

**COUNCIL OF DEFENSE AND SPACE INDUSTRY ASSOCIATIONS**  
**4401 Wilson Boulevard, Suite 1110**  
**Arlington, Virginia 22209**  
[codsia@codsia.org](mailto:codsia@codsia.org)

March 10, 2017

Department of Homeland Security  
Office of the Chief Procurement Officer  
Acquisition Policy and Legislation  
ATTN: Ms. Shaundra Duggans  
245 Murray Drive, Bldg. 410 (RDS)  
Washington, DC 20528

Subject: Homeland Security Acquisition Regulation (HSAR); Safeguarding of Controlled Unclassified Information (HSAR Case 2015-001) – CODSIA Case 2017-002

Dear Ms. Duggans:

On behalf of the Council of Defense and Space Industry Associations (CODSIA),<sup>1</sup> we respectfully request that the Department of Homeland Security withdraw the Homeland Security Acquisition Regulation on Safeguarding of Controlled Unclassified Information (HSAR Case 2015-001) that was published in the Federal Register on January 19, 2017. This proposed rule is problematic and goes beyond the framework allowed and established by the National Archive and Records Administration (NARA) Final Rule on Controlled Unclassified Information (CUI) that became effective on November 14, 2016. In the Final Rule on CUI, NARA stated that “agencies may use only those categories or subcategories approved by the CUI Executive Agent (established by Executive Order 13556 as NARA) and published in the CUI Registry to designate information as CUI.” The Final CUI rule explicitly “overrides agency-specific or ad hoc requirements when they conflict.” DHS’s proposed rule also ignores NARA’s Final Rule on CUI requirement to use National Institute of Standards and Technology (NIST) Special Publication 800-171, Protecting Controlled Unclassified Information in Non-Federal Information Systems and Organizations, to safeguard CUI when contractors are hosting, transmitting or using CUI. This proposed rule is incomplete and inconsistent with the Final Rule on CUI and its use by other federal agencies. For these reasons, and in order to ensure DHS implementation of controls for CUI are consistent with those applied across all other federal agencies, the rule should be withdrawn.

If DHS decides not to withdraw the proposed rule, we request an extension to the comment period on the HSAR Case 2015-001 in adherence to the Office of Management and Budget Memorandum for the Heads of Executive Departments and Agencies; Regulatory Freeze Pending Review (M-17-16) and to ensure adequate time to generate comments. The proposed rule was published on January 19, 2017 and requested comments no later than March 20, 2017. The aforementioned memorandum states, “(3) With respect to regulations that have been published in the [Federal Register] but have not taken effect, as permitted by applicable law,

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<sup>1</sup> At the suggestion of the Department of Defense, CODSIA was formed in 1964 by industry associations with common interests in federal procurement policy issues. CODSIA consists of seven associations – the Aerospace Industries Association, the American Council of Engineering Companies, the Associated General Contractors of America, the Information Technology Alliance for Public Sector, the National Defense Industrial Association, the Professional Services Council, and the U.S. Chamber of Commerce. CODSIA acts as an institutional focal point for coordination of its members’ positions regarding policies, regulations, directives, and procedures that affect them. Together these associations represent thousands of government contractors and subcontractors. A decision by any member association to abstain from participation in a particular case is not necessarily an indication of dissent.

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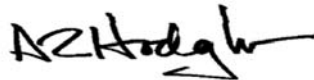
temporarily postpone their effective date for 60 days from the date of this memorandum, subject to the exceptions described in paragraph 1, for the purpose of reviewing questions of fact, law, and policy they raise. Where appropriate and as permitted by applicable law, you should consider proposing for notice and comment a rule to delay the effective date for regulations beyond that 60-day period. In cases where the effective date has been delayed in order to review questions of fact, law, or policy, you should consider potentially proposing further notice-and-comment rulemaking.” (82 FR 8346, January 24, 2017). Further, in order to provide meaningful comments on the proposed rule, stakeholders in general, and CODSIA in particular, need additional time to both evaluate the rule and to aggregate and consolidate comments from its members. Accordingly, we request an extension of time until May 22, 2017 to file comments.

We appreciate your favorable consideration of our request. If you have any questions, or need any additional information, please do not hesitate to contact Ms. Pam Walker, Senior Director, Federal Public Sector Technology, ITAPS, who serves as our point of contact for this request, at [pwalker@itac.org](mailto:pwalker@itac.org).

Sincerely,



John Luddy  
Vice President National Security  
Aerospace Industries Association



A.R. “Trey” Hodgkins, III, CAE  
Senior Vice President, Public Sector  
Information Technology Alliance for the  
Public Sector



Alexander Zemek  
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