry Amendment of the 2002 NDAA. Necessary to ensure DoD and contractor compliance with 10 U.S.C. 2533a, which supports the U.S. economy and lessens U.S. dependence on foreign sources for acquiring certain items.
48 CFR 252.225-7015 - Restriction on Acquisition of Hand and Measuring Tools	Clause helps to ensure DoD and contractor compliance with 10 U.S.C. 2533a by incorporating the restriction as a term of the contract.
48 CFR 252.225-7016 - Restriction on Acquisition of Ball and Roller Bearings	Clause implements section 8065 of Pub. L. 107-117. Necessary to ensure DoD and contractor compliance as ball and roller bearings are considered an essential part of the U.S. industrial base that has been weakened by competition from Asia.
48 CFR 252.225-7019 - Restriction on Acquisition of Anchor and Mooring Chain	Clause implements Section 8041 Pub. L. 101-511. Prohibits DoD from acquiring welded shipboard anchor and mooring chain that is 4 inches or less in diameter. Necessary to ensure DoD and contractor compliance and to provide contractors with standardized definitions to utilize in applying the restriction.
48 CFR 252.225-7020, Trade Agreements	Provision is necessary to allow for the treatment of qualifying countries in accordance with reciprocal memoranda of understanding and to obtain information from the offeror not otherwise known by the contracting officer and upon which the contracting officer relies on to make award.
48 CFR 252.225-7025 - Restriction on Acquisition of Forgings	Clause is necessary to ensure DoD and contractor compliance with DoD policy, which retains critical forging capability that is required to meet national defense needs in the event of an emergency.
48 CFR 252.225-7028 - Exclusionary Policies and Practices of Foreign Governments	Clause is required by the Arms Export Control Act. It correctly articulates and helps to enforce the normal standards of behavior and conduct that are expected when performing international business transactions.
48 CFR 252.225-7029 – Acquisition of Uniform Components for Afghan Military or Afghan National Police	Implements the Berry Amendment. Clause helps to ensure DoD and contractors are aware of and comply with the restriction on textile components to be supplied to the Afghan National Army or Police.

48 CFR 252.225-7031 – Secondary Arab Boycott of Israel	Provision implements statute. Preserves US Certification is required by 10 U.S.C. 2410i and helps to preserve U.S. policy to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.
48 FR 252.225-7032 - Waiver of United Kingdom Levies—Evaluation of Offers	Provision implements reciprocal agreement between the U.S. and the U.K. Provides DoD with a process to request waivers of commercial exploitation levies assessed by the U.K. Government on U.K. firms. Included in contracts over \$1 million.
48 FR 252.225-7033 - Waiver of United Kingdom Levies	Clause reserves the Government’s right to recoup the levy via the contract price, and ensures the contractor continues to convey levy information to the Government, as applicable.
48 CFR 252.225-7035 – Buy American – Free Trade Agreements – Balance of Payments Program Certificate	Solicitation provision. Implements the Buy American Act, the Balance of Payments Program, and international trade agreements which, together, provide a preference for domestic material, a qualifying country end product, or a NAFTA country end product.
48 CFR 252.225-7036 – Buy American – Free Trade Agreements – Balance of Payments Program	Clause in contract. Implements the Buy American Act, the Balance of Payments Program, and international trade agreements which, together, provide a preference for domestic material, a qualifying country end product, or a NAFTA country end product.
48 CFR 225.225-7037 – Evaluation of Offers for Air Circuit Breakers	Provision helps to ensure contractors and DoD compliance with 10 U.S.C. 2534. Requires DoD to acquire air circuit breakers for naval vessels from manufacturers that are part of the national technology and industrial base.
48 CFR 252.225-7038 – Restriction on Acquisition of Air Circuit Breakers	Contract clause helps to ensure contractors and DoD compliance with 10 U.S.C. 2534. Requires DoD to acquire air circuit breakers for naval vessels from manufacturers that are part of the national technology and industrial base.

48 CFR 252.225-7039 – Defense Contractors Performing Private Security Functions Outside the United States	Clause ensures that Geographic combatant commanders are provided with information from private security contractors on security incidents. This information allows commanders to properly account for and track contractor personnel and assets in theater and to respond to security incidents, as deemed necessary.
48 CFR 252.225-7041 - Correspondence in English	Requires contracts with the US Government to be written or translated into English.
48 CFR 252.225-7044 – Balance of Payments Program – Construction Material	Clause implements the Balance of Payments Program. Requires the contractor to use only domestic construction materials in performing the contract, unless an exception applies.
48 CFR 252.225-7045 – Balance of Payments Program – Construction Material Under Trade Agreements	Clause implements the Balance of Payments Program and international trade agreements. Requires the contractor to use only domestic construction materials in performing the contract, unless an exception applies.
48 CFR 252.225-7049 – Prohibition on Acquisition of Commercial Satellite Services from Certain Foreign Entities – Representation	Solicitation provision. Notifies offerors of security restriction. Provision expresses and defines the restrictions of 10 USC 2279.
48 FR 252.228-7003 - Capture and Detention	Clause was added to the Armed Services Procurement Regulations in 1968 to eliminate the need for any special insurance to cover a remote contingency in which the War Hazards Compensation Act may not apply. Allows DoD to reimburse contractors in case of capture and/or detention.
48 CFR 252.235-7010 - Acknowledgment of Support and Disclaimer	Clause provides standard DoD language for contractors to use in publications related to DoD contracts.
48 CFR 252.235-7011 - Final Scientific or Technical Report	Clause provides standardized information to contractors on the submission of a final report to DTIC to facilitate the dissemination of technical and scientific information rapidly, accurately, and reliably to support the DoD.
48 CFR 252.236-7000 - Modification Proposals--Price Breakdown	Clause implements a uniform DoD-wide procedure for contractors that assists the contracting officer in determining if a proposed price for fixed-price construction is fair and reasonable.

48 CFR 252.236-7001 - Contract Drawings and Specifications	Clause provides uniform DoD-wide policies and procedures to contractors when performing under a contract that utilizes Government-provided contract drawings and specifications.
48 CFR 252.236-7002 - Obstruction of Navigable Waterways	Rooted in the 1899 River and Harbor Act. Clause ensures that a contractor will be responsible for any obstructions made in navigable waterways during performance of the contract, and gives the contracting officer authority to direct the removal of any hazards to navigation that are created by the contractor.
48 CFR 252.236-7003 - Payment for Mobilization and Preparatory Work	Clause allows the contractor to recoup these costs in a more timely and controlled fashion than typically allowed. By permitting timely compensation of these costs, this clause helps facilitate more accurate bids and prevent contractor financing.
48 CFR 252.236-7004 - Payment for Mobilization and Demobilization	Clause allows the contractor to recoup these costs in a more timely and controlled fashion. By permitting timely compensation of these costs, this clause helps facilitate more accurate bids and prevent contractor financing. This is how you pay for this once you get the bid for demobilization.
48 CFR 252.236-7005 - Airfield Safety Precautions	Clause ensures that all contracts for construction performed near an airfield comply with a standard set of procedural safety requirements. FAA notice procedures are not consist and can't be relied on for military purposes.
48 CFR 252.236-7006 - Cost Limitation	Solicitation provision facilitates DoD compliance with applicable fiscal law restrictions on expenditures and provides offerors with uniform information regarding bids that contain items subject to statutory cost limitations.
48 FR 252.236-7007 - Additive or Deductive Items	Solicitation provision diminishes the need to cancel solicitations where sufficient funds may not be available for award of all additive or deductive items. Additionally, this provision communicates a uniform DoD approach to evaluating additive and deductive bid items, which facilitates efficient contracting and avoids confusion

	and litigation in connection with unique solicitation provisions.
48 CFR 252.236-7008 - Contract Prices-Bidding Schedules	Solicitation provision eliminates potential ambiguity regarding payment due for specified work.
48 FR 252.239-7002 – Access	Contract clause. Governs contractor access to and maintenance of contractor-furnished facilities. Clause details are specific to the delivery of telecommunications to Government-controlled sites where contractors are responsible for their own furnished facilities.
48 CFR 252.239-7011 – Special Construction and Equipment Charges	Contract clause that was added in 1970. Clause contains standardized reimbursement terms and conditions for paying contractors completing special construction related to telecommunications services. Includes checks and balances to prevent double payment.
48 CFR 252.239-7012 – Title to Telecommunication Facilities and Equipment	Clause provides a mutual understanding between the Government and the contractor that the title of the equipment or facilities remains with the Contractor, unless otherwise specified in the communications service authorization. This ensures that the contractor, not the Government, is held responsible for repair or replacement in the case of equipment malfunction or failure.
48 CFR 252.239-7016 – Telecommunications Security Equipment, Devices, Techniques, and Services	Clause implements a standardized process and a common understanding related to secure telecommunications. Requires contractors to use secure communication systems.
48 CFR 252.244-7001 - Contractor Purchasing System Administration	Clause implements requirements of section 893 of Pub. L. 111-383 and maintains consistency by providing contractors with a single set of DoD-wide definitions, system requirements, and procedures to follow when required to establish and maintain a purchasing system.
48 CFR 252.246-7003 - Notification of Potential Safety Issues	Clause facilitates timely notification to the Government of any nonconformance or deficiency identified in a part for which the failure, malfunction, or absence of the part could result in death, disability, injury, or illness of personnel or loss or damage to a weapons system. Clause helps to ensure the

	Government can take quick action to prevent harm to personnel or property.
48 CFR 252.246-7004 - Safety of Facilities, Infrastructure, and Equipment for Military Operations	Clause protects the safety and health of DoD military and civilian personnel when occupying facilities, infrastructure, and equipment acquired for use during military operations performed outside the United States, Guam, Puerto Rico, and the Virgin Islands.
48 CFR 252.246-7007 - Contractor Counterfeit Electronic Part Detection and Avoidance System	Clause implements requirements of sections 818 and 833. Contractors required to establish and maintain a counterfeit electronic part detection and avoidance system. Necessary to help protect DoD's supply chain from counterfeit electronic parts.
48 CFR 252.246-7008 - Sources of Electronic Parts	Clause enhances DoD's ability to strengthen the integrity of the process for acquisition of electronic parts and benefits both the Government and contractors. The careful selection of suppliers and the inspection, testing, and authentication of electronic parts that are not traceable to the original manufacturer are consistent with industry risk-based processes and are steps that a prudent contractor should take notwithstanding this clause.
48 FR 252.247-7000 - Hardship Conditions	Clause provides a single, standardized DoD process for contractors to follow when hardship conditions that are unique to stevedoring occur.
48 CFR 252.247-7022 - Representation of Extent of Transportation by Sea	Provision is part of DoD's implementation of the Cargo Preference Act of 1904, which promotes a U.S. maritime transportation system that is accessible and moves goods and people efficiently.
<b>TOTAL RULES FOR RETAINMENT: 65</b>	

<b>RECOMMENDATION: DEFER</b>	
<b>CFR PART AND TITLE</b>	<b>RATIONALE</b>
32 CFR 273 - Defense Material Disposition	Army has an appetite for expansion on what's in the DoD-level CFR part and wants to talk to AT&L about combing parts 621 and 623 into part 273.

32 CFR 621 - Loan and Sale of Property	Army has an appetite for expansion on what's in the DoD-level CFR part and wants to talk to AT&L about combing parts 621 and 623 into part 273.
32 CFR 623 - Loan of Army Materiel	Army has an appetite for expansion on what's in the DoD-level CFR part and wants to talk to AT&L about combing parts 621 and 623 into part 273.
32 CFR 719 - Regulations Supplementing the Manual for Courts-Martial	<p>Joint Service Committee rejects consolidating this part into an overarching DoD-level rule for the MCM</p> <ul style="list-style-type: none"> <li>-Doesn't want to incorporate CFR into MCM</li> <li>-Feared that consolidation would interfere with their authority</li> <li>-Prerogatives and authorities given by statute</li> </ul>
<b>TOTAL RULES DEFERRED: 4</b>	