

COUNCIL OF DEFENSE AND SPACE INDUSTRY ASSOCIATIONS
4401 Wilson Boulevard, Suite 1110
Arlington, Virginia 22209
codsia@codsia.org

13 September 2016

General Services Administration
FAR Council Regulatory Secretariat (MVCB)
ATTN: Ms. Zenaida Delgado
1800 F Street, NW
2nd Floor
Washington, DC 20405

RE: FAR Case 2014-025, Fair Pay and Safe Workplaces

Dear Ms. Delgado:

On behalf of the Council of Defense and Space Industry Associations (CODSIA),¹ we respectfully request that the FAR Council provide for a further delay in implementation of the August 25, 2016 final rule on Fair Pay and Safe Workplaces, and issues new guidance to provide an extended phase-in period for offerors and contract holders to comply with these extensive regulatory requirements. We included a similar request in our August 25, 2015 comments on the proposed rules.²

Although the final rule included a short delay in the initial application of the rule to certain major contracts, coupled with a limited phase-in for subcontractors and in the “look-back” provisions, the core elements of the final rule did not change significantly from the proposed rule.³ Thus, even the phase-in of the requirements leaves inadequate time for contractors to develop and implement the necessary systems and processes required by this rulemaking, even though the initial tranche of compliance is

¹ 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 six associations – the Aerospace Industries Association, the American Council of Engineering Companies, 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.

² CODSIA letter to the FAR Council dated August 25, 2015, available at:
[file:///C:/Users/Drabkin%20&%20Assoc%20LLC/Downloads/Comment from Bettie McCarthy, Council of Defense and Space Industry Associations \(CODSIA\).pdf](file:///C:/Users/Drabkin%20&%20Assoc%20LLC/Downloads/Comment%20from%20Bettie%20McCarthy,%20Council%20of%20Defense%20and%20Space%20Industry%20Associations%20(CODSIA).pdf)

³ The final rules set out a phase-in approach that begins with procurement over \$50 million on October 25, 2016, with subsequent implementation on April, 25, 2017 that lowers the implementation threshold to \$500,000. On October 25, 2017, all subcontractors will be covered. The initial 12 month look-back period for reporting violations expands each year so that the full 3 year coverage is in place by October 25, 2018. By that time, violations of equivalent state laws will also be included in the compliance and reporting processes.

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limited to contracts over \$50 million and to a 12-month look-back period. Furthermore, the government is not prepared to implement this rule; for example, the new portal for reporting “violations” has neither been designed nor established.



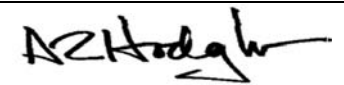


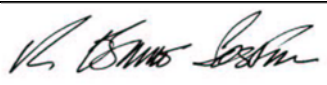
Considering that both Congressional Defense Authorization bills either prevent application of the rules to DoD (House) or restrict their application to those contractors already suspended or debarred (Senate); and that the House-passed Fiscal Year 2017 Financial Services Appropriations Act would block application of these rules government-wide, the FAR Council should have delayed issuing this final rule at least until Congress either completed these action or adjourned.

As we have frequently stated, CODSIA supports balanced policy efforts to ensure that only responsible contractors receive federal contracts, but we disagree strongly that the final rule is needed or that compliance can be achieved in the timeframes they require.

Therefore, CODSIA respectfully requests that the FAR Council delay implementation of the final rule and issue new guidance to allow for an expanded phase-in period. CODSIA recommends that the phase-in begin on October 25, 2017 for contracts over \$50 million, moving to April, 25, 2018 to cover contracts over \$500,000, with subcontractor compliance beginning October 26, 2018. We also recommend that the look-back period begin with a one-year period from October 25, 2017 until October 25, 2020, after which the full three-year look-back could be implemented.

Thank you for your consideration of this request.

Sincerely,

	
John Luddy Vice President National Security & Acquisition Policy Aerospace Industries Association	Jessica Salmoiraghi Senior Policy Director American Council of Engineering Companies
	
A.R. “Trey” Hodgkins, III, CAE Senior Vice President, Public Sector Information Technology Alliance for the Public Sector	James Thomas Assistant Vice President for Policy National Defense Industrial Association
	

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Alan Chvotkin Executive Vice President and Counsel Professional Services Council	R. Bruce Josten Executive Vice President <i>for Government Affairs</i> <i>U.S. Chamber of Commerce</i>
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Cc: Honorable Anne Rung, OFPP Administrator
DPAP Director Claire Grady
GSA Senior Procurement Executive Jeffrey Koses
NASA Assistant Administrator William McNally
DAR Council Chair Linda Neilson
Honorable Thomas Perez, Secretary of Labor
Honorable Howard Schelanski, OIRA Administrator