Federal Acquisition Regulations; Nondisplacement of Qualified Workers Under Service Contracts; Effective Date; Final Rules

48 CFR Chapter 1
29 CFR Part 9

Federal Acquisition Regulations; Nondisplacement of Qualified Workers Under Service Contracts; Effective Date; Final Rules
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.


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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.

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[FR Doc. 2012–30590 Filed 12–20–12; 8:45 am]
BILLING CODE 6820–EP–P

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.


SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule at 77 FR 20232 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.