



ACQUISITION  
AND SUSTAINMENT

THE UNDER SECRETARY OF DEFENSE  
3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

JAN 31 2019

MEMORANDUM FOR SERVICE ACQUISITION EXECUTIVES  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Implementation of title 10, United States Code, section 2443 – Sustainment Factors in Weapon System Design

Section 834 of the National Defense Authorization Act of FY 2018, (Public Law 115-91) as enacted in title 10, United States Code (U.S.C.), section 2443, directs the Secretary of Defense to ensure that the defense acquisition system gives ample emphasis to sustainment factors, particularly those factors that are affected principally by the design of a weapon system, in the development of a weapon system. The statute does not define “weapon system.” For the implementation of this policy, the term “weapon system” shall be defined as a program that meets the criteria of a “Major System,” as provided for in title 10, U.S.C., section 2302 and section 2302d or a “Major Defense Acquisition Program,” as provided for in title 10, U.S.C., section 2430. The Service Secretaries may apply this policy to other systems that do not meet either of these statutory criteria.

This policy implements the statutory direction and is intended to ensure that sustainment factors are addressed in weapon systems design specifications, contracts, and source selection criteria. Title 10, U.S.C., section 2443 is applicable for covered contracts in Engineering and Manufacturing Development (EMD) and Production. This policy also includes Program Manager (PM) responsibilities for the Technology Maturation and Risk Reduction (TMRR) phase to emphasize reliability and maintainability (R&M) requirements, activities, and source selection criteria early during weapon systems design. The following policy is applicable to solicitations and award of contracts for weapon systems issued on or after December 12, 2018 and requires the PM for weapons systems to ensure that:

- a. Measureable requirements for engineering activities and design specifications for R&M are included in TMRR, EMD and Production solicitations. The PM must justify in writing a determination to exclude engineering activities and design specifications for R&M from the solicitation and must also document the decision in the program acquisition strategy.
- b. Sustainment factors, including R&M, are given ample emphasis in the process for source selection. Use of objective R&M criteria in the evaluation of competitive proposals is encouraged.
- c. Performance measures are developed using best practices for responding to the positive or negative contractor performance in meeting the sustainment requirements of a weapon system in all EMD and Production contracts.

- d. The use of incentive fees and penalties (as appropriate) to incentivize achievement of design specification requirements for R&M in all EMD and Production solicitations and contracts is encouraged.
- e. Base determinations of contractor performance on R&M data collected during the program for an EMD and Production contract and that, to the maximum extent practicable, such data shall be shared with appropriate contractor and government organizations.

Milestone Decision Authorities (MDA) shall notify the congressional defense committees upon entering into an EMD or Production contract that includes incentive fees or penalties to the contractor based on the achievement of R&M design specifications. The MDA shall provide a copy of the notification letters to the Office of the Under Secretary of Defense for Acquisition and Sustainment and to the Office of the Under Secretary of Defense for Research and Engineering.

This policy is effective immediately and will be included in the next update to the Department of Defense Instruction 5000.02. The Defense Federal Acquisition Regulation Supplement will be revised to reflect the contracting officer responsibilities, as appropriate.



Ellen M. Lord

cc:  
UNDER SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING  
ASSISTANT SECRETARY OF DEFENSE FOR SUSTAINMENT