

Response: This recommendation is outside the scope of this case, which was limited to the implementation of E.O. 13494 in the FAR. The FAR does not prescribe activities for Inspectors General.

K. Investigation of Reports of Employer Persuader Activities

Comment: A respondent stated that the final rule should make clear that contracting officers are to receive and investigate instances of employer persuader activities reported by workers or labor union representatives and that FAR 3.903 protects the right of the contractor's employees to report such activities. The respondent believed that the final rule should establish a process by which employees of Federal contractors or others with knowledge of employer persuasion costs can disclose that information to designated officials anonymously. Finally, the respondent believed that the final rule should state that FAR 33.209 applies to any Federal contractor who submits for reimbursement any costs made unallowable by this rule.

Response: These recommendations are outside the scope of this case, which was limited to the implementation of E.O. 13494. To the extent that FAR 3.903 and 33.209 are applicable, there is already adequate FAR coverage. Further, FAR subpart 3.10 also addresses contractor business ethics.

L. Regulatory Flexibility Act

Comment: Two respondents stated that the rule fails to comply with the Regulatory Flexibility Act. Both requested the basis for the stated conclusions and one requested the Councils to conduct an Initial Regulatory Flexibility Analysis.

Response: DoD, GSA, and NASA have certified that the rule will not have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act certification is based upon an analysis of the data in the Federal Procurement Data System (FPDS). (See additional discussion in section IV, Regulatory Flexibility Act.) That certification states that most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis, and thus do not require application of the cost principle contained in this rule. This is supported by the most recent data available from the FPDS. For Fiscal Year 2010, a search of FPDS revealed 1,822,515 awards to small businesses. Of these, 1,814,282 were fixed price (99.5 percent), and 1,220,154 (67

percent) were below the simplified acquisition threshold.

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 Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis, and do not require application of the cost principles contained in this rule.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: October 21, 2011.

Laura Auletta,

Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 31 as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Revise section 31.205–21 to read as follows:

31.205–21 Labor relations costs.

(a) Costs incurred in maintaining satisfactory relations between the contractor and its employees (other than those made unallowable in paragraph (b) of this section), including costs of shop stewards, labor management committees, employee publications, and other related activities, are allowable.

(b) As required by Executive Order 13494, Economy in Government Contracting, costs of any activities undertaken to persuade employees, of any entity, to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employees' own choosing are unallowable. Examples of unallowable costs under this paragraph include, but are not limited to, the costs of—

(1) Preparing and distributing materials;

(2) Hiring or consulting legal counsel or consultants;

(3) Meetings (including paying the salaries of the attendees at meetings held for this purpose); and

(4) Planning or conducting activities by managers, supervisors, or union representatives during work hours.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, and 8

[FAC 2005–54; Item X; Docket 2011–0078; Sequence 3]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

DATES: *Effective Date:* November 2, 2011.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, 1275 First Street, NE., 7th Floor, Washington, DC 20417, (202) 501–4755, for information

pertaining to status or publication schedules. Please cite FAC 2005–54, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 1, 4, and 8, this document makes editorial changes to the FAR.

List of Subjects in 48 CFR Parts 1, 4, and 8

Government procurement.
Dated: October 21, 2011.

Laura Auletta,
Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1 and 8 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, and 8 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, in the table following the introductory text, by adding FAR segments “52.215–22” and “52.215–23” and their corresponding OMB Control Number “9000–0173”.

PART 4—ADMINISTRATIVE MATTERS

4.604 [Amended]

■ 3. Amend section 4.604 in paragraph (c) by removing “guidance, by January 5,” and adding “guidance, within 120 days after the end of each fiscal year,” in its place.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.501 [Amended]

■ 4. Amend section 8.501 by removing “http://www.nm.blm.gov/www/amfo/amfo_home.html” and adding “<http://blm.gov/8pjd>” in its place.

[FR Doc. 2011–27791 Filed 11–1–11; 8:45 am]
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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1
[Docket FAR 2011–0077; Sequence 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–54; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA),

LIST OF RULES IN FAC 2005–54

Item	Subject	FAR case	Analyst
I	Notification of Employee Rights Under the National Labor Relations Act	2010–006	McFadden.
II	Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions	2008–025	Robinson.
III	Small Disadvantaged Business Program Self-Certification	2009–019	Morgan.
IV	Certification Requirement and Procurement Prohibition Relating to Iran Sanctions	2010–012	Davis.
V	Representation Regarding Export of Sensitive Technology to Iran (Interim)	2010–018	Davis.
VI	Set-Asides for Small Business (Interim)	2011–024	Morgan.
VII	Sudan Waiver Process	2009–041	Davis.
VIII	Successor Entities to the Netherlands Antilles	2011–014	Davis.
IX	Labor Relations Costs	2009–006	Chambers.
X	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subject set forth in the documents following these item summaries. FAC 2005–54 amends the FAR as specified below:

Item I—Notification of Employee Rights Under the National Labor Relations Act (FAR Case 2010–006)

This rule adopts as final, without change, the interim rule that published

in the **Federal Register** at 75 FR 77723 on December 13, 2010, implementing Executive Order (E.O.) 13496, Notification of Employee Rights Under Federal Labor Laws, as implemented by the Department of Labor (DOL). The E.O. requires contractors to display a notice for employees of their rights under Federal labor laws, and the DOL has determined that the notice shall include employee rights under the National Labor Relations Act.

Item II—Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions (FAR Case 2008–025)

This final rule amends the FAR to address personal conflicts of interest by employees of Government contractors, as required by section 841(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417) (now codified at 41 U.S.C. 2303). This rule requires the contractor to take the steps necessary to identify and prevent personal conflicts

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 summary of rules appearing in Federal Acquisition Circular (FAC) 2005–54, which amend the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2005–54, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: For effective dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below. Please cite FAC 2005–54 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755.