



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
OFFICE OF THE CHIEF OF CHAPLAINS
WASHINGTON, DC

1 May 15

MEMORANDUM FOR AF CHAPLAIN CORPS

FROM: AF/HCP
1380 Air Force Pentagon
Washington, DC 20330-1380

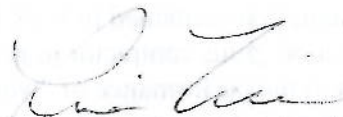
SUBJECT: Guidance on Federal Acquisition Regulation (FAR) Clause 52.222-26, *Equal Opportunity*, Amendment

1. On April 8, 2015 the Department of Labor's amendment to FAR Clause 52.222-26 took effect, implementing Executive Order 13672, signed July 21, 2014, prohibiting contractors and subcontractors from discriminating on the basis of sexual orientation and gender identity. FAR Clause 52.222-26(c)(1). This amendment applies to federal contracts and/or subcontracts, including all Appropriated Fund contracts (APF) and any Chapel Tithes and Offerings Fund contracts (CTOF) awarded on or after April 8, 2015.
2. The limited exemption contained in FAR Clause 52.222-26 (b) (2) has not changed. The exemption allows a religious contractor to give preferential hiring treatment to an individual of a particular religion in the performance of "work connected with the carrying on of the Contractor's activities." As an example, a religious association awarded a federal contract to provide Catholic Priest services may specifically employ a Catholic Priest instead of any clergy person or a religious corporation awarded a federal contract to provide Catholic Religious Education services may specifically seek a Catholic Religious Education Coordinator over any otherwise qualified person. Similarly, the exception allows the Chaplain Corps to show preferential treatment in employing an individual contractor based on his or her religion when hiring to perform work for a particular religion. For example, a Protestant worship service can specifically contract a Christian worship leader and does not have to hire a well-qualified Buddhist worship leader.
3. Absent the exemption at FAR Clause 52.222-26(b)(2), all other provisions of the *Equal Opportunity* clause and the Executive Order prohibiting discrimination based on sexual orientation and gender identity by contractors and subcontractors apply to chapel contracts. As an example, a Protestant worship service cannot show preferential treatment of a Christian applicant based on sexual orientation or gender identity. Likewise, if the chapel contracts an individual to work the Catholic or Protestant youth program, the chapel cannot discriminate or show preferential treatment based on the applicant's sexual orientation or gender identity but can show preferential treatment based on religion.
4. Chaplain Corps members must also be aware of their own ecclesiastical limitations in service regarding the sexual orientation and gender identity of contractors, volunteers, or other Chaplain Corps members who may be a part of their worship services. In particular, Wing Chaplains must ensure that chaplains' decisions relating to conscience, moral principles, or religious beliefs are

protected in accordance with Public Law 112-239, "National Defense Authorization Act (NDAA) for Fiscal Year 2013," December 18, 2012, as amended and as implemented by the Secretary of Defense in Department of Defense Instruction 1300.17, *Accommodation of Religious Practices Within the Military Services*, February 10, 2009, as amended, at paragraph 4(b). Additionally, Wing Chaplains should use careful consideration and appropriate assignment of Chaplain Corps personnel who may have a conflict of interest performing services that are incongruent with the tenets of their faith or personal conscience. Air Force Instruction 52-101, *Chaplain: Planning and Organizing*, December 5, 2013, states at paragraph 3.2.2 that "chaplains will not perform duties incompatible with their endorsing organization..." Chaplains are not required to perform practices or religious rites contrary to their beliefs, and they cannot be discriminated against or face adverse actions for not performing practices or religious rite that are contrary to their beliefs.

5. For APF contracts, continue to work with your local Contracting Officers to ensure the appropriate clauses are included in the contracts. For CTOF contracts issued after April 8, 2015, use the updated General Provisions Memorandum attached to this email. Additionally, continue to have both Contracting and Legal advisors review your CTOF contracts prior to award.

6. If you have any questions or concerns, please work through your functional chain of command.



LISA A TICE, Chaplain, Colonel, USAF
Chief, Personnel, Budget and Readiness

1st Ind, AF/HC

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MEMORANDUM FOR AF CHAPLAIN CORPS

Thank you for your continued service to our mission and adherence to the guidelines prescribed above.



HOWARD D. STENDAHL
Chaplain, Major General, USAF
Chief of Chaplains