



Legal Alert: Government Issues Proposed Rule Implementing EO 13494 "Economy in Government Contracting"

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The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have issued a proposed rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order 13494, "Economy in Government Contracting." EO 13494 denies reimbursement to federal contractors for expenses used to influence workers' decisions regarding whether to form unions or engage in collective bargaining.

The proposed rule essentially tracks the language of the EO, providing that costs of any activities undertaken to persuade employees of any entity to exercise or not to exercise the right to organize and bargain collectively are unallowable. Examples of unallowable costs include, but are not limited to, the costs of:

- Preparing and distributing materials;
- Hiring or consulting legal counsel or consultants;
- 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.

The proposed rule also provides, in accordance with the EO, that costs incurred in maintaining satisfactory relations between the contractor and its employees (other than the costs of any activities undertaken to persuade employees to exercise or not to exercise the right to organize and bargain collectively), including costs of labor management committees, employee publications, and other related activities, are allowable costs.

The proposed rule was published in the April 14, 2010 edition of the Federal Register, available at <http://edocket.access.gpo.gov/2010/2010-8504.htm>. The government will accept written comments on the proposed rule until June 14, 2010.

If you have any questions regarding the proposed rule or other employment-related issues affecting federal contractors, please contact the Ford & Harrison attorney with whom you usually work or any member of Ford & Harrison's Government Contracts practice group.