

employees of a predecessor subcontractor or subcontractors working under this contract, as well as of a predecessor Contractor and its subcontractors;

(2) That the subcontractor will provide the Contractor with the information about the service employees of the subcontractor needed by the Contractor to comply with paragraphs (d) and (e) of this clause; and

(3) The recordkeeping requirements of paragraph (f) of this clause.

(End of clause)

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Chapter 1

[Docket FAR 2012-0081, Sequence 9]

#### Federal Acquisition Regulation; Federal Acquisition Circular 2005-64; Small Entity Compliance Guide

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Small Entity Compliance Guide.

**SUMMARY:** This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2005-64, which amends the Federal Acquisition Regulation (FAR). An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2005-64, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

**DATES:** For effective date see separate document, which follows.

**FOR FURTHER INFORMATION CONTACT:** The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005-64 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755.

## RULE IN FAC 2005-64

Subject	FAR Case	Analyst
* Nondisplacement of Qualified Workers Under Service Contracts.	2011-028	Loeb

**SUPPLEMENTARY INFORMATION:** A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific item number and subject set forth in the document following the item summary. FAC 2005-64 amends the FAR as specified below:

#### Nondisplacement of Qualified Workers Under Service Contracts (FAR Case 2011-028)

This final rule adds subpart 22.12, entitled "Nondisplacement of Qualified Workers Under Service Contracts," and a related contract clause, to the FAR. The new subpart implements Executive Order 13495 and Department of Labor implementing regulations at 29 CFR part 9. The final rule applies to service contracts for performance by service employees of the same or similar work at the same location. It requires service contractors and their subcontractors under successor contracts to offer service employees of the predecessor contractor and its subcontractors a right of first refusal of employment for positions for which they are qualified.

Dated: December 14, 2012.

**Laura Auletta,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### 29 CFR Part 9

RIN 1215-AB69; 1235-AA02

#### Nondisplacement of Qualified Workers Under Service Contracts; Effective Date

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Final rule; notice of effective date and OMB approval of information collection requirements.

**SUMMARY:** The Department of Labor announces the effective date of its Final Rule published on August 29, 2011, to implement Executive Order 13495,

Nondisplacement of Qualified Workers Under Service Contracts (Executive Order 13495 or Order). Executive Order 13495 states that the Order shall apply to solicitations issued on or after the effective date of regulations issued by the Federal Acquisition Regulatory Council (FARC) to amend the Federal Acquisition Regulation (FAR) to provide for the inclusion of the contract clause set forth in Executive Order 13495 in Federal solicitations and contracts for services subject to the Order (FARC Final Rule). The Department of Labor Final Rule provided that it would not be effective until the FARC issued the FARC Final Rule, and that as a result, the Department of Labor would publish a notice in the **Federal Register** announcing the effective date once the effective date was determined. The FARC has established January 18, 2013 as the effective date for its final rule. In accordance with the Department of Labor Final Rule, this document advises the public of the effective date of the Department's Final Rule. In addition, in accordance with the Paperwork Reduction Act (PRA), the Department of Labor announces that the Office of Management and Budget has approved the information collection requirements contained in the Department of Labor Final Rule.

**DATES:** The effective date for the Final Rule published on August 29, 2011 (76 FR 53720), is January 18, 2013. In addition, on December 7, 2011, the Office of Management and Budget (OMB) approved under the Paperwork Reduction Act the Department of Labor's information collection request for requirements in 29 CFR 9.21; 9.12(a), (b), (e)(1), (e)(2), and (f) as published in the **Federal Register** on August 29, 2011. See 76 FR 53744. The current expiration date for OMB authorization for this information collection is December 31, 2014.

**FOR FURTHER INFORMATION CONTACT:** Timothy Helm, Division of Enforcement Policies and Procedures, Branch Chief, Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, at (202) 693-0064 (this is not a toll-free number).

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obtain information or request materials in alternative formats.

**SUPPLEMENTARY INFORMATION:** Executive Order 13495 establishes a general policy of the Federal Government concerning service contracts and solicitations for service contracts for performance of the same or similar services at the same location. This policy mandates the inclusion of a contract clause requiring the successor contractor and its subcontractors to offer those employees employed under the predecessor contract, whose employment will be otherwise terminated as a result of the award of the successor contract, a right of first refusal of employment under the successor contract in positions for which they are qualified. Because the Executive Order applies to contract solicitations issued on or after the effective date for FARC Final Rule, the Department of Labor's final rule published August 29, 2011 (76 FR 53720) could not become effective until the effective date of the FARC Final Rule. The FARC Final Rule has an effective date of January 18, 2013. The effective date of the Department's Final Rule also is January 18, 2013.

The Department's final rule includes information collection requirements subject to the Paperwork Reduction Act. Specifically, the final rule requires information collections for employment offers (§ 9.12(a), (b), (e)(1), (e)(2), and (f)), and related to the filing of complaints (§ 9.21). As discussed in the preamble to the final rule, the Department submitted the information collections contained therein to the Office of Management and Budget (OMB) for approval. (76 FR 53744) On December 7, 2011, OMB approved the Department's information collection request under Control Number 1235-0025, thus giving effect to the information collection requirements contained in the final rule published in the **Federal Register** on August 29, 2011. The current expiration date for OMB authorization for this information collection is December 13, 2014.

The Department has determined that good cause exists to make this Final Rule effective on January 18, 2013, concurrent with the effective date of the FARC Final Rule. This Final Rule is a technical amendment to the Department's final rule published in the **Federal Register** on August 29, 2011 (76 FR 53720), in which the Department

advised the public that the rule would not be effective until the FARC issued the FARC Final Rule, and that as a result, the Department would publish a notice in the **Federal Register** announcing the effective date once the effective date was determined. Contractors and subcontractors subject to the Department's Final Rule have had sufficient opportunity to determine how they would comply with the Department's Final Rule. Furthermore, it is in the public interest to make the effective date of the Department's Final Rule concurrent with the FARC Final Rule's effective date to avoid confusion that could result for contractors and subcontractors if the two rules were to have differing effective dates. For the reasons stated, it is the Department's position that is not necessary to delay the effective date of this Final Rule until 30 days after publication in the **Federal Register**.

Dated: December 13, 2012.

**Mary Beth Maxwell,**

*Acting Deputy Administrator, Wage and Hour Division.*

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