June 3, 2025

The Honorable Pete Hegseth
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

RE: Industry Input on Burdensome Defense Regulatory Requirements

Dear Secretary Hegseth,

On behalf of America's most cutting-edge and effective aerospace and defense companies, the Aerospace Industries Association (AIA) applauds this Administration's efforts to reduce regulatory requirements across the federal government in an effort to encourage American entrepreneurship, unleash innovation, and increase the speed at which the government operates. While we recognize that each regulation was originally well-intentioned and aimed at mitigating specific risks, the cumulative growth of these requirements over time has created a regulatory framework that itself poses an even greater, endemic risk: stifling innovation, diminishing the supplier base, driving up costs, and delaying delivery of critical materiel and services to the warfighter.

As part of this Administration's deregulation initiative, last month, the Office of Management and Budget (OMB) sought public comment on regulations that were "unnecessary, unlawful, unduly burdensome, or unsound." In response to that request, our industry identified over 50 regulatory requirements that are particularly cumbersome and consequently disincentivize companies seeking to do business with the federal government. We hope that our feedback will help to shape OMB's review and revision of the federal regulation ecosystem.

As the Department of Defense now reviews its own internal acquisition regulations in response to Executive Order 14265, I am pleased to share with you the enclosed defense-specific requirements that our members identified as most burdensome. While this submission is not an exhaustive list of all changes worthy of being explored, they highlight several areas where defense regulatory requirements present significant obstacles to an expedited and streamlined acquisition process — ultimately delaying your and President Trump's goal of building the most lethal, ready military in the world. These areas include:

- Cybersecurity Requirements
- Cost Accounting Standards Compliance
- Commercial Acquisition Requirements
- Intellectual Property Rules
- Cost & Pricing Data and Audit Requirements
- Contractor Business Systems Compliance
- Independent Research and Development Oversight
- Controlled Unclassified Information Protection Requirements
- Resolicitation Requirements

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As outlined in the enclosed, we believe the requirements associated with each of these areas can be reduced in scope or eliminated altogether, while still ensuring proper oversight and prudent use of taxpayer dollars. By streamlining or eliminating these requirements, the Department can promote greater efficiency and innovation across the acquisition system, while lowering barriers to entry, thereby enhancing military lethality and readiness.

Thank you for considering our views. AIA and our member companies stand ready to partner with the Department of Defense to achieve these important goals, and we look forward to continuing this dialogue as implementation efforts move forward. Please direct any questions to Margaret Boatner, Vice President, National Security Policy, at margaret.boatner@aia-aerospace.org or 703-358-1085.

Sincerely,

Eric Fanning
President and CEO
Aerospace Industries Association

Enclosure: AIA Comments

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CYBERSECURITY REQUIREMENTS

The Aerospace Industries Association (AIA) appreciates the importance of robust cybersecurity measures and supports efforts to enhance the cybersecurity posture of companies within the defense industrial base. AIA supports the policy objectives of the Cybersecurity Maturation Model Certification (CMMC) program and has provided comments on behalf of its members as the DOD formulated different iterations of the program, culminating in codification of the CMMC program in the Code of Federal Regulations (CFR) in December 2024. However, unclear and overlapping standards, high compliance costs, and stringent requirements create a complex compliance framework that is challenging for companies to navigate. These impacts are often most acutely felt by mid-size and small businesses which have fewer resources to contend with such requirements.

While not exhaustive, below are final or proposed regulatory requirements that impose significant burden on companies seeking to work with the DOD:

Flowdown of CMMC Requirements

Requirement: The proposed rule requires prime contractors to oversee and continuously verify subcontractor compliance throughout the supply chain at all tiers as per the applicable CMMC level for each subcontract (Source: 32 CFR 170; Defense Federal Acquisition Regulation Supplement (DFARS) Case 2019-D041).

Concern: Making prime contractors responsible for oversight and verification of compliance of their entire defense supply chain will place substantial risk and liability on prime contractors that have neither the resources nor the ability or insight to adequately manage and effectively oversee subcontractor CMMC compliance on such a large scale and on a continual basis.

Recommendation: AIA recommends clarifying the relationship, roles, and responsibilities between the prime contractor and subcontractor under the CMMC program. Additionally, to help ensure prime contractors can better manage subcontractor CMMC compliance, AIA recommends the government establish a common approach by which prime contractors can verify subcontractor/supplier CMMC credentials.

Affirmation of Continuous Compliance

Requirement: The CMMC program mandates a yearly affirmation of “continuous compliance” across the three-year interval between certification renewal audits (Source: 32 CFR 170; DFARS Case 2019-D041).

Concern: To track continuous compliance, companies must develop the capability to record and manage documentation, operational artifacts, and other compliance data for CMMC controls. This places a significant and costly requirement on companies. Additionally, it is unclear what is included in the “affirmation” and how it is to be measured. This places significant risk on the official providing the affirmation, as making an affirmation later deemed false could have significant legal ramifications for the company as well as for the affirming executive.

Recommendation: AIA recommends eliminating the continuous affirmation requirement and instead requiring an affirmation at a single point in time.

Phased Implementation of the CMMC Program

Requirement: The DOD is proposing a phased approach to the implementation of CMMC requirements in contracts, gradually enforcing CMMC requirements across contracts (Source: DFARS Case 2019-D041).

Concern: There is no established methodology by which CMMC requirements will be implemented in contracts. While a phased approach provides additional flexibility, allowing discretion at the program level with no clear methodology or control method risks CMMC requirements rolling out sooner and in greater volumes than the DIB and CMMC third-party assessment organization may be able to support. This will have the effect of essentially cutting several defense industrial base (DIB) companies out of competing for contracts and offering DOD best value, as well as potentially causing smaller businesses to exit the market because the contract requirements are increasing at an unsustainable rate.

Recommendation: AIA recommends the DOD publish the methodology by which programs determine the CMMC level and the timing of the certification requirement.

Achieving CMMC Level Requirements Prior to Contract Award

Requirement: The proposed rule would require agencies to provide notice to contractors of the CMMC level required by the solicitation and would require offerors to submit proof of compliance with the specified CMMC level prior to contract award (Source: DFARS Case 2019-D041).

Concern: As discussed above, because there is no methodology by which CMMC requirements will be implemented in contracts across the DOD, there exists the possibility for a bottleneck in certification where a prime or subcontractor is not yet at a requisite CMMC level for procurement through no fault of their own. This proposed rule would prevent this contractor from receiving a contract award.

Recommendation: AIA requests that, in these instances, a provision be included in the final rule that allows the contractor to request a waiver from the requirement or a deviation from the defined level to a lower level than is specified in the solicitation for a brief time period. This will ensure procurements for critical products and services are not delayed while ensuring that contractors are not unfairly prevented from winning contract awards.

Security Lapse Notification Requirement

Requirement: The proposed rule introduces a requirement for the contractor to notify the contracting officer within 72 hours when there are any lapses in information security or changes in the status of CMMC certificate or CMMC self-assessment levels during performance of the contract (Source: DFARS Case 2019-D041).

Concern: This new requirement introduces unnecessary steps that should be handled via the systems already in use today – the DIBNET Portal and Supplier Performance Rating System (SPRS). Currently, when companies experience a security incident, they are required to report it within 72 hours via the DIBNET Portal, which then notifies all affected contracts. By requiring the company to individually notify each contracting officer, this new process risks slowing down

the pace at which notifications can be made and consumes the company's time and resources that could rather be spent managing the lapse/incident. Similarly, a company's compliance with DFARS cybersecurity requirements is managed via the SPRS, where government contracting officers can check and monitor for supplier compliance in a single location. The requirement to individually notify contracting officers about CMMC status will introduce extra work for little to no additional value.

Recommendation: AIA recommends eliminating the proposed requirement and, instead, leveraging existing reporting requirements and tools to the maximum extent practicable.

Cyber Incident Reporting Requirements

Requirement: Across multiple regulations, there are several, varying cyber incident reporting requirements levied upon defense contractors. Often, these requirements have differing reporting timelines and standards. (Source: CISA-2022-0010-0163; CISA-2024-0037; FAR Case 2017-016; DFARS Case 2019-D041).

Concern: Multiple, disparate cyber incident reporting requirements increases compliance complexity, thereby increasing performance risk for contractors and the government customers they serve. It also increases barriers to entry for new entrants – many of which are commercial firms – seeking access to the federal market.

Recommendation: AIA recommends streamlining and standardizing reporting requirements for cyber incidents. AIA recommends establishing a 72-hour timeline, consistent with DFARS 252.204-7012.

COST ACCOUNTING STANDARDS COMPLIANCE

AIA supports efforts to protect taxpayers by ensuring against unreasonable or inappropriate expenses in defense contracts. However, the requirement for a separate cost accounting system, on top of the accepted industry standard system (i.e., Generally Accepted Accounting Principles, or "GAAP"), is burdensome and may deter some companies from competing for federal contracts. This is a long-recognized issue that public law and years of rulemaking have attempted to address; to date, however, no final rule has been issued to better align CAS and GAAP, or to streamline CAS requirements.

Requirement: Requires certain contractors and subcontractors to comply with the government's Cost Accounting Standards (CAS). CAS consists of 19 standards numbered 401 to 420 (Source: FAR Part 30; DFARS Part 230).

Concern: The resource-intensive nature of complying with government-unique CAS requirements in addition to the GAAP, as required by the Securities and Exchange Commission, is a significant and unique burden levied on companies who work with the DOD. In particular, CAS requirements serve as a significant disincentive to commercial companies and non-traditional companies, who are not otherwise required to comply with such standards. Unlike GAAP, which has been actively maintained and has kept pace with changes in the global marketplace, CAS is outdated, making meaningful application of some requirements challenging. For non-traditional contractors, there is little cost benefit to navigating CAS as it exists today.

Recommendation: AIA recommends that CAS be reviewed and aligned with the 12 GAAP to the maximum extent practicable, consistent with the statutory intent of Section 820 of the FY17 National Defense Authorization Act (NDAA).

COMMERCIAL ACQUISITION REQUIREMENTS

The enactment of the Federal Acquisition Streamlining Act in 1994 was intended, in part, to simplify commercial acquisition processes to enable the government to more rapidly access commercial technologies and services. This preference for procuring commercial products and services over customized solutions was later codified in the FAR and DFARS. However, in the intervening years, counter to statutory intent, both the FAR and DFARS have added many regulatory requirements that make it challenging to procure commercial products and services. In doing so, it has unnecessarily increased cost, complexity, and risk on contractors offering commercial products and services to the DOD, which serves as a barrier and disincentive to doing business with the DOD. As a result, the DOD may not be receiving the best products and services available.

While not exhaustive, below are specific regulatory requirements that impose significant burden on commercial companies seeking to work with the DOD. More broadly, AIA recommends the FAR, DFARS, and agency supplements and policies be holistically reviewed and streamlined to simplify processes for the acquisition of commercial products and services (FAR Part 12, DFARS Part 212).

Commercial Item Determinations

Requirement: The DFARS requires written commercial item determinations (CIDs) for acquisitions over the Simplified Acquisition Threshold, currently set at $250K (Source: DFARS 212.102; DFARS Procedures, Guidance, and Information (PGI) 212.1).

Concern: The requirement for CIDs for procurements over the Simplified Acquisition Threshold is unique to DOD regulation. Given the low dollar value of the established threshold, CIDs are required frequently. These determinations are time and resource-intensive processes that delay the procurement of critical capabilities and inhibit the department from taking advantage of the rapid technological advances common in the commercial marketplace.

Recommendation: AIA recommends increasing the CID threshold commensurate with the Truthful Cost or Pricing Data threshold, which is currently set at $2M.

Overturning Commercial Item Determinations

Requirement: The DFARS allows contracting officers to question and seek to overturn prior CIDs where the decision was made to procure a product or service using commercial procedures (i.e., FAR Part 12). It requires the Head of the Contracting Activity to issue a written determination that prior use of commercial procedures was inappropriate, and to require use of negotiated procedures (i.e., FAR Part 15) (Source: DFARS 212.102(a)(ii)(B)(2); DFARS PGI 212.1; DOD Guidebook for Acquiring Commercial Items).

Concern: Overturning prior CIDs is counter to congressional intent (10 United States Code (USC) 3703(d)) and DOD guidance (DOD Guidebook for Acquiring Commercial Items), which both emphasize that a prior determination by the DOD that an item is commercial *will* serve as a determination for subsequent procurements of the item. However, AIA members have noticed an increasing trend of reversing prior CIDs and requiring the use of FAR Part 15 procedures (in place of FAR Part 12 procedures).

Recommendation #1: To ensure congressional intent is satisfied, AIA recommends identifying a limited set of specific situations in which a prior CID may be overturned.

Recommendation #2: Currently, there is no appeals process for the contractor to challenge a decision to overturn a prior CID. AIA recommends adding language expressly providing for an appeals process to challenge a Head of the Contracting Activity's final determination overturning a commercial product or service determination.

Determining Price Reasonableness

Requirement: Contracting officers are required to determine price reasonableness when acquiring commercial goods and services. To help establish price reasonableness, contracting officers will conduct market research and may consider recent purchase prices paid by the government for the same or similar commercial products or services *if* the prices previously paid remain a valid reference for comparison. If these sources are not sufficient to determine price reasonableness, the contracting officer may require additional information, including but not limited to, labor costs, material costs, and other direct and indirect costs (Source: DFARS 212.209).

Concern: Commercial products and solutions are critical contributors to mission success, and the streamlined procedures in FAR Part 12, including streamlined requirements for cost information, are designed to incentivize contractors who offer commercial products and services to work with the DOD. However, the process to determine price reasonableness for some commercial items – particularly commercial items that are "of a type" – is very time- and resource-intensive and, in reality, often results in contractors being required to provide data akin to certified cost or pricing data. This is counter to the original intent of the Federal Acquisition Streamlining Act and the streamlined procedures offered by FAR Part 12.

Recommendation: AIA recommends further streamlining the information required to determine fair and reasonable prices for commercial products and services, particularly commercial items "of a type."

Pricing Policy

Requirement: Contracting officers may require the submission of cost data when purchasing commercial products and commercial services (Source: FAR 15.402(a)(2)(ii)(B), FAR 15.403-3(c)(1)).

Concern: While AIA supports efforts to ensure the government is receiving fair and reasonable prices, as written, the FAR levies requirements beyond what is required by statute (10 USC 3705(a)), is contrary the commercial marketplace pricing methodology, is unduly burdensome, and prevents many suppliers of commercial products and services from being willing to offer their products and services to the government.

Recommendation: AIA recommends eliminating this requirement.

Applicability of the Cost Accounting Standards and Cost & Pricing Requirements to Commercial Procurements

Requirement: Sole source commercial procurements over $20M are subject to the CAS and certified cost or pricing data requirements (Source: FAR 12.102(f)(2)).

Concern: Industry has long raised concerns that requirements associated with CAS and certified cost and pricing data are unduly burdensome, even for traditional defense contractors who are experienced with these requirements. Extending such requirements to contractors who are seeking to provide commercial products and services to the government is counter to intent of the Federal Acquisition Streamlining Act, increases the cost of performance and compliance complexity for commercial offerings, and ultimately disincentivizes their participation in defense acquisition.

Recommendation: As contracting officers have various means by which to determine fair and reasonable pricing of commercial products and services, AIA recommends eliminating this requirement.

Mandatory Clause Flow-downs to Commercial Providers

Requirement: There are multiple government-unique contract provisions and clauses that are required to be applied to commercial products (Source: FAR 52.212-4, FAR 52.212-5, DFARS 212.301).

Concern: The aggregate effect of these government-unique requirements is unnecessarily increased cost, complexity, and risk on commercial contractors; slowed pace of defense acquisitions due to protracted negotiations between the government and prime contracts, and between prime contractors and suppliers; and increased barriers to the acquisition of innovative commercial solutions.

Recommendation: AIA recommends eliminating the non-statutory government-unique clauses and requirements in line with the intent of Federal Acquisition Streamlining Act of 1994 and pursuant to 10 USC 3452.

Treatment of Subcontracts Under Contracts for the Procurement of Commercial Items

Requirement: According to the report developed by the Advisory Panel on Streamlining and Codifying Acquisition Regulations (commonly referred to as the Section 809 Panel), the FAR and DFARS contain 27 distinct definitions of the term “subcontract.”

Concern: In Section 874(a) of the FY17 NDAA (10 USC 2375 amended), Congress established a statutory definition of “subcontract” to exempt agreements that do not meet the definition of “subcontract” from flow-down of defense-unique provisions and clauses. In this way, Congress attempted to mitigate the flow-down of defense-unique provisions and clauses to other supply agreements which don’t meet the definition of subcontract and to specifically limit the application of defense-unique requirements on commercial suppliers. However, it has been more than eight

years since Section 874 was enacted into law, and the DFARS has not yet been updated to incorporate this definition.

Recommendation: AIA recommends the "subcontract" definition in Title 10 be implemented in the regulations without further delay. This will, in part, help to ensure defense-unique provisions are not levied on commercial products and services.

INTELLECTUAL PROPERTY RULES

Intellectual property (IP) is crucial for both the DOD and industry. For the DOD, adequate license rights plays a critical role in the ability to modernize weapons systems and maintain technological overmatch against adversaries. For industry, adequate IP protection safeguards proprietary technologies, enabling companies to maintain market leadership and profitability and incentivizing participation in the defense acquisition system. Balancing these goals requires the DOD employ a thoughtful approach to IP management. However, as identified below, various regulatory requirements contribute to the government's continued overreach for contractor IP, causing concern for companies who do business with the government.

While not exhaustive, below are regulatory requirements that impose significant burden on companies seeking to work with the DOD:

Specifically Negotiated Licenses & Use of Section H Clauses

Requirement: The DOD is permitted to enter into Specifically Negotiated Licenses "when the government wants to obtain rights in data in which it does not have rights," and is allowed to negotiate or require additional rights "when the government needs additional rights in data." (Source: DFARS 227.7103-5, DFARS 252.227-7013, DFARS 252.227-7014, DFARS 252.227-7015, DFARS 252.227-2018).

Concern: There is ambiguity in the DFARS that does not completely reflect the statutory and regulatory preference for Specifically Negotiated License Rights to achieve a consensus position – one where industry IP is protected, and the government obtains its required rights. In several instances, the DOD has exploited this ambiguity to over-reach for contractor IP rights through IP-related Section H clauses that attempt to set aside the DFARS and obtain additional rights in contractor IP. These additional rights frequently include the right for DOD to provide sensitive contractor IP to third parties including contractor competitors. Often, these Section H clauses also include a preference for contractors that provide IP rights beyond those set forth in the DFARS as an evaluation criteria for proposals or contract performance. The result of this approach is that contractors will be hesitant to participate in DOD procurement efforts as they are not able to protect their IP, or contractors will not offer their best technology. In either scenario, this frustrates the government's efforts to enable the warfighter with the best technology.

Recommendation #1: AIA recommends the DFARS give additional meaning to the statutory preference for Specifically Negotiated Licenses. Additionally, DFARS 227.7103-5(d)(1), DFARS 252.227-7013(c)(4), DFARS 252.227-7014(c)(4), DFARS 252.227-7015, and DFARS 252.227-2018(c)(6) should be revised to require the use of Specifically Negotiated Licenses when proposed by the contractor, unless the DOD can establish material harm to the government's interest in accepting the proposed license.

Recommendation #2: To prohibit the DOD's overreach for contractor IP rights through Section H clauses, AIA recommends DFARS 227.7103-5(d)(2) be revised to prohibit the use of Section H clauses requiring additional IP rights beyond what is allowed under the DFARS, and from including as an evaluation criteria a preference for contractors that provide IP rights beyond those set forth in the DFARS.

Rights Assertions & Restrictive Markings

Requirement: The DFARS identifies IP license rights for technical data and computer software developed under the contract and identifies certain prescribed markings for such technical data and computer software. It requires the contractor to identify asserted restrictions and only allows post-award asserted restrictions "when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision." (Source: DFARS 252.227-7013, DFARS 252.227-7014, DFARS 252.227-2015, DFARS 252.227-2018).

Concern: The current regulations do not expressly allow a contractor to apply restrictive markings on delivered technical data or computer software that are *not* inconsistent with the rights of the government and its authorized sublicensees. This often results in the government rejecting contract deliverables or attempting to remove such markings that otherwise protect such data from uses outside the government's authorized uses. This behavior slows the procurement process and causes great concern to contractors regarding the adequate protection of their IP. Additionally, the current approach of limiting updates to assertions leads to frequent, costly, and time-consuming data rights debates over whether the government should allow such new assertions.

Recommendation #1: AIA recommends the DFARS be revised to expressly allow a contractor to apply restrictive markings on delivered technical data that are *not* inconsistent with the rights of the government and its authorized sublicensees. This will protect the contractor's data rights and preclude the DOD from rejecting deliverables on the sole basis that the markings are not prescribed in the DFARS. To ensure the ability to apply markings is not undermined, the DOD should be prohibited from mandating the use of any legends other than those provided for in DFARS 252.227-7013(g), DFARS 252.227-7014(g), and DFARS 252.227-7018(g), as appropriate.

Recommendation #2: AIA recommends the DFARS be modified to accept supplemental data rights assertions from suppliers (which almost invariably come post-award), including Specifically Negotiated Licenses, unless the government can establish the late assertions would have materially affected source selection. DFARS language specifically allowing supplemental assertions is required to ensure consistency across contracting officers.

Validation of Asserted Restrictions

Requirement: The DOD is allowed to challenge asserted restrictions on technical data and other than commercial computer software delivered "or otherwise provided to the Government." (Source: DFARS 252.227-2019, DFARS 252.227-7037).

Concern: DFARS Case Number 2022-D016 extended the scope of DFARS 252.227-2019 to allow challenges to non-deliverable technical data and computer software "otherwise provided"

to the government. As written, this language incentivizes the DOD to challenge the funding source of technical data and computer software that is not deliverable under the contract, adding risk and cost to contractors who invariably leverage privately funded non-deliverable technical data and computer software. This is likely to have a chilling effect on what non-deliverable technical data and computer software contractors share with the government, which may impact program execution to schedule.

Recommendation: AIA recommends the DOD reverse the recent ruling in DFARS Case Number 2022-D016 and revise the DFARS to limit the scope of validations to only technical data and computer software delivered. Additionally, the DOD should apply a presumption of validity to any asserted restrictions for technical data for other than commercial products and other than commercial computer software to deter the frequent challenges the DOD issues without basis. Lastly, the DOD should clarify that DFARS 252.227-2019 and DFARS 252.227-7037 only apply to challenging the funding basis for the asserted restriction, not the characterization of rights.

Payment Withholds

Requirement: The government is permitted to "withhold payment to the contractor of 10 percent of the total contract price" for failure to timely deliver technical data (Source: DFARS 252.227-7030).

Concern: The 10 percent withholding is arbitrary, punitive in nature, and does not signify the teamed approach that the government emphasizes, especially as it relates to developing mutually beneficial license arrangements. As written, the regulation does not give any latitude to the contracting officer to determine if 10 percent is an appropriate withhold based on the unique circumstances of the procurement. Of note, the underlying statute (10 USC 3772(a)(8)) authorizes withholding but does not specify a percentage.

Recommendation: AIA recommends the withholding be reduced to 2.5 percent or be left to the discretion of the contracting officer, but not to exceed 5 percent.

Data Accession Lists

Requirement: The regulation requires the contractor to create a Data Accession List (DAL) that identifies technical data and computer software generated during performance of the contract, including commercial technical data and commercial computer software. It further requires the contractor to flow-down the DAL to subcontractors (Source: DI-MGMT-81453 Revision B & C, DAL Data Item Description (DID)).

Concern: The DAL DID is intended to require the contractor to list other than commercial technical data or other than commercial computer software generated under a contract, but not otherwise required for delivery, to facilitate the government’s deferred ordering under DFARS 252.227-7027. However, DAL DID Revisions B & C require listing of various types of data (e.g., commercial technical data, commercial computer software, Small Business Innovation Research technical data or computer software, or contract administration information) which are outside the scope of the applicable data rights statutes and regulations. In this way, the DAL DID seeks to contractually expand the DOD’s ability to order data beyond what is permitted by statute and regulation. This requirement contradicts statutory intent, imposes significant burdens for contractors, and discourages commercial contractors’ participation in government contracting.

Recommendation: To comply with statute, AIA recommends the guidance be reverted to Revision A of DI-MGMT-81453, which did not include this requirement.

Detailed Manufacturing & Process Data Requirements

Requirement #1: The regulation establishes requirements for data to be included in a Technical Data Package (TDP) and requires a contractor to provide the engineering details necessary for a competent manufacturer to produce an item which "duplicates" an original item's characteristics "without additional design effort or recourse to the original design activity." In addition, it requires the furnishing of company standards where referenced in the TDP (Source: MIL-STD-31000 Revision B & C).

Concern #1: MIL-STD-31000 has been interpreted by DOD to require delivery of detailed manufacturing data, including proprietary processes and standards. Requiring this level of data introduces unintended product liability concerns, undermines the original contractor's private investment, is anti-competitive, and will ultimately serve to disincentivize private sector participation in the defense acquisition system.

Recommendation #1: AIA recommends that MIL-STD-31000 be revised to explicitly state that a contractor is not required to deliver detailed manufacturing or process data and is not required to deliver a company's private specifications or standards.

Requirement #2: The regulation identifies information that contractors should include in engineering "product drawings/models and associated lists to support competitive procurement and maintenance for items interchangeable with the original items." It requires the contractor to provide "the necessary data to permit competitive acquisition and manufacture of the original item(s)" and requires details of "unique processes" when "essential to design and manufacture" (Source: DI-SESS-81000 Revision F, Section 2(c) and (4)(a)).

Concern #2: As written, this language requires contractors to provide more than top level information necessary to create an interchangeable part (i.e., the form, fit and function data referenced in DFARS 252.227-7013, -7014, -7015 and -7018), and potentially requires a contractor to deliver detailed manufacturing or process data. Requiring this level of data undermines the original contractor's private investment and ultimately disincentivizes private sector participation in the defense acquisition system.

Recommendation #2: AIA recommends that DI-SESS-81000 REV F be revised to clarify that a contractor is only required to provide form, fit and function data, and that a contractor is not required to provide detailed manufacturing or process data.

Patent Rights

Requirement: The regulation requires a contractor, upon the government's request, to assign patent rights to the government if the contractor elects title but did not file a patent application within the desired timeframe (Source: 35 CFR 401.14, FAR 52.227-11, DFARS 252.227-7038).

Concern: The requirement, as implemented in federal and defense regulation, is inconsistent with the underlying statutory authority (35 USC 202(c)(3)), which states the government *may* retain title to inventions in which the contractor has elected but has not filed patent applications.

The implementation of the government's ability to permissively take ownership of subject inventions fails to account for the ability of industry to protect key and critical technologies as trade secret. In some instances, trade secret protection is preferred over patents, which require disclosure of select information. In some instances, trade secret protection is preferred over patent protection, which requires disclosure of select information. Trade secret protection is often preferred in scenarios where the technology is: (1) a critical technology and should not be published for adversaries to learn from, (2) has a use that is hard to detect making a obtaining a patent hard to enforce, (3) still in development or in a crowded space so it is not mature or distinct enough for a patent, or (4) not patentable subject matter but is important IP nonetheless. In the current regulatory framework, to ensure a contractor can enjoy ownership after reporting subject inventions, such contractor is compelled to file a patent application, even if such a filing would be harmful to the ability to ultimately protect the IP.

Recommendation: AIA recommends the patent regulations be revised to expressly provide an ability for a contractor who elected title to a subject invention to decide to protect such subject invention as a trade secret instead of being required to file a patent application, without the risk of the contractor being compelled, upon government request, to assign title to the government. This revision will clarify industry's ability to fully protect its IP to enable development of products for the government and for the public good.

COST & PRICING DATA AND AUDIT REQUIREMENTS

AIA supports efforts to guarantee the government secures fair and reasonable pricing from defense contractors. However, overly prescriptive cost and pricing rules, particularly those requiring certified cost or pricing data, create significant burdens for contractors and serve as a major barrier to entry for firms offering commercial products and services and for new entrants. Additionally, extensive and ongoing reviews and audits of cost and pricing data impose a considerable burden on defense contractors. These requirements, originally intended to protect taxpayers, now often stifle efficiency, impede commercial item use, and create unnecessary administrative burdens.

While not exhaustive, below are regulatory requirements that impose significant burden on companies seeking to work with the DOD:

Requirements to Submit Cost & Pricing Data When One Bid is Received

Requirement #1: The DFARS requires a contractor that submits a proposal in response to a competitively solicited acquisition to still submit certified cost and pricing data in instances where only one offer was received (Source: DFARS 215.408(3)).

Requirement #2: The DFARS requires that, for acquisitions that exceed the simplified acquisition threshold and where only one offer is received when competitive procedures were used, contracting officers must determine fair and reasonable pricing. It requires either certification of data submitted or requires the contracting officer to obtain additional cost or pricing data to determine fair and reasonable price (Source: DFARS 215.371-3).

Concern: After submitting a proposal as part of a competitive procurement where only a single proposal is received, a contractor is required to expend additional time and effort to revise and update their bid into either a Truthful Cost or Pricing Data-compliant bid or, at the minimum, to

provide enough cost and pricing data to substantiate that the pricing is fair and reasonable. Since at the time of bidding, the contractor is acting under the belief that it is participating in a competitive procurement, there should be an automatic presumption that the bid is fair and reasonable, and the exceptions provided under DFARS 215.403-1(c)(a) are met. The requirement to revise and update proposals puts an undue cost burden on both the contractor and the government and significantly delays the government's ability to make an award.

Recommendation: AIA recommends elimination of this requirement.

Adequate Price Competition Exemption from Certified Cost & Pricing Data Requirements

Requirement: Regulation prohibits the collection of certified cost and pricing data in certain scenarios, including in instances where the contracting officer determines that prices agreed upon are based on "adequate price competition." Adequate price competition exists when there is reasonable expectation that two or more offerors, competing independently, would submit priced offers in response to the solicitation's expressed requirement. This remains true even in scenarios when only one offer is received. However, the DOD, NASA, and the Coast Guard are specifically excluded from this exception and are required to collect certified cost and pricing data in scenarios where only one offer is received (Source: FAR 15.403-1, DFARS 215.403-1).

Concern: Requiring submission and certification of truthful cost or pricing data when not required significantly increases contractor's proposal preparation costs, adds government audit time periods, and results in delays in awarding contracts. Since at the time of bidding, the contractor is acting under the belief that it is participating in a competitive procurement, there should be an automatic exemption – for all federal agencies, including DOD, NASA, and Coast Guard – that a contractor's bid is fair and reasonable and the exceptions provided under FAR 15.403-1(c)(1) for "adequate price competition" are met.

Recommendation: AIA recommends this provision be updated to eliminate the exclusion of DOD, NASA, and the Coast Guard.

Should-Cost Reviews

Requirement: The regulations identify instances in which should-cost reviews (overhead should-cost reviews and/or program should-cost reviews) should be conducted. Should-cost reviews aim to identify short and long-range improvements in the contractor's economy and efficiency (Source: FAR 15.407-4, DFARS 215.407-4, DFARS PGI 215.407-4).

Concern: Overhead should-cost reviews are time-consuming for both the contractor and government and often do not have a significant impact on the negotiation of forward pricing rates. Furthermore, the reviews are duplicative of Defense Contract Management Agency (DCMA)-conducted forward pricing rate evaluation and cost monitoring.

Recommendation: AIA recommends elimination of overhead should-cost reviews (FAR 15.407-4(c)) and recommends limiting program should-cost reviews (FAR 15.407-4(b)) to major defense acquisition programs only.

Incurred Cost Submission

Requirement: Contractors are required to submit final annual indirect cost rates within six months after the end of the fiscal year, known as the Incurred Cost Submission (Source: FAR 52.216-7(d)).

Concern: A change made to the FAR clause in 2011 fundamentally changed the final indirect rate proposal and settlement process from a principles-based cooperative practice to a restrictive checklist approach, detailing 30 items (15 required, 15 that may be required) necessary for the submission and audit of an "adequate" annual certified final indirect rate proposal. Some of the requirements added in 2011 were not schedules or items used by contractors in the normal course of business and provide little, if any, value or improvement in finalizing rates. Rather, the change to requirements contributed to growth in the audit backlog, added costs to the acquisition community, and promoted inefficiency in the process of settling final indirect cost rates.

Recommendation: AIA recommends streamlining the amount of information required for an adequate Incurred Cost Submission.

Cost and Software Data Reporting System

Requirement: Contractors are required to report total costs actually incurred and forecasted by year and cost category (Source: DFARS 234.71, DFARS 252.234-7003, DFARS 252.234-7004, DOD Instruction 5000.73, DOD 5000.04-M-1).

Concern: This report is time- and resource-intensive to complete and includes data the government already has access to through the Incurred Cost Submission and Forward Pricing Rate Proposal. As such, this is a burdensome and duplicative requirement that does not provide additional information or insight to the government.

Recommendation: AIA recommends elimination of this requirement.

Cost Accounting Changes

Requirement: Recent Defense Contract Audit Agency (DCAA) and DCMA guidance, released in October 2023, imposes changes in how to calculate "increased cost to the Government in the aggregate" when a contractor implements certain unilateral changes in cost accounting practices (Source: DCAA Manual, MRD 23-PAC-009(R), DCMA Contracts Executive Directorate C-Note 24-02).

Concern: AIA asserts the DCAA and DCMA guidance established inconsistencies in the treatment of fixed-price contracts that inequitably benefits the government by enabling it to recover more than the increased costs in the aggregate, in violation of law. Furthermore, the guidance is contrary to longstanding practice and is not supported by the CAS preambles, FAR Part 30 and other relevant guidance, and decisional law.

Recommendation: AIA recommends rescinding the October 2023 DCAA and DCMA guidance memoranda to avoid unnecessary complexities, delays, and additional legal disputes that distract industry and the government from focusing on efficiently managing business and supporting federal customers.

CONTRACTOR BUSINESS SYSTEMS COMPLIANCE

AIA supports government efforts to protect against waste, fraud, and abuse of taxpayer dollars and recognizes that contractor business systems and other internal controls are important tools in that effort. However, over many years, the regulatory and policy requirements for each business system – and the associated oversight of each – have grown significantly and impose costly and resource-intensive requirements on defense companies.

While not exhaustive, below are regulatory requirements that impose a significant burden on companies seeking to work with the DOD:

Contractor Business System Criteria

Requirement: Contractors who have CAS-covered contracts with the government are required to maintain acceptable business systems that reduce risk to the government and taxpayer. The DFARS establishes criteria for each of the six types of contractor business systems that the contractor's business systems generally must meet. The DCMA and DCAA assess the business systems against the stated criteria when conducting reviews and audits. If material weaknesses are identified within the systems, the DOD can impose substantial consequences (e.g., withholding payment, deeming a contractor ineligible to submit bids) (Source: DFARS 252.242-7005, -7006, -7002, -7004, -7003, -7001, DCMA Instruction 2301, DCMA Manual 2301-02, DCAA Manual 7640.1).

Concern: Section 893 of the FY17 NDAA requires the DOD to identify and make public clear business system requirements. It has been nearly eight years since congressional direction was given, and the system requirements and criteria by which the systems are assessed has not been updated. The lack of well-defined criteria for assessing a system deficiency and the vague terminology in the guidance poses an increased risk to contractors of financial penalty and future award of contracts.

Recommendation: AIA recommends the requirements and criteria associated with each business system be reviewed and streamlined to the maximum extent practicable. Specific to the accounting system, AIA recommends the DOD implement Recommendation 10 from the Section 809 Panel, which recommended replacing the current 18 system criteria with seven system criteria.

Contractor Business System Deficiencies

Requirement: The DFARS allows the government to temporarily withhold payment on a covered contract if a "material weakness" in a business system is identified. (Source: DFARS 242.7000, DFARS 242.7001, DFARS 252.242-7005, DCMA Instruction 2301, DCMA Manual 2301-02, DCAA Manual 7640.1).

Concern: The statute (10 USC 2302 note) allows for withholding up to 10 percent but leaves discretion to the DOD officials to reduce that amount (including not withholding payment). The DFARS and related agency instructions, however, generally require that contracting officers apply a 2-5 percent contract payment withholding for a single material weakness and a 10 percent withhold when more than one business system has been deemed to have a "material

weakness." The 2-5 percent and 10 percent withholdings are arbitrary and punitive in nature and do not signify the teamed approach that the government emphasizes. Furthermore, there is often little correlation between the amount of the withhold and the severity of the "material weakness" found in the system.

Recommendation: AIA recommends establishing a risk-based approach based upon the size and complexity of the contracts, the contractor's record of successful past performance, and correction of any "material weaknesses." The DFARS and related agency instructions should be revised to give the contracting officer latitude to determine the most appropriate withholding (not to exceed the statutory amounts) through discussion with the contractor and based on the demonstrated impacts caused by the "material weaknesses."

Scope of Contractors Subject to Business System Requirements

Requirement: Contractors who have CAS-covered contracts with the government are required to maintain acceptable business systems that reduce risk to the government and taxpayer (DFARS 252.242-7005).

AIA Concern: Section 893 of the FY17 NDAA changed the definition of covered contractors—those contractors that may require contractor business system reviews—from contractors subject to CAS to generally only those with contracts subject to CAS that *account for more than 1 percent of their gross revenue*. To date, this statutory requirement has not been implemented in the DFARS. These business systems reviews are time- and resource-intensive for both the government and contractors.

Recommendation: AIA recommends modifying the DFARS to limit the scope of covered contractors subject to contractor business system reviews in accordance with Section 893 of the FY17 NDAA.

Use of Third Parties to Assess Compliance with Requirements

Requirement: Under current rules, DCMA and DCAA conduct audits and reviews to assess business system compliance with stated criteria (Source: DFARS 252.242-7005, DCMA Instruction 2301, DCMA Manual 2301-02, DCAA Manual 7640.1).

AIA Concern: Section 893 of the FY17 NDAA authorized the use of registered public accounting firms to assess compliance with DOD's contractor business systems requirements. Under this provision, if a registered public accounting firm certifies that a contractor's business system meets DOD's requirements, it would eliminate the need for further review by DOD. To date, this statutory requirement has not been implemented in the DFARS. These business systems reviews are time- and resource-intensive for both the government and contractors and the ability to use third parties would help to alleviate some burden.

Recommendation: In accordance with Section 893 of the FY17 NDAA, AIA recommends modifying the DFARS and other appropriate governing regulations to allow third-party accounting firms to assess compliance of contractor business systems with DOD requirements in lieu of a DCAA or DCMA audit, and accept the third-party determinations.

Audit and Review Periodicity

Requirement: Current DOD policies require the six contractor business systems be reviewed or audited generally every 3-5 years (Source: DCMA Instruction 2301, DCMA Manual 2301-02, DCAA Manual 7640.1).

AIA Concern: As identified by the Government Accountability Office (GAO) in multiple reports, including GAO-19-212 (Contractor Business Systems), DCMA and DCAA do not have mechanisms in place to monitor and assess whether contractor business system reviews are being completed in a timely manner. In multiple reports, GAO found that DCAA cannot complete business system audits in a timely manner due to higher priority audits, specifically incurred cost audits. The government's inability to complete required audits within specified timeframes – compounded with the periodicity of initial and follow-up audits – creates a cycle of near-constant auditing. This is a very resource-intensive effort for both the government and contractor workforces.

Recommendation: AIA recommends updating DOD policies to require the six contractor business systems be reviewed or audited (to include by third-party public accounting firms) generally every 10 years or in response to a major event. Contracting officers should also be given the flexibility to determine that an audit or review is not necessary.

Property System Audits

Requirement: DOD guidance explicitly states that, where a contractor uses a single property system across multiple locations, the audit should include the multiple locations. However, this is not how property system audits are conducted in practice (Source: DCMA Guidebook for Government Contract Property Administration).

AIA Concern: Despite stated guidance, property system audits are conducted by DCMA on a location-by-location basis. As such, if a contractor has a single property system with a single set of procedures that are implemented across 10 locations, DCMA will conduct 10 separate property system audits, one for each contractor location. This practice results in significant additional labor resources spent on property audits from both DCMA and from the contractor.

Recommendation: AIA recommends modifying the regulations and associated implementing instructions so that property systems are audited on a consolidated basis, similar to how the other contractor business systems are audited and reviewed.

INDEPENDENT RESEARCH & DEVELOPMENT OVERSIGHT

Independent research and development (IR&D) investments are critical to defense innovation and emerging technology incubation. Maintaining and growing industry IR&D investments is imperative to the conception and maturation of critical defense-unique technologies and ensuring U.S. technological leadership and superiority in weapon system design, development, production, and support. Companies have always given careful consideration prior to the expenditure of limited IR&D resources. However, in recent years, the DOD has implemented various regulations governing the recovery of IR&D costs, which impacts how contractors may choose to expend IR&D.

Enclosure: AIA Comments

While not exhaustive, below are regulatory requirements that impose significant burden on companies seeking to work with the DOD:

Chief Executive Officer Determination of IR&D Expenditures

Requirement: The DFARS requires Chief Executive Officers (CEOs) of major contractors to make a determination that the IR&D expenditures advance the needs of the DOD for future technology and advanced capability (Source: DFARS 231.205-18).

Concern: While the underlying statute (10 USC 3762) requires CEO determination, it does not prohibit delegation. The DFARS, however, requires the CEO personally make the required determination. Elevating the determination authority to the CEO drives unnecessary administrative activities, especially considering there are many experts within a company that would have sufficient knowledge of the various IR&D projects and their benefits to the DOD.

Recommendation: The DFARS should allow for the CEO determination to be delegable to "contractor employee(s) with responsibility for technology investment and strategy decisions (at the division, business unit, or segment level)."

Use of the Defense Technical Information Center to Monitor IR&D Expenditures

Requirement: The DFARS provides for reimbursement of only those IR&D costs that are consistent with the "planned or expected needs of DOD for future technology and advanced capability" as communicated through the Defense Technical Information Center (DTIC) website. Additionally, it requires that, to be reimbursed for IR&D costs, major contractors must enter projects into DTIC at least annually, no later than three months after the end of the contractor's fiscal year, and when the project is completed (Source: DFARS 231.205-18, DFARS 242.771-3).

Concern: By limiting allowable IR&D to a single authority (i.e., the DTIC), there is a risk of limiting contractor innovation. Additionally, the DTIC website is continuously being revised and there is no revision control. This places additional risk on the contractors to make IR&D investment decisions based on an ever-changing website and increases the likelihood that IR&D costs may be deemed unallowable if the DTIC has been updated since the investment decisions were originally made.

Recommendation: Eliminate the requirement for allowable IR&D to be tied to communications provided by DTIC and provide greater discretion to the companies to determine if IR&D expenses are consistent with "the needs of the DOD for future technology and advanced capability," in line with statutory intent.

Applicability to "Major Contractors"

Requirement: In accordance with DFARS 231.205-18, "major contractors" are defined as any contractor whose covered segments allocated a total of more than $11 million in IR&D costs and bid & proposal (B&P) costs to covered contracts during the preceding fiscal year (Source: DFARS 231.205-18).

Concern: 10 USC 3762 and 10 USC 3763 require allowable IR&D and B&P costs to be reported independently. However, the DFARS establishes a threshold to identify "major contractors" for

the purposes of reporting IR&D expenses that includes both IR&D and B&P costs. This inappropriately combines distinctly different types of costs incurred for completely different purposes and imposes the reporting requirement on more companies than it should, to include small businesses and contractors with a high volume of B&P activity but a small investment in IR&D.

Recommendation: AIA recommends that the calculation of a "major contractor" within the DFARS should be changed to only include IR&D costs.

CONTROLLED UNCLASSIFIED INFORMATION PROTECTION REQUIREMENTS

AIA and its member companies are committed to safeguarding secure federal information. These organizations have implemented robust cybersecurity measures to safeguard such sensitive data from cyber threats, ensuring the confidentiality, integrity, and availability of critical information. However, the lack of a harmonized federal rule to govern handling of federal contract information (FCI) or controlled unclassified information (CUI) creates a complex patchwork of protection and compliance that is challenging for industry to understand and comply with.

Requirement: Various regulations identify requirements related to identification, marking, handling, and protecting FCI and CUI (Source: 32 CFR 170, 32 CFR 2002, FAR 52.204-21, NIST Special Publication 800-171, NIST Special Publication 800-171A, NIST Special Publication 800-172, NIST Special Publication 800-172A, DFARS 204.7304, DFARS 252.2024-7012, DOD Instruction 5200.48).

Concern: Both FCI and CUI include information created or collected by or for the government, as well as information received from the government. Most defense contractors deal with both FCI and CUI and the specific requirements for identification, marking, handling, and reporting are included in various regulations, creating a complex and challenging compliance framework. Such inconsistent guidance leads to excessive caution, administrative burden, and requires significant resources to navigate.

Recommendation: AIA recommends the development of a consolidated, harmonized set of regulations that make clear what constitutes FCI and CUI, as well as how such information should be marked, handled, protected, and reported. This should include harmonization with the proposed requirements contemplated in FAR Case 2017-016.

RESOLICITATION REQUIREMENTS

AIA and its member companies strongly believe competition within the defense industrial base is critical to national and economic security. It spurs innovation of transformational technologies, incentivizes contractors to offer lower prices and best value, and yields improvements in quality. However, significant regulatory burdens – even those intended to protect and preserve a competitive environment – can increase barriers to entry for companies of all sizes seeking to enter the defense industrial base.

Requirement: Contracting officers are required to resolicit for an additional 30 days when only one offer is received in response to a competitive solicitation. This requirement can be waived

by the Head of the Contracting Activity, but the waiver authority cannot be delegated below one level above the contracting officer (Source: DFARS 215.371-3, DFARS 215.371-5).

Concern: Interested parties have multiple opportunities prior to solicitation closing to be notified of the government's requirement and intent to solicit. The arbitrary requirement to re-solicit when only one offer is received – despite providing for competition – increases barriers to entry, increases procurement lead times, and delays delivery of critical goods and services. Additionally, even when only one offer is received, the government retains the benefits of adequate price competition as bidders are operating in a competitive environment.

Recommendation: AIA recommends elimination of this requirement and the associated waiver process.

MISCELLANEOUS

Consistent Domestic Content Requirements

Requirement: The FAR increases, with some exceptions, the component cost threshold for determining whether an end product is domestic for purposes of the Buy American Act from 55 percent to 60 percent for products delivered on and after October 25, 2022. It also establishes a schedule for future increases in the domestic content component threshold to 65 percent beginning in calendar year 2024 and 75 percent beginning in calendar year 2029. Similarly, the DFARS increases the requirement for a qualifying or domestic end product from 60 percent to 65 percent for items delivered in calendar years 2024 through 2028, and 75 percent for items delivered starting in calendar year 2029. (Source: FAR 25.101(a)(2)(i), FAR 25.201(b)(2)(i), DFARS 252.225-7001(a)).

Concern: While the increased content percentage reinforces the spirit of the Buy American Act, the increasing percentage is not aligned to statute and creates supply chain challenges, thus impacting ability for contractors to move faster in finding reliable sources of supply today while facing increased percentages in the future with an uncertain and volatile supply base.

Recommendation: AIA recommends aligning the regulatory domestic content requirements in both the FAR and DFARS to the statutory requirement of 55 percent. This will improve supply chain performance across the defense industrial base and ensure timely support to the warfighter.

Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten

Requirement: The DFARS requires that, after January 1, 2027, a contractor cannot deliver any covered material (i.e., certain magnets, tantalum, and tungsten) mined, refined, separated, melted, or produced in any covered country (i.e., North Korea, China, Russia, Iran), and cannot deliver any end item, manufactured in any covered country, that contains a covered material (Source: DFARS 225.7018, DFARS 252.225-7052, DFARS PGI 225.7018-4).

Concern: While AIA recognizes the strategic importance of sourcing select critical materials domestically or from allies and partners, at present, this requirement presents a challenge due to a lack of compliant sources. The United States Department of Interior Geological Survey reports that tungsten has not been mined commercially in the United States since 2015 and

reports that world tungsten supply is dominated by production in China and exports from China. The mining and refining infrastructure of the United States and its allies is not currently in a position to support a January 2027 implementation of the DFARS regulations.

Recommendation: Until such time as compliant source(s) of supply are identified capable of meeting quantity demands of the defense industrial base, AIA recommends DOD issuance of a Blanket Class Determination of Non-Availability for the covered materials, as permitted by statute.

Requirements Development Processes

Requirement: These regulations identify the process by which requirements are identified and validated within the DOD and identify the roles and responsibilities of organizations involved in the process (Source: Chairman of the Joint Chiefs of Staff (CJCS) Instruction 5123.01I, Manual for the Operation of the Joint Capabilities Integration and Development System).

Concern: Based on several analyses, which assess that it takes over two years to validate a requirement, the current system does not move with the agility or flexibility to be able to effectively respond to emerging technologies or changes in the threat environment. Congress shares this concern; Section 811 of the FY24 NDAA directed the Secretary of Defense to modernize the DOD's requirements processes in order to improve alignment between modern warfare concepts, technologies, and system development and reduce time to delivery of needed capabilities.

Recommendation: AIA recommends reviewing the CJCS Instruction 5123.01I and JCIDS Manual to streamline processes to the maximum extent practicable. This should include reviewing and rationalizing the roles and responsibilities of the parties currently involved in the requirements development process. This should also include ensuring that programs utilizing streamlined or rapid acquisition pathways (e.g., Middle Tier of Acquisition, Software Pathway) are exempted from the JCIDS process in line with statutory intent.