SUPPLEMENTARY INFORMATION: Summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific item number and subject set forth in the document following this item summary. FAC 2005–96 amends the FAR as specified below:

Removal of Fair Pay and Safe Workplaces Rule (FAR Case 2017–015)

This final rule rescinds the final rule at 81 FR 58562 (August 25, 2016). This was FAR Case 2014–025, Fair Pay and Safe Workplaces, which was a significant rule under Executive Order (E.O.) 13266 and a major rule under 5 U.S.C. 804. Because of a Federal court injunction, the only provision or clause that had gone into effect was FAR 52.222–60, Paycheck Transparency (Executive Order 13673), which was included in solicitations starting on January 1, 2017. On March 27, 2017, Public Law 115–11 disapproved the rule under the Congressional Review Act. Therefore, by law, the rule has no force or effect, including the FAR 52.222–60 clause. Also on March 27, 2017, E.O. 13782, Revocation of Federal Contracting Executive Orders, rescinded the E.O.s that originally authorized the rule. All steps should be taken to ensure that no sections, provisions, or clauses of the final rule are implemented.


William F. Clark,
Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005–96 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 2005–96 is effective November 6, 2017.


Shay D. Assad,
Director, Defense Pricing/Defense, Procurement and Acquisition Policy.


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


William P. McNally,
Assistant Administrator, Office of Procurement National Aeronautics and Space Administration.

[FR Doc. 2017–23589 Filed 11–3–17; 8:45 am]
BILLING CODE 6820–EP–P
SUPPLEMENTARY INFORMATION: Summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific item number and subject set forth in the document following this item summary. FAC 2005–96 amends the FAR as specified below:

Removal of Fair Pay and Safe Workplaces Rule [FAR Case 2017–015]

This final rule rescinds the final rule at 81 FR 58562 (August 25, 2016). This was FAR Case 2014–025, Fair Pay and Safe Workplaces, which was a significant rule under Executive Order (E.O.) 13683 and a major rule under 5 U.S.C. 804. Because of a Federal court injunction, the only provision or clause that had gone into effect was FAR 52.222–60, Paycheck Transparency (Executive Order 13673), which was included in solicitations starting on January 1, 2017. On March 27, 2017, Public Law 115–11 disapproved the rule under the Congressional Review Act. Therefore, by law, the rule has no force or effect, including the FAR 52.222–60 clause. Also on March 27, 2017, E.O. 13782, Revocation of Federal Contracting Executive Orders, rescinded the E.O.s that originally authorized the rule. All steps should be taken to ensure that no sections, provisions, or clauses of the final rule are implemented.


William F. Clark,
Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, 9, 17, 22, 42, and 52
[FAC 2005–96; FAR Case 2017–015; Docket No. 2017–0002; Sequence No. 1]

RIN 9000–AN52

Federal Acquisition Regulation; Removal of Fair Pay and Safe Workplaces Rule

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 implement a public law that disapproved the final rule, Fair Pay and Safe Workplaces (FAR Case 2014–025), and an Executive Order (E.O.) dated March 27, 2017, that rescinded the prior Executive orders authorizing that rule.

DATES: Effective date: November 6, 2017. Applicability date: See section I.F of the SUPPLEMENTARY INFORMATION.


SUPPLEMENTARY INFORMATION:

I. Background

A. The FAR Rule Implementing E.O. 13673

FAR Case 2014–025 implemented E.O. 13673, Fair Pay and Safe Workplaces, dated July 31, 2014 (79 FR 45309, August 5, 2014), amended by section 3 of E.O. 13683, dated December 11, 2014 (79 FR 75041, December 16, 2014) and E.O. 13738, dated August 23, 2016 (81 FR 58807, August 26, 2016). The FAR Case final rule was published in the Federal Register on August 25, 2016, at 81 FR 58562. It was to be effective on October 25, 2016. Certain aspects of the rule were to be phased in. For example, the clause at FAR 52.222–60, Paycheck Transparency (Executive Order 13673), was to be inserted in solicitations starting January 1, 2017, if the estimated value of the resultant contract was to exceed $500,000.

The Department of Labor (DOL) published “Guidance for Executive Order 13673, ‘Fair Pay and Safe Workplaces’” on the same day as the FAR final rule was published (81 FR 58653).

B. Injunction and Federal Acquisition Regulatory Council Memorandum

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.” On October 24, 2016, the District Court issued a “Memorandum and Order Granting Preliminary Injunction.” The Court Order (on page 31) stated: “Defendants are enjoined [from] implementing any portion of the FAR Rule or the DOL Guidance relating to the new reporting and disclosure requirements regarding labor law violations as described in E.O. 13673 and implemented in the FAR Rule and DOL Guidance. Further, Defendants are enjoined from enforcing the restriction on arbitration agreements.”