

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1**

[Docket No. FAR 2015-0051, Sequence 1]

**Federal Acquisition Regulation;
Federal Acquisition Circular 2005-81;
Introduction**

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

ACTION: Summary presentation of an interim rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005-81. 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 and comment dates see 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 2005-81 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755.

Rule Listed in FAC 2005-81

Subject	FAR Case	Analyst
Further Amendments to Equal Employment Opportunity (Interim).	2015-013	Loeb.

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 2005-81 amends the FAR as specified below:

**I—Further Amendments to Equal
Employment Opportunity (FAR Case
2015-013)**

DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13672, entitled “Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity”. E.O. 13672 was signed July 21, 2014. This interim rule is also implementing a final rule issued by the Office of Federal Contract Compliance Programs of the Department of Labor, which was published in the **Federal Register** at 79 FR 72985 on December 9, 2014, Implementation of Executive Order 13672 Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors.

Executive Order 11246, dated September 24, 1965, established requirements for non-discriminatory practices in hiring and employment for Federal contractors and subcontractors. The bases of discrimination prohibited by E.O. 11246 are race, color, religion, sex, and national origin. E.O. 13672 adds sexual orientation and gender identity to the prohibited bases of discrimination established by Executive Order 11246. There is no significant impact on small entities imposed by the FAR rule.

Dated: April 7, 2015.

William Clark,

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

Federal Acquisition Circular (FAC) 2005-81 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 2005-81 is effective April 10, 2015.

Dated: April 6, 2015.

RADM Althea H. Coetzee,

Acting Director of Defense Procurement and Acquisition Policy.

Dated: April 6, 2015.

Jeffrey A. Koses,

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

Dated: April 6, 2015.

Monica Y. Manning,

Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 2015-08281 Filed 4-8-15; 11:15 am]

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DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 1, 22, and 52**

[FAC 2005-81; FAR Case 2015-013; Item I; Docket No. 2015-0013, Sequence No. 1]

RIN 9000-AN01

**Federal Acquisition Regulation;
Further Amendments to Equal
Employment Opportunity**

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

ACTION: Interim rule.

SUMMARY: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13672, “Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity,” and a final rule issued by the Department of Labor (DOL).

DATES: *Effective:* April 10, 2015.

Applicability: This rule applies to solicitations and modifications to contracts, if the contract does not already contain clauses as amended by the rule, issued on or after April 10, 2015.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat on or before June 9, 2015 to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by FAC 2005-81, FAR Case 2015-013, by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for “FAR Case 2015-013”. Select the link “Comment Now” that corresponds with “FAR Case 2015-013”. Follow the instructions provided at the “Comment Now” screen. Please include your name, company name (if any), and “FAR Case 2015-013” on your attached document.

- Fax: 202-501-4067.
- Mail: General Services

Administration, Regulatory Secretariat (MVGB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005-81, FAR Case 2015-013, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202-501-0650 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAC 2005-81, FAR Case 2015-013.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are issuing an interim rule amending the FAR to implement Executive Order (E.O.) 13672, entitled "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity." The E.O. was signed July 21, 2014, and was published in the **Federal Register** at 79 FR 42971 on July 23, 2014. This interim rule is also implementing a final rule issued by the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor (DOL), which was published in the **Federal Register** at 79 FR 72985 on December 9, 2014, "Implementation of Executive Order 13672 Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors." The DOL rule revises 41 CFR parts 60-1, 60-2, 60-4, and 60-50.

E.O. 11246, dated September 24, 1965, established requirements for non-discriminatory practices in hiring and employment for Federal contractors and subcontractors. The bases of discrimination prohibited by E.O. 11246 are race, color, religion, sex, and national origin. E.O. 13672 seeks to provide for a uniform policy for the Federal Government to prohibit discrimination and take further steps to promote economy and efficiency in Federal Government procurement by adding sexual orientation and gender identity to the prohibited bases of discrimination established by E.O. 11246. E.O. 13672 is applicable on or after the effective date of the rules promulgated by DOL. The effective date of the DOL final rule is April 8, 2015.

II. Discussion and Analysis

A. The DOL regulation implements E.O. 13672 by substituting the phrase "sex, sexual orientation, gender identity, or national origin" for "sex or national origin" wherever "sex or national origin" appears in the DOL regulations implementing E.O. 11246. The DOL regulation did not provide definitions for the terms "gender identity" or "sexual orientation"; however, the OFCCP has developed materials to assist the contractor community, which include definitions of these terms. DoD, GSA, and NASA consider that the contracting community, contracting agency acquisition professionals as well as contractors and subcontractors, need these definitions in order to understand and comply with the requirements of the rule. Therefore, this interim rule relies on the OFCCP developed definitions and provides a link to the DOL's OFCCP Web site where the definitions are found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

B. The FAR implements E.O. 11246 in FAR subpart 22.8, Equal Employment Opportunity, FAR clause 52.222-26, Equal Opportunity, and related clauses as described below. This interim rule provides definitions and inserts "sexual orientation, gender identity" between "sex" and "or national origin" wherever they appear within FAR subpart 22.8 and the clauses that are prescribed in FAR subpart 22.8 as follows—

1. FAR 22.801, Definitions. The terms "gender identity" and "sexual orientation" are included in the list of defined terms.

2. FAR 22.802, General. Inserts the required language in paragraph (a)(2), which sets out the general requirement of E.O. 11246 to promote equal employment opportunity.

3. FAR 22.807, Exemptions. Inserts the required language in paragraph (a)(4), which discusses an exemption to E.O. 11246 for work on or near Indian Reservations, but reaffirms that if the contractor extends a preference in employment to Indians living on or near an Indian reservation, it shall not discriminate among Indians.

4. FAR 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items. Updates the currency of clause dates.

5. FAR 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items). Updates the currency of clause dates.

6. FAR 52.222-21, Prohibition of Segregated Facilities. Revises paragraph (a) to include the definitions of "gender

identity" and "sexual orientation" and updates the definition of "segregated facilities."

7. FAR 52.222-26, Equal Opportunity. Inserts definitions for the terms "gender identity" and "sexual orientation" and revises paragraphs (c)(1), (2), and (4), which set out basic requirements for prohibition of discrimination and action required to ensure equal treatment of employees during employment.

8. FAR 52.222-27, Affirmative Action Compliance Requirements for Construction. Inserts definitions for the terms "gender identity" and "sexual orientation", and revises paragraph (j), which affirms that employment goals or affirmative action standards shall not be used to discriminate against any person.

9. FAR 52.222-29, Notification of Visa Denial. Inserts definitions for the terms "gender identity" and "sexual orientation" and revises the clause to affirm the requirement for nondiscrimination when it is not compatible with the policies of a country where or for whom work is to be performed.

C. This interim rule updates the Office of Management and Budget (OMB) Control Numbers in FAR 1.106, OMB approval under the Paperwork Reduction Act. The information collections imposed by E.O. 11246 as amended are managed by DOL and are cited in the FAR.

D. This interim rule corrects previous inadvertent errors of omission by including FAR clause 52.222-21, Prohibition of Segregated Facilities in paragraph (e)(1) and Alternate II paragraph (e)(1) of the FAR clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items. Similarly, two clauses inadvertently omitted from FAR clause 52.244-6, Subcontracts for Commercial Items, are included in the list at paragraph (c)(1)—

1. FAR 52.222-21, Prohibition of Segregated Facilities, which is prescribed for all contracts containing FAR 52.222-26, Equal Opportunity; and

2. FAR 52.222-55, which implements E.O. 13673, Minimum Wages for Contractors.

E. This interim rule makes an administrative change to the listed provisions and FAR clauses at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, and 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) to list them in numerical order. This change is being made so that the lists follow the logical sequence of FAR parts, reducing the

likelihood that a reader could inadvertently overlook requirements.

F. The DOL rule preamble (79 FR at page 72987) emphasized that nothing in E.O. 13672, the DOL implementing regulations, or this interim rule diminishes the pre-existing coverage of discrimination on the basis of gender identity or discrimination on the basis of transgender status as a form of sex discrimination. See *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989); *Macy v. Holder*, EEOC Appeal No. 0120120821 (April 20, 2012). See also OFCCP Directive 2014-02, "Gender Identity and Sex Discrimination," effective August 19, 2014, which can be obtained at www.dol.gov/ofccp/regs/compliance/directives/dir2014_02.html.

III. 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The change may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.* The Initial Regulatory Flexibility Analysis (IRFA) is summarized as follows:

1. Reasons for the action.

This rule is necessary to implement Executive Order 13672, Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity, and a final rule issued by the Department of Labor at 41 CFR part 60 (79 FR 72985, December 09, 2014).

2. Objectives of, and legal basis for, the rule.

The objective of this rule is to provide for a uniform policy for the Federal Government to prohibit discrimination in Federal Government procurement by adding sexual orientation and gender identity to the prohibited bases of discrimination established by E.O. 11246.

3. Description of and estimate of the number of small entities to which the rule will apply.

The rule will apply to all contracts and subcontracts subject to the Equal Opportunity FAR clause 52.222-26, which is prescribed for all contracts over \$10,000 that are not completely exempted. Using Fiscal Year 2013 Federal Procurement Data System and Federal Subcontract Reporting System data, it is estimated that awards were made to 168,758 unique small businesses and that subcontracts were awarded to 61,816 unique small businesses. It is noted that there is likely a good measure of overlap between the unique small businesses that receive Federal awards and those that receive subcontract awards resulting in a likely overestimated total of 230,574 impacted small businesses.

4. Description of projected reporting, recordkeeping, and other compliance requirements of the rule. Include an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

Recordkeeping and reporting requirements of the rule involve regulatory familiarization and administrative costs associated with incorporating revised language into policies, instructions, notices to employees, and subcontracts. Other changes made by the rule, such as the prohibition of segregation of facilities are expected to have only minimal cost impacts as they do not require modification or construction of additional facilities, but rather the provision of equal access to existing facilities. An analysis of estimated costs of the regulatory changes was performed in the DOL final rule that was published in the **Federal Register** at 79 FR 72985 on December 9, 2014.

5. Relevant Federal rules which may duplicate, overlap, or conflict with the rule.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

6. Description of any significant alternatives to the rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the rule on small entities.

DoD, GSA, and NASA are not aware of any significant alternatives to the rule that would accomplish the stated objectives of the E.O. and the DOL implementing regulations.

It is necessary for the rule to apply to small entities, because E.O. 11246, as amended, applies to all contracts above \$10,000 that are not completely exempted. Every effort has been made to minimize the burdens imposed.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610

(FAR Case 2015-013), in correspondence.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C chapter 35) does apply; however, the information collection authorization is under the DOL regulations and is assigned OMB Control Number 1250-0009, titled Prohibiting Discrimination Based on Sexual Orientation and Gender identity by Contractors and Subcontractors. This information collection was authorized to address the E.O. 13672 changes and its expiration date is September 30, 2015.

VI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because E.O. 13672 stipulates that the effective date of the E.O., is the effective date of the DOL regulations, which is April 08, 2015.

However, pursuant to 41 U.S.C. 1707 and FAR 1.501-3(b), DoD, GSA, and NASA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 1, 22, and 52

Government procurement.

Dated: April 7, 2015.

William 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, 22, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 22, 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 REGULATION SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, in the table following the introductory text, by—

■ a. Removing the FAR Segment "22.8" and its corresponding OMB control numbers "1215-0072" and adding "22.8" and its corresponding OMB control number "1250-0003" in its place; and

■ b. Removing the FAR Segments “52.222–21”, “52.222–22”, “52.222–23”, “52.222–25”, “52.222–26”, and “52.222–27” and their corresponding OMB control number “1215–0072” and adding “52.222–21”, “52.222–22”, “52.222–23”, “52.222–25”, “52.222–26”, and “52.222–27” and their corresponding OMB control number “1250–0003” in their places.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 3. Amend section 22.801 by adding, in alphabetical order, the definitions “Gender identity” and “Sexual orientation” to read as follows:

22.801 Definitions.

* * * * *
Gender identity has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

* * * * *
Sexual orientation has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

22.802 [Amended]

■ 4. Amend section 22.802 by removing from paragraph (a)(2) “sex, or” and adding “sex, sexual orientation, gender identity, or” in its place.

22.807 [Amended]

■ 5. Amend section 22.807 by removing from paragraph (b)(4) “sex, or” and adding “sex, sexual orientation, gender identity, or” in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 6. Amend section 52.212–5 by—
 - a. Revising the date of the clause;
 - b. Revising paragraphs (b)(27) and (28);
 - c. Removing paragraph (c)(10);
 - d. Redesignating paragraphs (c)(1) through (c)(9) as paragraphs (c)(2) through (10), respectively;
 - e. Adding a new paragraph (c)(1);
 - f. Revising the newly designated paragraph (c)(8);
 - g. Removing paragraph (e)(1)(xvii);
 - h. Redesignating paragraphs (e)(1)(iv) through (e)(1)(xvi) as paragraphs (e)(1)(v) through (xvii), respectively;
 - i. Adding a new paragraph (e)(1)(iv);
 - j. Further redesignating newly designated paragraphs (e)(1)(xv) through (e)(1)(xvii) as paragraphs (e)(1)(xvi) through (xviii), respectively;

- k. Adding a new paragraph (e)(1)(xv); and
- l. Amending Alternate II by—
 - 1. Revising the date of the Alternate;
 - 2. Removing paragraph (e)(1)(ii)(O);
 - 3. Redesignating paragraphs (e)(1)(ii)(D) through (e)(1)(ii)(N) as paragraphs (e)(1)(ii)(E) through (O), respectively;
 - 4. Adding a new paragraph (e)(1)(ii)(D);
 - 5. Further redesignating newly designated paragraphs (e)(1)(ii)(N) and (O) as paragraphs (e)(1)(ii)(O) and (P), respectively; and
 - 6. Adding new paragraph (e)(1)(ii)(N).
 The revised and added text reads 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 (Apr 2015)

* * * * *
 (b) * * *
 _____ (27) 52.222–21, Prohibition of Segregated Facilities (Apr 2015).
 _____ (28) 52.222–26, Equal Opportunity (Apr 2015) (E.O. 11246).
 * * * * *

(c) * * *
 _____ (1) 52.222–17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495).
 * * * * *

_____ (8) 52.222–55, Minimum Wages Under Executive Order 13658 (Dec 2014) (E.O. 13658).
 * * * * *

(e)(1) * * *
 (iv) 52.222–21, Prohibition of Segregated Facilities (Apr 2015).
 * * * * *

(xv) 52.222–55, Minimum Wages Under Executive Order 13658 (Dec 2014) (E.O. 13658).
 * * * * *

Alternate II (Apr 2015). * * *

(e)(1) * * *
 (ii) * * *
 (D) 52.222–21, Prohibition of Segregated Facilities (APR 2015).
 * * * * *

(N) 52.222–55, Minimum Wages Under Executive Order 13658 (Dec 2014) (E.O. 13658).
 * * * * *

- 7. Amend section 52.213–4 by—
 - a. Revising the date of the clause;
 - b. Revising paragraphs (a)(1)(ii) and (a)(1)(iii);

- c. Adding paragraph (a)(1)(vii);
- d. Removing paragraph (b)(1)(xv);
- e. Redesignating paragraphs (b)(1)(ix) through (b)(1)(xiv) as paragraphs (b)(1)(x) through (xv), respectively; and
- f. Adding a new paragraph (b)(1)(ix).

The revised and added text reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Apr 2015)

* * * * *

(a) * * *
 (1) * * *
 (ii) 52.222–21, Prohibition of Segregated Facilities (Apr 2015).
 (iii) 52.222–26, Equal Opportunity (Apr 2015) (E.O. 11246).
 * * * * *

(vii) 52.222–6, Subcontracts for Commercial Items (Apr 2015).
 * * * * *

(b) * * *
 (1) * * *

(ix) 52.222–55, Minimum Wages Under Executive Order 13658 (Dec 2014) (E.O. 13658).
 * * * * *

- 8. Amend section 52.222–21 by revising the date of clause and paragraph (a) to read as follows:

52.222–21 Prohibition of segregated facilities.

* * * * *

Prohibition of Segregated Facilities (Apr 2015)

(a) *Definitions.* As used in this clause—
Gender identity has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

Segregated facilities means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

Sexual orientation has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and

is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

* * * * *

- 9. Amend section 52.222–26 by—
- a. Revising the date of the clause;
- b. Revising paragraph (a);
- c. Revising the first sentence of paragraphs (c)(1) and (c)(2); and
- d. Revising paragraph (c)(4) to read as follows:

52.222–26 Equal Opportunity.

* * * * *

Equal Opportunity (Apr 2015)

(a) *Definitions.* As used in this clause—
Gender identity has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

Sexual orientation has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

* * * * *

(c)(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. * * *

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. * * *

* * * * *

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

* * * * *

- 10. Amend section 52.222–27 by—
- a. Revising the date of the clause;
- b. Revising the introductory text of paragraph (a) and the definitions “Covered area”, “Deputy Assistant Secretary”, “Employer identification number”, and the introductory text of the definition “Minority”;
- c. Adding to paragraph (a), in alphabetical order, the definitions “Gender identity” and “Sexual orientation”; and
- d. Revising paragraph (j) to read as follows:

52.222–27 Affirmative Action Compliance Requirements for Construction.

* * * * *

Affirmative Action Compliance Requirements for Construction (Apr 2015)

(a) *Definitions.* As used in this clause—
Covered area means the geographical area described in the solicitation for this contract.

Deputy Assistant Secretary means the Deputy Assistant Secretary for the Office of Federal Contract Compliance Programs, U.S. Department of Labor, or a designee.

Employer identification number means the Federal Social Security number used on the employer’s quarterly Federal tax return, U.S. Treasury Department Form 941.

Gender identity has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

Minority means— * * *

Sexual orientation has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

* * * * *

(j) The Contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

* * * * *

- 11. Revise section 52.222–29 to read as follows:

52.222–29 Notification of visa denial.

As prescribed in 22.810(g), insert the following clause:

Notification of Visa Denial (Apr 2015)

(a) *Definitions.* As used in this clause—
Gender identity has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

Sexual orientation has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

(b) *Requirement to notify.* (1) It is a violation of Executive Order 11246 for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island, on the basis that the individual’s race, color, religion, sex, sexual orientation, gender identity, or national origin is not compatible with the policies of the country where or for whom the work will be performed (41 CFR 60–1.10).

(2) The Contractor shall notify the U.S. Department of State, Assistant Secretary, Bureau of Political-Military Affairs (PM), 2201 C Street NW., Room 6212, Washington, DC 20520, and the U.S. Department of Labor, Deputy Assistant Secretary for Federal Contract Compliance, when it has knowledge of any employee or potential employee being denied an entry visa to a country where this contract will be performed, and it believes

the denial is attributable to the race, color, religion, sex, sexual orientation, gender identity, or national origin of the employee or potential employee.

(End of clause)

- 12. Amend section 52.244–6 by—
- a. Revising the date of the clause;
- b. Redesignating paragraphs (c)(1)(iv) through (xii) as paragraphs (c)(1)(v) through (xiii), respectively;
- c. Adding a new paragraph (c)(1)(iv);
- d. Revising newly designated paragraph (c)(1)(v);
- e. Further redesignating newly designated paragraphs (c)(1)(xi) through (xiii) as paragraphs (c)(1)(xii) through (xiv); and
- f. Adding a new paragraph (c)(1)(xi) to read as follows:

52.244–6 Subcontracts for Commercial Items.

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Subcontracts for Commercial Items (Apr 2015)

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(c)(1) * * *

(iv) 52.222–21, Prohibition of Segregated Facilities (Apr 2015).

(v) 52.222–26, Equal Opportunity (Apr 2015) (E.O. 11246).

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(xi) 52.222–55, Establishing a Minimum Wage for Contractors (E.O. 13658) (Dec 2014).

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2015–0051, Sequence 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–81; 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