Transition – A Presidential Change Update

April 2025

FAR 2.0: Early Expectations for the FAR Rewrite

Key Notes:

- The Trump administration mandates a rewrite of the FAR to eliminate “undue barriers” in the federal procurement process.
- A drastic reduction of the FAR is expected as nearly all “non-statutory” provisions face elimination.

On April 15, the Trump administration issued a new executive order (EO), “Restoring Common Sense to Federal Procurement,” signaling a monumental shift in federal procurement policy that will drastically reshape how the federal government does business. Driven by what it describes as the federal government’s “prohibitively inefficient and costly” way of conducting business, the administration plans to overhaul the Federal Acquisition Regulation (FAR), Defense Federal Acquisition Regulation Supplement (DFARS), and other agency supplements to “create the most agile, effective, and efficient procurement system possible.” In this first of a series of client alerts examining the forthcoming changes to the FAR, we discuss the potential scope of these changes and outline the anticipated timeline for implementation.

The EO emphasizes that the FAR’s “2,000 pages of regulations” have overcomplicated the federal procurement regulatory framework. To address this, the EO proposes a simple solution: eliminate all FAR provisions except those that are required by statute, “essential to sound procurement,” or “otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests.” Additionally, the EO directs the Office of Federal Procurement Policy (OFFP) and FAR Council to consider imposing a regulatory sunset on any non-statutory provisions that survive the initial review, which would require reauthorization of these clauses every four years.

While this approach is seemingly straightforward, it offers little insight into what FAR 2.0 will entail. Provisions that closely mirror statutory language are likely to remain, but identifying which clauses fall in the other two categories is far less certain. The EO’s broad language identifies the goal without establishing clear criteria or metrics for what provisions will qualify as “essential” or “otherwise necessary” to the procurement system, the economy, or national security. This raises important questions about which non-statutory provisions will remain – and, if eliminated, how their absence could impact contractors. For example, what would be the impact on mandatory disclosure requirements if FAR 52.203-13 (Code of Business Ethics & Conduct) were curtailed or removed? Similarly, if DFARS 252.216-7000 (Economic Price Adjustment) were eliminated, would contractors be forced to assume the risk of market fluctuations and other conditions increasing costs during performance?

The EO proposes an ambitious, perhaps unattainable, timeline. Within just 15 days of the EO’s issuance, all agencies with procurement authority must designate a senior procurement official to work alongside the OFFP and FAR Council to identify FAR provisions that do not align with the objectives outlined the EO. And just five days later, the Office of Management and Budget must collaborate with the OFFP to issue a memorandum providing guidance to agencies for implementing the EO. Within 180 days of the EO (by mid-October), the OFFP, FAR Council, and agency leadership must complete the FAR overhaul. Given this type of regulatory overhaul *should* proceed through the often lengthy notice-and-comment rulemaking process, it would be quite a feat to meet the deadlines outlined in the EO. However, since the EO targets "non-statutory" regulations, the administration may attempt to bypass that process altogether. In the interim, the EO provides that the OFFP and FAR Council must issue class deviations and interim guidance that will govern until the final rule(s) reforming the FAR are published.

Our Government Contracts practice group will continue to closely monitor the FAR 2.0 rewrite and provide timely updates through this series, as the process will undoubtedly have wide-ranging implications for contractors doing business with the federal government going forward.

FOR MORE INFORMATION

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