

DEPARTMENT OF HEALTH AND HUMAN SERVICES**45 CFR Part 75**

RIN 0991-AC16

Grants Regulation; Removal of Non-Discrimination Provisions and Repromulgation of Administrative Provisions Under the Uniform Grant Regulation

AGENCY: Assistant Secretary for Financial Resources (ASFR), Health and Human Services (HHS or the Department).

ACTION: Notification; postponement of effectiveness.

SUMMARY: The U.S. District Court for the District of Columbia in *Facing Foster Care et al. v. HHS*, 21-cv-00308 (D.D.C. Feb. 2, 2021), has postponed the effectiveness of portions of the final rule making amendments to the Uniform Administrative Requirements, promulgated on January 12, 2021. Those provisions are now effective January 17, 2022.

DATES: November 26, 2021.

FOR FURTHER INFORMATION CONTACT: Johanna Nestor at Johanna.Nestor@hhs.gov or 202-205-5904.

SUPPLEMENTARY INFORMATION: On January 12, 2021, the Department issued amendments to and repromulgated portions of the Uniform Administrative Requirements, 45 CFR part 75. 86 FR 2257. That rule repromulgated provisions of part 75 that were originally published late in 2016. It also made amendments to 45 CFR 75.300(c) and (d).

Specifically, the rule amended paragraph (c), which previously provided that it is a public policy requirement of HHS that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services based on non-merit factors such as age, disability, sex, race, color, national origin, religion, gender identity, or sexual orientation. Recipients must comply with the public policy requirement in the administration of programs supported by HHS awards. The rule amended paragraph (c) to provide that it is a public policy requirement of HHS that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services, to the extent doing so is prohibited by Federal statute.

Additionally, the rule amended paragraph (d), which previously provided that in accordance with the Supreme Court decisions in *United States v. Windsor* and in *Obergefell v. Hodges*, all recipients must treat as valid the marriages of same-sex couples. The paragraph provided that it did not apply to registered domestic partnerships, civil unions, or similar formal relationships recognized under state law as something other than a marriage. The rule amended paragraph (d) to provide that HHS will follow all applicable Supreme Court decisions in administering its award programs.

On February 2, the portions of rulemaking amendments to § 75.300 (and a conforming amendment at § 75.101(f)) were challenged in the U.S. District Court for the District of Columbia. *Facing Foster Care et al. v. HHS*, 21-cv-00308 (D.D.C. filed Feb. 2, 2021). On February 9, the court postponed, pursuant to 5 U.S.C. 705, the effective date of the challenged portions of the rule by 180 days, until August 11, 2021.¹ On August 5, the court again postponed the effective date of the rule until November 9, 2021.² On November 3, the court further postponed the effective date of the rule until January 17, 2022.³ The Department is issuing this notification to apprise the public of the court's order.

Xavier Becerra,
Secretary.

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¹ See Order, *Facing Foster Care et al. v. HHS*, No. 21-cv-00308 (D.D.C. Feb. 2, 2021) (order postponing effective date), ECF No. 18.

² See Order, *Facing Foster Care et al. v. HHS*, No. 21-cv-00308 (D.D.C. Aug. 5, 2021) (order postponing effective date), ECF No. 23.

³ See Order, *Facing Foster Care et al. v. HHS*, No. 21-cv-00308 (D.D.C. Nov. 3, 2021) (order postponing effective date).

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Part 53**

[FAC 2022-01; FAR Case 2018-018; Item I; Docket No. FAR-2018-0018, Sequence No. 1]

RIN 9000-AN76

Federal Acquisition Regulation; Revision of Definition of "Commercial Item"; Correction

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

ACTION: Final rule; correction.

SUMMARY: DoD, GSA, and NASA published a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 to change the definition of "commercial item." This document corrects an erroneous instruction in that rule.

DATES: Effective December 6, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202-969-7207 or by email at zenaida.delgado@gsa.gov, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov. Please cite FAC 2022-01, FAR Case 2018-018.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA are correcting an amendatory instruction under part 53, section 53.213.

In FR Doc. 2021-22144 appearing on pages 61017-61038 in the issue of November 4, 2021, make the following correction:

53.213 [Corrected]

- 1. On page 61037, in the third column, Instruction 239, paragraph b.i. for section 53.213, is corrected to read:
 - “i. Removing the first instance of the term “(Rev. 2/2012)” and adding “(Rev. NOV 2021)” in its place; and”.

Janet Fry,

Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.

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