

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

[Docket No. FAR 2016–0051, Sequence No. 7]

**Federal Acquisition Regulation; Federal Acquisition Circular 2005–93; Introduction**

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

**ACTION:** Summary presentation of interim and final rules.

**SUMMARY:** This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–93. 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 dates see the separate documents, which follow.

**FOR FURTHER INFORMATION CONTACT:** The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–93 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755.

**RULES LISTED IN FAC 2005–93**

Item	Subject	FAR Case	Analyst
I .....	Paid Sick Leave for Federal Contractors (Interim) .....	2017–001	Delgado.
II .....	Fair Pay and Safe Workplaces; Injunction .....	2014–025	Delgado.

**SUPPLEMENTARY INFORMATION:**

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–93 amends the FAR as follows:

**Item I—Paid Sick Leave for Federal Contractors (FAR Case 2017–001) (Interim)**

This interim rule amends the FAR to implement Executive Order (E.O.) 13706 and a Department of Labor final rule issued on September 30, 2016, both entitled “Establishing Paid Sick Leave for Federal Contractors.” The interim rule requires contractors to allow all employees performing work on or in connection with a contract covered by the E.O. to accrue and use paid sick leave in accordance with E.O. 13706 and 29 CFR part 13. Contracting officers will include a clause in covered contracts.

**Item II—Fair Pay and Safe Workplaces; Injunction (FAR Case 2014–025)**

This final rule amends the FAR to include caveats on sections of FAR Case 2015–024, Fair Pay and Safe Workplaces, that were enjoined indefinitely as of October 24, 2016, by court order. FAR Case 2015–024 was published as a final rule in the **Federal Register** at 81 FR 58562 to implement Executive Order (E.O.) 13673, as amended by E.O.s 13683 and 13737. The rule had an effective date of October 25, 2016. On October 7, 2016, the Associated Builders and Contractors

of Southeast Texas, Inc., the Associated Builders and Contractors, Inc., and the National Association of Security Companies, filed a lawsuit in the United States District Court for the Eastern District of Texas, seeking to overturn the final rule, Civil Action No. 1:16–CV–425. The District Court issued a “Memorandum and Order Granting Preliminary Injunction” on October 24, 2016. The Court Order on page 31 stated that “Defendants are enjoined from implementing any portion of the FAR Rule or DOL Guidance relating to the new reporting and disclosure requirements regarding labor law violations as described in Executive Order 13673 and implemented in the FAR Rule and DOL Guidance. Further, Defendants are enjoined from enforcing the restriction on arbitration agreements.” The Court did not enjoin implementation of those sections of, or the clause in, the FAR rule addressing the E.O.’s paycheck transparency requirements. To ensure compliance with the Court Order, the FAR Council issued a memorandum on October 25, 2016, subject “Court Order Enjoining Certain Sections, Provisions, and Clauses in Federal Acquisition Circular (FAC) 2005–90, Implementing Executive Order (E.O.) 13673, Fair Pay and Safe Workplaces.”

Dated: December 9, 2016.

**William F. Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

Federal Acquisition Circular (FAC) 2005–93 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 2005–93 is effective December 16, 2016 except for item II, which is effective January 1, 2017.

Dated: December 8, 2016.

**Frank Kendall,**

*Under Secretary of Defense for Acquisition, Technology and Logistics.*

Dated: December 9, 2016.

**Jeffrey A. Koses,**

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

Dated: December 7, 2016.

**William P. McNally,**

*Assistant Administrator, Office of Procurement National Aeronautics and Space Administration.*

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