

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1****[Docket FAR 2012–0080, Sequence 9]****Federal Acquisition Regulation;
Federal Acquisition Circular 2005–64;
Introduction**

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

ACTION: Summary presentation of a final rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–64. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is 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 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.

Federal Acquisition Circular (FAC) 2005–64 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 2005–64 is effective January 18, 2013.

Dated: December 12, 2012.

Richard Ginman

Deputy Director, Defense Procurement and Acquisition Policy.

Dated: December 14, 2012.

Joseph A. Neurauder,

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

Dated: December 13, 2012.

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, 2, 22, and 52****[FAC 2005–64; FAR Case 2011–028; Docket 2011–028; Sequence 1]****RIN 9000–AM21****Federal Acquisition Regulation;
Nondisplacement of Qualified Workers Under Service Contracts**

AGENCY: 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 implement an Executive order for nondisplacement of qualified workers under service contracts, as implemented in Department of Labor regulations.

DATES: *Effective Date:* January 18, 2013.

Applicability Date: This final rule is applicable to solicitations issued on or after the effective date.

Contracting officers are expected to work with their existing service contractors and bilaterally modify their contracts, to the extent feasible, to include the clause at FAR 52.222–17. As an alternative, contracting officers should consider entering into bilateral modifications with existing service contractors to agree to perform paragraph (c) of the clause at FAR 52.222–17, which: (1) Informs the existing predecessor contractor’s workforce of their right of first refusal; and (2) provides the list of service employees to the contracting officer no less than 30 days before contract completion. Contracting officers shall document the contract files of their existing service contracts to describe the steps that were taken.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202–501–0650 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–64, FAR Case 2011–028.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD, GSA, and NASA published a proposed rule at 77 FR 26232 on May 3, 2012, to implement Executive Order (E.O.) 13495, Nondisplacement of Qualified Workers Under Service Contracts, dated January 30, 2009, published at 74 FR 6103 on February 4, 2009, and the Department of Labor (DOL) regulations at 29 CFR part 9. This final rule amends the FAR to add subpart 22.12 and a new clause at FAR 52.222–17, providing the policy of the Federal Government, as expressed in E.O. 13495, to require service contractors and their subcontractors under successor contracts to offer employees of the predecessor contractor and its subcontractors a right of first refusal of employment for positions for which they are qualified. Twenty seven respondents submitted comments on the proposed rule.