

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

[Docket No. FAR 2015–0051, Sequence No. 2]

**Federal Acquisition Regulation;
Federal Acquisition Circular 2005–82;
Introduction****AGENCY:** Department of Defense (DoD),
General Services Administration (GSA),and National Aeronautics and Space
Administration (NASA).**ACTION:** Summary presentation of 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) 2005–82. 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](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 2005–82 and the
specific FAR case number. For
information pertaining to status or
publication schedules, contact the
Regulatory Secretariat at 202–501–4755.**RULES LISTED IN FAC 2005–82**

Item	Subject	FAR Case	Analyst
I	Equal Employment and Affirmative Action for Veterans and Individuals with Disabilities	2014–013	Loeb.
II	Review and Justification of Pass-Through Contracts	2013–012	Hopkins.
III	Enhancements to Past Performance Evaluation Systems	2014–010	Glover.
IV	Technical Amendments.		

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
2005–82 amends the FAR as specified
below:

**Item I—Equal Employment and
Affirmative Action for Veterans and
Individuals With Disabilities (FAR Case
2014–013)**

DoD, GSA, and NASA are issuing a
final rule adopting the interim rule
published July 25, 2014, without
change. The interim rule amended the
FAR to implement final rules issued on
September 24, 2013, by the Office of
Federal Contract Compliance Programs
at the Department of Labor (DOL)
relating to equal opportunity and
affirmative action for veterans and
individuals with disabilities. The DOL
rules provide clarification of mandatory
listing of employment openings, the
posting of notices, making notices
accessible to persons with disabilities,
and requiring nondiscrimination
statements in contractor solicitations or
advertisements for employees. The FAR
clauses were restructured in the interim
rule to provide a citation to the
applicable clause in the DOL regulations
and include a statement that
summarizes contractors' top level
obligations under each clause. There is
no significant impact on small entities
imposed by the FAR rule.

**Item II—Review and Justification of
Pass-Through Contracts (FAR Case
2013–012)**

This final rule amends the FAR to
implement section 802 of the National
Defense Authorization Act for Fiscal
Year 2013 (Pub. L. 112–239), which
provided for additional requirements
relative to the review and justification of
pass-through contracts. In those
instances where an offeror for a
contract, task order, or delivery order
informs the agency pursuant to FAR
52.215–22 of their intention to award
subcontracts for more than 70 percent of
the total cost of work to be performed
under the contract, task order, or
delivery order, section 802 requires the
contracting officer to (1) consider the
availability of alternative contract
vehicles and the feasibility of
contracting directly with a
subcontractor or subcontractors that will
perform the bulk of the work; (2) make
a written determination that the
contracting approach selected is in the
best interest of the Government; and (3)
document the basis for such
determination. These statutory
requirements are being implemented in
FAR 15.404–1(h) and for consistency
purposes are applicable to all of the
agencies subject to the FAR even though
section 802 only applied to the
Department of Defense, the Department
of State, and the United States Agency
for International Development.

Because the rule augments the current
responsibilities of contracting officers
relative to the review and justification of

pass-through contracts and does not
initiate or impose any new
administrative or performance
requirements on contractors, and
specifically exempts contract actions
awarded pursuant to FAR subparts 19.5,
19.8, 19.13, 19.14, or 19.15, there is no
impact on small businesses.

**Item III—Enhancements to Past
Performance Evaluation Systems (FAR
Case 2014–010)**

This final rule changes the language at
FAR 42.1502 to accommodate the recent
merger of the Architect-Engineer
Contract Administration Support
System (ACASS) and the Construction
Contractor Appraisal Support System
(CCASS) as modules within the
Contractor Performance Assessment
Reporting System (CPARS) database.
This action will standardize the past
performance reporting requirements
under the CPARS database. The ACASS
and CCASS modules were merged into
CPARS on July 1, 2014.

This change does not place any new
requirements on small entities.

Item IV—Technical Amendments

Editorial changes are made at FAR
4.905(a), 22.102–2(a), 39.101(a)(1)(ii),
52.212–4(v), 52.212–5(b)(36)(i),
(b)(36)(ii), (b)(39)(ii), and (e)(1)(v),
52.213–4(a) and (b), and 52.223–16.

Dated: April 30, 2015.

William Clark,

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

Federal Acquisition Circular (FAC) 2005–82 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 2005–82 is effective May 7, 2015 except for items II and III, which are effective June 8, 2015.

Dated: April 29, 2015.

RADM Althea H. Coetzee,
Acting Director of Defense Procurement and Acquisition Policy

Dated: May 1, 2015.

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

Dated: April 28, 2015.

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

[FR Doc. 2015–11027 Filed 5–6–15; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 22, and 52

[FAC 2005–82; FAR Case 2014–013; Item I; Docket 2014–0013, Sequence 1]

RIN 9000–AM76

Federal Acquisition Regulation: Equal Employment and Affirmative Action for Veterans and Individuals With Disabilities

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to implement final rules issued by the Office of Federal Contract Compliance Programs at the Department of Labor (DOL) relating to equal opportunity and

affirmative action for veterans and individuals with disabilities.

DATES: *Effective:* May 7, 2015.

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 2005–82, FAR Case 2014–013.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 79 FR 43575 on July 25, 2014, to implement two DOL final rules that were published in the **Federal Register** on September 24, 2013, at 78 FR 58614 and at 78 FR 58682 as follows:

- “Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans, Veterans of the Vietnam Era, Disabled Veterans, Recently Separated Veterans, Active Duty Wartime or Campaign Badge Veterans, and Armed Forces Service Medal Veterans,” which amended DOL regulations at 41 CFR parts 60–250 and 60–300 (78 FR 58614).
- “Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals with Disabilities,” which amended DOL regulations at 41 CFR part 60–741 (78 FR 58682).

II. Discussion and Analysis

No public comments were submitted, and no changes have been made to the interim rule.

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.

Both rules issued by the DOL were determined to be economically

significant under E.O. 12866, and major rules under 5 U.S.C. 804. The Regulatory Impact Analysis for these rules was published in the **Federal Register** on September 24, 2013 at 78 FR 59643 and at 78 FR 58714. The FAR rule adds no new information collections, recordkeeping, or other compliance burdens. The FAR rule cites to the DOL Office of Management and Budget (OMB) Control numbers 1250–0004 and 1250–0005 for OMB approval under the Paperwork Reduction Act for any information collection requirements associated with revised FAR 52.222–35 (Equal Opportunity for Veterans) and 52.222–36 (Equal Opportunity for Workers with Disabilities). The FAR clauses, to be incorporated in solicitations and contracts in full text, include the required summary statement (paragraph (b) and (a) of each of the FAR clauses, respectively) and then reference to the DOL clauses. There is no economic impact arising from the FAR rule, since the FAR rule only informs the contractors of the requirements of the DOL rules. Further, each DOL rule states that “By operation of the Act, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this part to include such a clause, whether or not it is physically incorporated in such contract. . . .” (41 CFR 60–300.5(e) and 60–741.5(e)). The FAR is not imposing requirements; it is incorporating the requirements into contracts to inform contractors.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 604, *et seq.* The FRFA is summarized as follows:

This final rule is being issued to implement changes to 41 CFR 60–25, 60–300, and 60–741, as published in the **Federal Register** on September 24, 2013 (78 FR 58614 and 58682), by the Office of Federal Contract Compliance Programs of the Department of Labor (DOL). The DOL rules revise the current regulations implementing 38 U.S.C. 4211 and 4212, and the nondiscrimination and affirmative action regulations of section 503 of the Rehabilitation Act of 1973, as amended. The DOL rules add requirements on mandatory job listings, data collection, and establishing hiring benchmarks.

There were no public comments submitted in response to the initial regulatory flexibility analysis.

With regard to equal opportunity for veterans, DOL estimated that the approximate number of small entities that would be subject to its rule would be 20,490 Federal contractors with between 50 and 500 employees (approximately 44% of Federal contractors may be impacted).