

(f) No more than 10 channels for new centralized trunked operation in the Industrial/Business Pool may be applied for at a single transmitter location or at locations with overlapping service contours as specified in paragraph (d)(1)(ii)(A) of this section. Subsequent applications for centralized trunked operation are limited to no more than an additional 10 channels, and must be accompanied by a certification, submitted to the certified frequency coordinator coordinating the application, that all of the applicant's existing channels authorized for centralized trunked operation at that location or at locations with overlapping service contours have been constructed and placed in operation. Certified frequency coordinators are authorized to require documentation in support of the applicant's certification that existing channels have been constructed and placed in operation. Applicants for Public Safety Pool channels may request more than 10 centralized trunked channels at a single location or at locations with overlapping service contours if accompanied by a showing of sufficient need. The requirement for such a showing may be satisfied by submission of loading studies demonstrating that requested channels in excess of 10 will be loaded with 50 mobiles per channel within a five year period commencing with the grant of the application.

(g) If a licensee authorized for centralized trunked operation discontinues trunked operation for a period of 30 consecutive days, the licensee, within 7 days thereafter, shall file a conforming application for modification of license with the Commission.

4. Section 90.238 is amended by revising paragraph (e) to read as follows:

§ 90.238 Telemetry operations.

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(e) In the 450–470 MHz band, telemetry operations will be authorized on a secondary basis with a transmitter output power not to exceed 2 watts on frequencies subject to § 90.20(d)(27) or § 90.35(c)(30), except that telemetry operations used by Railroad licensees may be authorized on frequency pair 452/457.9375 MHz with a transmitter output power not to exceed 8 watts.

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5. Section 90.303 is amended by adding paragraph (d) to read as follows:

§ 90.303 Availability of frequencies.

* * * * *

(d) Applications for stations in the 470–512 MHz band operating on assigned frequencies allotted for

bandwidths of 12.5 kHz or less must demonstrate that the proposed operations will neither cause more than five percent degradation to adjacent-channel licensees (and filers of previously filed pending applications) nor incur more than five percent degradation from adjacent-channel licensees (and filers of previously filed pending applications), using the interference criteria of Telecommunications Industry Association/Electronics Industry Association Telecommunications Systems Bulletin 88 (TIA/EIA/TSB-88), Wireline Communications System—Performance in Noise and Interference-Limited Situations—Recommended Methods for Technology-Independent Modeling, Simulation, and Verification (January 1998). For purposes of this paragraph, adjacent-channel licensees (and filers of previously filed pending applications) are stations with an authorized bandwidth of 20 kHz and an assigned frequency separated by 12.5 kHz or less from the proposed station, and stations with an authorized bandwidth of 11.25 kHz and an assigned frequency separated by 6.25 kHz or less from the assigned frequency of the proposed station.

6. Section 90.425 is amended by removing paragraph (e)(2), redesignating paragraph (e)(3) as (e)(2), and adding paragraphs (f) and (g) to read as follows:

§ 90.425 Station identification.

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(f) Stations subject to a station identification requirement will be permitted to use a single call sign for commonly owned facilities that are operated as part of a single system. The call sign must be transmitted each hour within five minutes of the hour, or upon completion of the first transmission after the hour.

(g) Stations licensed in the 150–170 MHz and 450–470 MHz bands that are licensed on an exclusive basis, and normally employ digital signals for the transmission of data, text, control codes, or digitized voice, may also be identified by digital transmission of the call sign. A licensee that identifies its call sign in this manner must provide the Commission, upon request, information sufficient to decode the digital transmission and ascertain the call sign transmitted.

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DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Part 31

[FAR Case 2009-006; Docket 2010-0084, Sequence 1]

RIN 9000-AL39

**Federal Acquisition Regulation; FAR
Case 2009-006, Labor Relations Costs**

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) propose to amend the Federal Acquisition Regulation (FAR) to implement Executive Order 13494, Economy in Government Contracting, issued on January 30, 2009, and amended on October 30, 2009. This order treats as unallowable the costs of any activities undertaken to persuade employees, whether employees of the recipient of Federal disbursements or of any other entity, to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employee's own choosing.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before June 14, 2010 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2009-006 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting "FAR Case 2009-006" under the heading "Enter Keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "FAR Case 2009-006." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "FAR Case 2009-006" on your attached document.

- *Fax:* 202-501-4067.

- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, ATTN: Hada Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2009–006, 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 Chambers, Procurement Analyst, at (202) 501–3221, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAR case 2009–006.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 13494, Economy in Government Contracting, dated January 30, 2009, was published in the **Federal Register** at 74 FR 6101 on February 4, 2009, as amended on October 30, 2009, was published in the **Federal Register** at 74 FR 57239 on November 5, 2009, provided that to promote economy and efficiency in Government contracting, certain costs that are not directly related to the contractor's provision of goods and services to the Government shall be unallowable for payment, thereby directly reducing Government expenditures. Thus, this order states that the costs of the activities of preparing and distributing materials; hiring or consulting legal counsel or consultants; holding meetings (including paying the salaries of the attendees at meetings held for this purpose); and planning or conducting activities by managers, supervisors, or union representatives during work hours, when they are undertaken to persuade employees to exercise or not to exercise, or concern the manner of exercising, rights to organize and bargain collectively are unallowable costs. This order is consistent with Government policy to remain impartial concerning any labor-management dispute involving Government contractors. This proposed rule will

make the necessary changes within the FAR.

This is a significant regulatory action and therefore was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to 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. Further, the practical effect of the rule will be that contractors will no longer be reimbursed for costs incurred in promoting or opposing union organizing. It is substantially less likely that small businesses will incur costs of this nature. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. The Councils invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

The Councils will also consider comments from small entities concerning the existing regulations in FAR part 31 affected by this 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 2009–006) in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. chapter 35, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: April 9, 2010.

Edward Loeb,

Acting Director, Acquisition Policy Division.

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

PART 31—CONTRACT COSTS 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 in paragraph (b) of this section 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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