

other proof of the verifiable information on which such estimates are reasonably based. Only if the Contractor relies on an estimate that is reasonable and based on verifiable information will an employee's time spent in connection with uncovered work be excluded from hours worked counted toward the accrual of paid sick leave. If the Contractor estimates the amount of time an employee spends performing in connection with contracts covered by the E.O., the Contractor shall permit the employee to use his or her paid sick leave during any work time for the Contractor.

(3) In the event the Contractor is not obligated by the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, or the Fair Labor Standards Act to keep records of an employee's hours worked, such as because the employee is exempt from the Fair Labor Standards Act's minimum wage and overtime requirements, and the Contractor chooses to use the assumption permitted by 29 CFR 13.5(a)(1)(iii), the Contractor is excused from the requirement in paragraph (i)(1)(iv) of this clause and 29 CFR 13.25(a)(4) to keep records of the employee's number of daily and weekly hours worked.

(4)(i) Records relating to medical histories or domestic violence, sexual assault, or stalking, created for purposes of E.O. 13706, whether of an employee or an employee's child, parent, spouse, domestic partner, or other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, shall be maintained as confidential records in separate files/records from the usual personnel files.

(ii) If the confidentiality requirements of the Genetic Information Nondiscrimination Act of 2008 (GINA), section 503 of the Rehabilitation Act of 1973, and/or the Americans with Disabilities Act (ADA) apply to records or documents created to comply with the recordkeeping requirements in this contract clause, the records and documents shall also be maintained in compliance with the confidentiality requirements of the GINA, section 503 of the Rehabilitation Act of 1973, and/or ADA as described in 29 CFR 1635.9, 41 CFR 60-741.23(d), and 29 CFR 1630.14(c)(1), respectively.

(iii) The Contractor shall not disclose any documentation used to verify the need to use 3 or more consecutive days of paid sick leave for the purposes listed in 29 CFR 13.5(c)(1)(iv) (as described in 29 CFR 13.5(e)(1)(ii)) and shall maintain confidentiality about any domestic abuse, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

(5) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(6) Nothing in this contract clause limits or otherwise modifies the Contractor's recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, the Family and Medical Leave Act, E.O. 13658,

their respective implementing regulations, or any other applicable law.

(j) *Interference/discrimination.* (1) The Contractor shall not in any manner interfere with an employee's accrual or use of paid sick leave as required by E.O. 13706 or 29 CFR part 13. Interference includes, but is not limited to—

(i) Miscalculating the amount of paid sick leave an employee has accrued;

(ii) Denying or unreasonably delaying a response to a proper request to use paid sick leave;

(iii) Discouraging an employee from using paid sick leave;

(iv) Reducing an employee's accrued paid sick leave by more than the amount of such leave used;

(v) Transferring an employee to work on contracts not covered by the E.O. to prevent the accrual or use of paid sick leave;

(vi) Disclosing confidential information contained in certification or other documentation provided to verify the need to use paid sick leave; or

(vii) Making the use of paid sick leave contingent on the employee's finding a replacement worker or the fulfillment of the Contractor's operational needs.

(2) The Contractor shall not discharge or in any other manner discriminate against any employee for—

(i) Using, or attempting to use, paid sick leave as provided for under E.O. 13706 and 29 CFR part 13;

(ii) Filing any complaint, initiating any proceeding, or otherwise asserting any right or claim under E.O. 13706 and 29 CFR part 13;

(iii) Cooperating in any investigation or testifying in any proceeding under E.O. 13706 and 29 CFR part 13; or

(iv) Informing any other person about his or her rights under E.O. 13706 and 29 CFR part 13.

(k) *Notice.* The Contractor shall notify all employees performing work on or in connection with a contract covered by the E.O. of the paid sick leave requirements of E.O. 13706, 29 CFR part 13, and this clause by posting a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by employees. Contractors that customarily post notices to employees electronically may post the notice electronically, provided such electronic posting is displayed prominently on any Web site that is maintained by the Contractor, whether external or internal, and customarily used for notices to employees about terms and conditions of employment.

(l) *Disputes concerning labor standards.* Disputes related to the application of E.O. 13706 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 13. Disputes within the meaning of this contract clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the Department of Labor, or the employees or their representatives.

(m) *Subcontracts.* The Contractor shall insert the substance of this clause, including

this paragraph (m), in all subcontracts, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.

(End of clause)

■ 15. Amend section 52.244-6 by—

■ a. Revising the date of the clause and paragraph (c)(1)(xii);

■ b. Redesignating paragraphs (c)(1)(xv) through (xvii) as paragraphs (c)(1)(xvi) through (xviii), respectively; and

■ c. Adding a new paragraph (c)(1)(xv).

The revisions and addition read as follows:

**52.244-6 Subcontracts for Commercial Items.**

\* \* \* \* \*

**Subcontracts for Commercial Items (JAN 2017)**

\* \* \* \* \*

(c)(1) \* \* \*

(xii) 52.222-55, Minimum Wages under Executive Order 13658 (DEC 2015), if flowdown is required in accordance with paragraph (k) of FAR clause 52.222-55.

\* \* \* \* \*

(xv) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706), if flowdown is required in accordance with paragraph (m) of FAR clause 52.222-62.

\* \* \* \* \*

[FR Doc. 2016-30090 Filed 12-15-16; 8:45 am]

BILLING CODE 6820-EP-P

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 1, 4, 9, 17, 22, 42, and 52**

[FAC 2005-93; FAR Case 2014-025; Item II; Docket No. 2014-0025; Sequence No. 2]

RIN 9000-AN30

**Federal Acquisition Regulation; Fair Pay and Safe Workplaces; Injunction**

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

**ACTION:** Final rule; injunction.

**SUMMARY:** A final rule was published in the **Federal Register** on August 25, 2016 amending the Federal Acquisition Regulation (FAR) to implement the Executive Order (E.O.) on Fair Pay and Safe Workplaces. The E.O. was designed

to promote contracting efficiency by improving compliance with basic labor standards during the performance of federal contracts. Implementation of portions of the E.O. was preliminarily enjoined by an order issued by a Federal District court on October 24, 2016. DoD, GSA, and NASA are amending sections of the FAR that are affected by the Court's preliminary injunction order.

**DATES:** *Effective:* December 16, 2016.

*Applicability Date:* October 24, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Zenaida Delgado, Procurement Analyst, at 202-969-7207 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2005-93, FAR Case 2014-025; Injunction.

**SUPPLEMENTARY INFORMATION:**

*A. Background*

1. The Final Rule and Court Order

On August 25, 2016, DoD, GSA, and NASA published a final rule in the **Federal Register** at 81 FR 58562 to implement Executive Order (E.O.) 13673, as amended by E.O. 13683 and 13738 (hereinafter designated as the "E.O."). The E.O. was designed to promote contracting efficiency by improving contractor compliance with basic labor standards during the performance of Federal contracts. The rule, which added coverage in FAR parts 1, 4, 9, 17, 22, 42, and 52, 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 (Civil Action No. 1:16-CV-425) seeking to overturn the final rule. On October 13, 2016, the plaintiffs filed an "Emergency Motion for Temporary Restraining Order and Preliminary Injunction."

The District Court issued a "Memorandum and Order Granting Preliminary Injunction" on October 24, 2016. The Court Order on page 31 states that "Defendants are enjoined [from] implementing any portion of the FAR Rule or Department of Labor 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."

On October 25, 2016, the Federal Acquisition Regulatory Council issued a

memorandum to the Chief Acquisition Officers, Senior Procurement Executives, Defense Acquisition Regulations Council, and Civilian Agency Acquisition Council directing that all steps necessary be taken to ensure the enjoined sections, provisions, and clauses of the final rule are not implemented until such time as the injunction is terminated. The Council enumerated specific steps to be taken at a minimum, including the following:

1. Ensure new solicitations do not include representations or clauses that the enjoined coverage of the rule would have required—*i.e.*, the representation at FAR 52.222-57 and its commercial items version at paragraph (s) of 52.212-3, and 52.222-58 and the clause at 52.222-59, to direct disclosure of labor law violation decisions by offerors or contractors, or clause 52.222-61, that would require an offeror or contractor to agree to restrict use of mandatory pre-dispute arbitration agreements.

2. If a solicitation has been issued with representations or clauses listed in the previous paragraph 1, amend those solicitations immediately to remove those representations and clauses. Additionally, agencies shall not take any action on information, if any, submitted in response to those representations and clauses.

3. Ensure contracting officers do not implement the procedures in FAR 22.2004-2, 22.2004-3, 22.2004-4, or associated changes in FAR parts 9 and 42.

The FAR Council requested that agencies share its instructions widely among their workforces. It posted the Memorandum at <https://www.acquisition.gov/fair-pay-eo> and the Department of Labor re-posted the Memorandum at the top of its information page on the Fair Pay and Safe Workplaces E.O. at <https://www.dol.gov/asp/fairpayandsafeworkplaces/>.

As an additional step to ensure full awareness of, and compliance with, the Court Order, DoD, GSA, and NASA, on behalf of the FAR Council, are taking this more comprehensive administrative action to amend the final rule to include caveats throughout the rule for each section, provision, and clause that was enjoined by the terms of the Court Order. The caveat explains that the affected regulatory coverage has been enjoined as of October 24 and is enjoined indefinitely, but will become effective immediately if the injunction is terminated. At that time, DOD, GSA, and NASA will take an additional administrative action to remove the caveats added by this final rule.

In further compliance with the terms of the Court Order, as explained by the FAR Council in its October 25 Memorandum, GSA's Integrated Award Environment has halted actions to release the changes for the System for Award Management (SAM) that would support bidder and contractor submission of information on labor law violation decisions as well as the changes that would support public disclosure of this information in the Federal Awardee Performance and Integrity Information System (FAPIIS).

2. Paycheck Transparency

The final rule issued on August 25 also included coverage addressing the paycheck transparency requirements in section 5 of the E.O. Section 5(a) of the E.O. requires contractors and subcontractors performing covered contracts or subcontracts to provide wage statements to covered workers, giving them information concerning their hours worked, overtime hours pay, and any additions to or deductions made from their pay. Section 5(b) requires contractors and subcontractors performing covered contracts or subcontracts to provide a document to individuals performing work under the contract or subcontract as independent contractors informing them of their status as independent contractors. These requirements are implemented in FAR 22.2005, FAR 22.2007(d), and the clause at FAR 52.222-60, and further reflected in several other FAR clauses. The Court Order does not enjoin implementation of the coverage on paycheck transparency. On page 31 of the Order, the Court explains that "[t]he court does not find that Plaintiffs have established a substantial likelihood of success on their claims regarding the 'paycheck transparency requirement' and have failed to establish that they will suffer irreparable harm as to the implementation of those provisions, which do not take effect until January 1, 2017. See 81 FR at 58713. Therefore, the court declines to enjoin enforcement of the paycheck provisions." Accordingly, the paycheck transparency clause language at FAR 52.222-60, 52.244-6(c)(1)(xiv), 52.212-5(b)(36), (e)(1)(xvii) and Alternate II(e)(1)(ii)(Q) take effect for new solicitations issued on or after January 1, 2017, as stated in the final rule.

A number of other provisions in FAR parts 9, 22 and clause language in part 52 that make minor editorial changes or technical references are also not affected by the Court Order and, for this reason, do not appear in this final rule.

B. 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). The final rule issued August 25, 2016, was a significant regulatory action subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993, and a major rule under 5 U.S.C. 804. The action published today is amending the FAR to show enjoined sections as being enjoined indefinitely.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule is an administrative action that does not require publication for public comment.

List of Subjects in 48 CFR Parts 1, 4, 9, 17, 22, 42, and 52

Government procurement.

Dated: December 9, 2016.

William F. Clark,

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

Therefore DoD, GSA, and NASA amend 48 CFR parts 1, 4, 9, 17, 22, 42, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 9, 17, 22, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. Amend section 1.106 by adding a Note to the section to read as follows:

1.106 OMB approval under the Paperwork Reduction Act.

\* \* \* \* \*

Note to 1.106: By a court order issued on October 24, 2016, FAR segments "52.222-57", "52.222-58", and "52.222-59" and their corresponding OMB Control Number "9000-0195" are enjoined indefinitely as of the date of the order. The enjoined segments will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.1202 by adding a Note to paragraph (a)(21) to read as follows:

4.1202 Solicitation provision and contract clause.

(a) \* \* \*
(21) \* \* \*

Note to paragraph (a)(21): By a court order issued on October 24, 2016, this paragraph (a)(21) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

PART 9—CONTRACTOR QUALIFICATIONS

■ 4. Amend section 9.104-4 by adding a Note to paragraph (b) to read as follows:

9.104-4 Subcontractor responsibility.

\* \* \* \* \*

(b) \* \* \*

Note to paragraph (b): By a court order issued on October 24, 2016, this paragraph (b) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

■ 5. Amend section 9.104-5 by adding a Note to paragraph (d) to read as follows:

9.104-5 Representation and certifications regarding responsibility matters.

\* \* \* \* \*

(d) \* \* \*

Note to paragraph (d): By a court order issued on October 24, 2016, this paragraph (d) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

■ 6. Amend section 9.104-6 by adding Notes to paragraphs (b)(4) and (6) to read as follows:

9.104-6 Federal Awardee Performance and Integrity Information System.

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

Note to paragraph (b)(4): By a court order issued on October 24, 2016, the second

sentence of this paragraph (b)(4) is enjoined indefinitely as of the date of the order. The enjoined sentence will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

(6) \* \* \*

Note to paragraph (b)(6): By a court order issued on October 24, 2016, this paragraph (b)(6), is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

■ 7. Amend section 9.105-1 by adding a Note to paragraph (b)(4) to read as follows:

9.105-1 Obtaining information.

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

Note to paragraph (b)(4): By a court order issued on October 24, 2016, this paragraph (b)(4) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

PART 17—SPECIAL CONTRACTING METHODS

■ 8. Amend section 17.207 by adding a Note to paragraph (c)(8) to read as follows:

17.207 Exercise of options.

\* \* \* \* \*

(c) \* \* \*

(8) \* \* \*

Note to paragraph (c)(8): By a court order issued on October 24, 2016, this paragraph (c)(8) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 9. Amend section 22.102-2 by adding a Note to paragraph (c)(3) to read as follows:

**22.102–2 Administration and enforcement.**

\* \* \* \* \*

- (c) \* \* \*
- 
- (3) \* \* \*

**Note to paragraph (c)(3):** By a court order issued on October 24, 2016, this paragraph (c)(3) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 10. Amend section 22.104 by adding Notes to paragraphs (b)(1) and (d) to read as follows:

**22.104 Agency labor advisors.**

\* \* \* \* \*

- (b) \* \* \*
- 
- (1) \* \* \*

**Note to paragraph (b)(1):** By a court order issued on October 24, 2016, the words “agency labor compliance advisors (ALCAs) (as defined at 22.2002)” in this paragraph (b)(1) are enjoined indefinitely as of the date of the order. The enjoined words will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

\* \* \* \* \*

- (d) \* \* \*

**Note to paragraph (d):** By a court order on October 24, 2016, this paragraph (d) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 11. Amend section 22.2000 by adding a Note to the section to read as follows:

**22.2000 Scope of subpart.**

\* \* \* \* \*

**Note to 22.2000:** By a court order issued on October 24, 2016, this section is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 12. Amend section 22.2002 by adding a Note to the section to read as follows:

**22.2002 Definitions.**

\* \* \* \* \*

**Note to 22.2002:** By a court order issued on October 24, 2016, this section is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the

**Federal Register** advising the public of the termination of the injunction.

■ 13. Amend section 22.2003 by adding a Note to section to read as follows:

**22.2003 Policy.**

\* \* \* \* \*

**Note to 22.2003:** By a court order issued on October 24, 2016, this section is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 14. Amend section 22.2004–1 by adding a Note to the section to read as follows:

**22.2004–1 General.**

\* \* \* \* \*

**Note to 22.2004–1:** By a court order issued on October 24, 2016, this section is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 15. Amend section 22.2004–2 by adding a Note to the section to read as follows:

**22.2004–2 Preaward assessment of an offeror’s labor law violations.**

\* \* \* \* \*

**Note to 22.2004–2:** By a court order issued on October 24, 2016, this section is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 16. Amend section 22.2004–3 by adding a Note to the section to read as follows:

**22.2004–3 Postaward assessment of a prime contractor’s labor law violations.**

\* \* \* \* \*

**Note to section 22.2004–3:** By a court order issued on October 24, 2016, this section is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 17. Amend section 22.2004–4 by adding a Note to the section to read as follows:

**22.2004–4 Contractor preaward and postaward assessment of a subcontractor’s labor law violations.**

\* \* \* \* \*

**Note to 22.2004–4:** By a court order issued on October 24, 2016, this section is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 18. Amend section 22.2006 by adding a Note to the section to read as follows:

**22.2006 Arbitration of contractor employee claims.**

\* \* \* \* \*

**Note to 22.2006:** By a court order issued on October 24, 2016, this section is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 19. Amend section 22.2007 by adding Notes to paragraphs (a), (b), (c) and (e) to read as follows:

**22.2007 Solicitation provisions and contract clauses.**

(a) \* \* \*

**Note to paragraph (a):** By a court order issued on October 24, 2016, this paragraph (a) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

(b) \* \* \*

**Note to paragraph (b):** By a court order issued on October 24, 2016, this paragraph (b) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

(c) \* \* \*

**Note to paragraph (c):** By a court order issued on October 24, 2016, this paragraph (c) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

\* \* \* \* \*

(e) \* \* \*

**Note to paragraph (e):** By a court order issued on October 24, 2016, this paragraph (e) is enjoined indefinitely as of the date of

the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

**PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

■ 20. Amend section 42.1502 by adding a Note to paragraph (j) to read as follows:

**42.1502 Policy.**

\* \* \* \* \*  
(j) \* \* \*

**Note to paragraph (j):** By a court order issued on October 24, 2016, this paragraph (j) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

■ 21. Amend section 42.1503 by adding Notes to paragraphs (a)(1)(i) and (ii) and (h)(5) introductory text to read as follows:

**42.1503 Procedures.**

(a)(1) \* \* \*  
(i) \* \* \*

**Note to paragraph (a)(1)(i):** By a court order issued on October 24, 2016, the words “agency labor compliance advisor (ALCA) office (see subpart 22.20)” in this paragraph (a)(1)(i) are enjoined indefinitely as of the date of the order. The enjoined words will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

(ii) \* \* \*

**Note to paragraph (a)(1)(ii):** By a court order issued on October 24, 2016, the word “ALCA” in this paragraph (a)(1)(ii) is enjoined indefinitely as of the date of the order. The enjoined word will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*  
(h) \* \* \*  
(5) \* \* \*

**Note to paragraph (h)(5) introductory text:** By a court order issued on October 24, 2016, this paragraph (h)(5) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 22. Amend section 52.204–8 by—  
■ a. Revising the date of the provision; and  
■ b. Adding a Note to paragraph (c)(1)(xv).

The revision and addition reads as follows:

**52.204–8 Annual Representations and Certifications.**

\* \* \* \* \*

**Annual Representations and Certifications (DEC 2016)**

\* \* \* \* \*  
(c)(1) \* \* \*  
(xv) \* \* \*

**Note to paragraph (c)(1)(xv):** By a court order issued on October 24, 2016, 52.222–57 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

■ 23. Amend section 52.212–3 by—  
■ a. Revising the date of the provision; and  
■ b. Adding Notes to paragraphs (a) and (s).

The revision and addition reads as follows:

**52.212–3 Offeror Representations and Certifications—Commercial Items.**

\* \* \* \* \*

**Offeror Representations and Certifications—Commercial Items (DEC 2016)**

\* \* \* \* \*  
(a) \* \* \*

**Note to paragraph (a):** By a court order issued on October 24, 2016, the following definitions in this paragraph (a) are enjoined indefinitely as of the date of the order: “Administrative merits determination”, “Arbitral award or decision”, paragraph (2) of “Civil judgment”, “DOL Guidance”, “Enforcement agency”, “Labor compliance agreement”, “Labor laws”, and “Labor law decision”. The enjoined definitions will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*  
(s) \* \* \*

**Note to paragraph (s):** By a court order issued on October 24, 2016, this paragraph (s) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and

NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

■ 24. Amend section 52.212–5 by—  
■ a. Revising the date of the clause;  
■ b. Adding Notes to paragraphs (b)(35) and (e)(1)(xvi); and  
■ c. Amending Alternate II by—  
■ 1. Revising the date of the Alternate; and  
■ 2. Adding a Note to paragraph (e)(1)(ii)(P) of Alternate II.

The revisions and additions read as follows:

**52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.**

\* \* \* \* \*

**Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (DEC 2016)**

\* \* \* \* \*  
(b) \* \* \*  
(35) \* \* \*

**Note to paragraph (b)(35):** By a court order issued on October 24, 2016, 52.222–59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*  
(e)(1) \* \* \*  
(xvi) \* \* \*

**Note to paragraph (e)(1)(xvi):** By a court order issued on October 24, 2016, 52.222–59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*  
*Alternate II (DEC 2016).* \* \* \*  
\* \* \* \* \*  
(e)(1) \* \* \*  
(ii) \* \* \*  
(P) \* \* \*

**Note to paragraph (e)(1)(ii)(P):** By a court order issued on October 24, 2016, 52.222–59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

\* \* \* \* \*

■ 25. Amend section 52.222–57 by revising the date of the provision and adding a Note to the section to read as follows:

**52.222-57 Representation Regarding Compliance with Labor Laws (Executive Order 13673).**

\* \* \* \* \*

**Representation Regarding Compliance with Labor Laws (Executive Order 13673) (DEC 2016)**

\* \* \* \* \*

**Note to 52.222-57:** By a court order issued on October 24, 2016, 52.222-57 is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 26. Amend section 52.222-58 by revising the date of the provision and adding a Note to the section to read as follows:

**52.222-58 Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13673).**

\* \* \* \* \*

Subcontractor Responsibility Matters Regarding Compliance With Labor Laws (Executive Order 13673) (DEC 2016)

\* \* \* \* \*

**Note to 52.222-58:** By a court order issued on October 24, 2016, 52.222-58 is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 27. Amend section 52.222-59 by revising the date of the clause and adding a Note to the section to read as follows:

**52.222-59 Compliance with Labor Laws (Executive Order 13673).**

\* \* \* \* \*

**Compliance With Labor Laws (Executive Order 13673) (DEC 2016)**

\* \* \* \* \*

**Note to 52.222-59:** By a court order issued on October 24, 2016, 52.222-59 is enjoined indefinitely as of the date of the order. The

enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 28. Amend section 52.222-61 by revising the date of the clause and adding a Note to the section to read as follows:

**52.222-61 Arbitration of Contractor Employee Claims (Executive Order 13673).**

\* \* \* \* \*

**Arbitration of Contractor Employee Claims (Executive Order 13673) (DEC 2016)**

\* \* \* \* \*

**Note to 52.222-61:** By a court order issued on October 24, 2016, 52.222-61 is enjoined indefinitely as of the date of the order. The enjoined section will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

■ 29. Amend section 52.244-6 by—  
 ■ a. Revising the date of the clause; and  
 ■ b. Adding a Note to paragraph (c)(1)(xiii).

The revision and addition read as follows:

**52.244-6 Subcontracts for Commercial Items.**

\* \* \* \* \*

**Subcontracts for Commercial Items (DEC 2016)**

\* \* \* \* \*

(c)(1) \* \* \*  
 (xiii) \* \* \*

**Note to paragraph (c)(1)(xiii):** By a court order issued on October 24, 2016, 52.222-59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

\* \* \* \* \*

[FR Doc. 2016-30091 Filed 12-15-16; 8:45 am]

**BILLING CODE 6820-EP-P**

**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; Small Entity Compliance Guide**

**AGENCY:** 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 rules appearing in Federal Acquisition Circular (FAC) 2005-93, 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 these rules by referring to FAC 2005-93, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

**DATES:** December 16, 2016.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005-93 and the 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