

Friday, January 30th, 2009 at 12:00 am

Executive Order -- Economy in Government Contracting

For Immediate Release

January 30, 2009

EXECUTIVE ORDER

ECONOMY IN GOVERNMENT CONTRACTING

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 et seq., it is hereby ordered that:

Section 1. To promote economy and efficiency in Government contracting, certain costs that are not directly related to the contractors' provision of goods and services to the Government shall be unallowable for payment, thereby directly reducing Government expenditures. This order is also consistent with the policy of the United States to remain impartial concerning any labor-management dispute involving Government contractors. This order does not restrict the manner in which recipients of Federal funds may expend those funds.

Sec. 2. It is the policy of the executive branch in procuring goods and services that, to ensure the economical and efficient administration of Government contracts, contracting departments and agencies, when they enter into, receive proposals for, or make disbursements pursuant to a contract as to which certain costs are treated as unallowable, shall treat as unallowable the costs of any activities undertaken to persuade employees -- whether employees of the recipient of the 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 employees' own choosing. Such unallowable costs shall be excluded from any billing, claim, proposal, or disbursement applicable to any such Federal Government contract.

Sec. 3. Notwithstanding section 2 of this order, contracting departments and agencies shall treat as allowable costs incurred in maintaining satisfactory relations between the contractor and its employees, including costs of labor-management committees, employee publications (other than those undertaken to persuade employees to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively), and other related activities. See 48 C.F.R. 31.205-21.

Sec. 4. Examples of costs unallowable under section 2 of this order include the costs of the following activities, 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:

- (a) preparing and distributing materials;
 - (b) hiring or consulting legal counsel or consultants;
 - (c) holding meetings (including paying the salaries of the attendees at meetings held for this purpose);
- and

(d) planning or conducting activities by managers, supervisors, or union representatives during work hours.

Sec. 5. Within 150 days of the effective date of this order, the Federal Acquisition Regulatory Council (FAR Council) shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to carry out this order. Such rules, regulations, and orders shall minimize the costs of compliance for contractors and shall not interfere with the ability of contractors to engage in advocacy through activities for which they do not claim reimbursement.

Sec. 6. Each contracting department or agency shall cooperate with the FAR Council and provide such information and assistance as the FAR Council may require in the performance of its functions under this order.

Sec. 7. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 8. This order shall become effective immediately, and shall apply to contracts resulting from solicitations issued on or after the effective date of the action taken by the FAR Council under section 5 of this order.

BARACK OBAMA

THE WHITE HOUSE,
January 30, 2009.