

encourage contractors to conduct initiatives such as: (1) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and (2) education, awareness, and other outreach programs to inform employees about the safety risks associated with texting while driving. This requirement applies to all solicitations and contracts.

#### Item VI—TINA Interest Calculations (FAR Case 2009–034)

DoD, GSA, and NASA are publishing a final rule amending the FAR to revise the clauses at FAR 52.214–27, FAR 52.215–10, and FAR 52.215–11 to require compound interest calculations be applied to Government overpayments as a result of defective cost or pricing data.

Dated: June 28, 2011.

Laura Auletta,

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

Federal Acquisition Circular (FAC) 2005–53 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–53 is effective July 5, 2011, except for Items I, II, III, V and VI which are effective August 4, 2011.

Dated: June 27, 2011.

**Richard Ginman,**

*Director, Defense Procurement and Acquisition Policy.*

Dated: June 28, 2011.

**Joseph A. Neurauter,**

*Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.*

Dated: June 22, 2011.

**William P. McNally,**

*Assistant Administrator for Procurement, National Aeronautics and Space Administration.*

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 1, 22, and 52

[FAC 2005–53; FAR Case 2009–007; Item I; Docket 2010–0101, Sequence 1]

RIN 9000–AL67

#### Federal Acquisition Regulation; Equal Opportunity for Veterans

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA have adopted as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement Department of Labor (DOL) regulations on equal opportunity provisions for various categories of military veterans. The interim rule revised coverage and definitions of veterans covered under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 and included new reporting requirements established under that Act and the Jobs for Veterans Act.

**DATES:** *Effective Date:* August 4, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ms. Clare McFadden, Procurement Analyst, at (202) 501–0044, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–53, FAR Case 2009–007.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 75 FR 60249 on September 29, 2010, to implement DOL regulations on equal opportunity provisions for various categories of military veterans. The interim rule revised coverage and definitions of veterans covered under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 and included new reporting requirements established under that Act and the Jobs for Veterans Act. The comment period closed November 29, 2010. One respondent submitted comments in response to the interim rule.

##### II. Discussion and Analysis of Public Comments

The Civilian Agency Acquisition Council and the Defense Acquisition

Regulations Council (the Councils) reviewed the comments in development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

##### A. Definitions

*Comment:* The respondent recommended inclusion of the definition of “Executive and Senior Management,” as defined in the FAR clause 52.222–35, Equal Opportunity for Veterans, in the definitions section of FAR subpart 22.13.

*Response:* The Councils have added the definition to FAR 22.1301.

*Comment:* The respondent recommended a change to the definition of the term “other protected veteran.”

*Response:* The FAR rule is implementing the DOL rule and does not have the latitude to expand the meaning of the DOL definition. (See the August 8, 2007, final rule of the Office of Federal Contract Compliance Programs, Department of Labor, 60–300.2 (p), 72 FR 44393.)

##### B. Delete References to the VETS–100 Form

*Comment:* The respondent recommends deleting all references to the VETS–100 Form and the date of December 1, 2003, to allow contractors to submit all reports on the VETS–100A Form.

*Response:* While understanding the rationale for the recommendation, the Councils are again bound by the DOL rule.

##### C. Date of FAR Clause 52.244–6

*Comment:* The respondent recommended that the FAR clause 52.244–6 date should be updated to reflect the OCT 2010 change made to the clause subsequent to the interim rule.

*Response:* When an interim rule is finalized, the final rule automatically retains any intervening changes to the FAR baseline, such as clause dates. No further change is required.

### III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant

regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**IV. Regulatory Flexibility Act**

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because contractors are already required to annually track and report their veteran workforces on the VETS-100 Form in accordance with the Vietnam Era Veterans' Readjustment Assistance Act of 1972, as amended by the Jobs for Veterans Act. This rule implemented a new form, VETS-100A that simply includes the revised categories of veterans for reporting purposes.

**V. Paperwork Reduction Act**

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

**List of Subjects in 48 CFR Parts 1, 22, and 52**

Government procurement.

Dated: June 28, 2011.

**Laura Auletta,**

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

Accordingly, the interim rule amending 48 CFR parts 1, 22, and 52, which was published in the **Federal Register** at 75 FR 60249, September 29, 2010, is adopted as final with the following changes:

**PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

■ 1. The authority citation for 48 CFR part 22 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 22.1301 by adding, in alphabetical order, the definition "Executive and senior management" to read as follows:

**22.1301 Definitions.**

\* \* \* \* \*

*Executive and senior management* means—

- (1) Any employee—
  - (i) Compensated on a salary basis at a rate of not less than \$455 per week (or \$380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities;
  - (ii) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;
  - (iii) Who customarily and regularly directs the work of two or more other employees; and
  - (iv) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; or
- (2) Any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

\* \* \* \* \*  
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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 4**

[FAC 2005-53; FAR Case 2009-023; Item II; Docket 2010-0094, Sequence 1]

**RIN 9000-AL70**

**Federal Acquisition Regulation; Unique Procurement Instrument Identifier**

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to standardize use of unique Procurement Instrument Identifiers (PIID) throughout the Government. The lack of consistent agency policies and procedures for PIIDs subjected users of contract data, including the Federal Government, contractors, and the public, to potential

duplicate, overlapping, or conflicting information from the different Federal agencies.

**DATES:** *Effective Date:* August 4, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Karlos Morgan, Procurement Analyst, at (202) 501-2364 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-53, FAR Case 2009-023.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 75 FR 50731 on August 17, 2010, to standardize the use of unique PIIDs throughout the Government. Four respondents submitted comments on the proposed rule.

**II. Discussion and Analysis of the Public Comments**

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

*A. Agency and Office Identifier*

*Comment:* A respondent provided a suggestion that the prescribed identifiers include not only an agency identifier, but an office identifier as well.

*Response:* At this time, not all agencies have an office-unique identifier. However, as data standardization efforts progress, this may be a future area of consideration.

*B. Amendments*

*Comment:* A respondent suggested that the term "amendments" be removed from the proposed FAR 4.605, as "amendments" are not reported to the Federal Procurement Data System (FPDS).

*Response:* "Amendments" will be removed from the identified part, and replaced with "solicitations", because solicitation numbers are included in FPDS contract action reports.

*C. Consistent Government Format*

*Comment:* Two respondents requested a consistent format for the PIIDs across the Government.

*Response:* At this time it is not cost effective to transition all Federal agencies to a single PIID format across the Government.