

1. FAR 31.205-6(q)(2)(i) is deleted in its entirety to reflect the amendments promulgated by the CAS Board on May 1, 2008.

2. FAR 31.205-6(q)(2)(ii) through (vi) are redesignated as paragraphs FAR 31.205-6(q)(2)(i) through (v) due to the deletion of the existing FAR 31.205-6(q)(2)(i).

3. Redesignated FAR 31.205-6(q)(2)(i) is revised to reflect the amendments promulgated by the CAS Board on May 1, 2008.

This is not a significant regulatory action and, therefore, was not 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 interim 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 affected small businesses are currently required to comply with CAS 412 and CAS 415. While small businesses are otherwise not subject to CAS, they are subject to selected standards for the purpose of determining allowability of costs under Government contracts. Among these standards are CAS 412 and CAS 415 as set forth in FAR 31.205-6(q). For small businesses currently using CAS 415, there will be no increase in cost or effort. For small businesses that must change from CAS 412 to CAS 415, the possible change from measuring costs in accordance with CAS 412 to CAS 415 would result, at most, in a negligible increase in administrative burden because of the similarities between CAS 412 and 415. The potential increase of administrative effort, albeit minor, will be offset by the uniformity and consistency in accounting for deferred compensation costs achieved by this rule that will benefit all entities by reducing their administrative burden. Therefore, an Initial Regulatory Flexibility Analysis has 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 (FAC 2005-42, FAR Case 2009-026) in all correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the 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.*

**D. Determination to Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because this rule implements a final rule promulgated by the CAS Board, which went into effect on June 2, 2008. Further, the CAS Board rule already gone through the public rulemaking process. However, pursuant to Public Law 98-577 and FAR 1.501-3(b), the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

**List of Subjects in 48 CFR Part 31**

Government procurement.

Dated: June 2, 2010.

**Edward Loeb,**

*Acting Director, Acquisition Policy Division.*

■ 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. Amend section 31.205-6 by removing paragraph (q)(2)(i); redesignating paragraphs (q)(2)(ii) through (q)(2)(vi) as paragraphs (q)(2)(i) through (q)(2)(v), respectively; and revising the newly redesignated (q)(2)(i) to read as follows:

**31.205-6 Compensation for personal services.**

\* \* \* \* \*

(q) \* \* \*

(2) \* \* \*

(i) The contractor measures, assigns, and allocates costs in accordance with 48 CFR 9904.415.

\* \* \* \* \*

[FR Doc. 2010-14181 Filed 6-15-10; 8:45 am]

**BILLING CODE 6820-EP-S**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 52 and 53**

[FAC 2005-42; FAR Case 2009-018; Item XI; Docket 2010-0082, Sequence 1]

RIN 9000-AL53

**Federal Acquisition Regulation; FAR Case 2009-018, Payrolls and Basic Records**

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to revise the FAR clause, Payrolls and Basic Records. This revision implements a Department of Labor rule to protect the privacy of workers.

**DATES:** *Effective Date:* June 16, 2010.

*Comment Date:* Interested parties should submit written comments to the Regulatory Secretariat on or before August 16, 2010 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAC 2005-42, FAR Case 2009-018, by any of the following methods:

• Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting "FAR Case 2009-018" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "FAR Case 2009-018". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "FAR Case 2009-018" 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 FAC 2005-42, FAR Case 2009-018, in all correspondence related to this case. All comments received will be posted without change to <http://>

[www.regulations.gov](http://www.regulations.gov), including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Mr. Ernest Woodson, Procurement Analyst, at (202) 501-3775. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-42, FAR Case 2009-018.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This interim rule incorporates changes from the Department of Labor's (DOL) final rule, Protecting the Privacy of Workers: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction, published in the **Federal Register** at 73 FR 77504 on December 19, 2008, that removed the requirement to submit complete social security numbers and home addresses of individual workers in weekly payroll submissions. The DOL concluded that such disclosure of personal information from the prime contractor was unnecessary and created an increased risk of privacy violations.

**B. Discussion**

As a result of the changes that DOL instituted regarding the submission of payroll data, the clause at FAR 52.222-8, Payrolls and Basic Records, is revised to delete the requirement for submission of full social security numbers and home addresses of individual workers from the prime contractor on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The information may be submitted in any form desired, but this rule provides a link to the DOL's Wage and Hour Division website where Optional Form WH-347 is available for the purpose of submitting payroll information. The rule requires contractors and subcontractors to maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting officer, the contractor, or the Wage and Hour Division of the DOL for purposes of an investigation or audit of compliance with prevailing wage requirements.

This is not a significant regulatory action and, therefore, was not 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.

**C. Regulatory Flexibility Act**

The Councils do not expect this interim 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 this rule provides relief for contractors from submitting more personal information than is necessary in the weekly payroll submissions and will not impose any measurable costs on contractors. Therefore, an Initial Regulatory Flexibility Analysis has 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 parts 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 (FAC 2005-42, FAR Case 2009-018) in all correspondence.

**D. Paperwork Reduction Act**

The Paperwork Reduction Act does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under the Office of Management and Budget (OMB) Control Number 1215-0149, assigned to the DOL. The interim rule affects the certification and information collection requirements in the provisions at FAR 52.222-8(b)(1) and 53.303-WH-347. The impact of this requirement will not impose any measurable costs on any private or public sector entity. As stated in the DOL rule, the Department believes that a reduction in the amount of information required on certified payrolls provided weekly under the Davis-Bacon Act is a reduction in regulatory compliance costs. While some contractors may have to slightly reconfigure their systems to produce the revised version, most have access to computerized systems that can easily be revised to remove data. Those contractors who currently use the Optional Form WH-347 will actually have an overall decrease of total administrative costs. The DOL published a notice in the **Federal Register** at 74 FR 2862 on January 16, 2009, announcing that the OMB approved the DOL information collection request titled "Protecting the Privacy of Workers: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and

Assisted Construction, Effectiveness of Information Collection Requirements".

**E. Determination to Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the DOL has already published a final rule in the **Federal Register** at 73 FR 77504 on December 19, 2008, deleting the requirement for submission of full social security numbers and home addresses of employees as part of weekly payroll submissions for prime contractors. The effective date of the DOL rule was January 18, 2009. However, pursuant to Public Law 98-577 and FAR 1.501-3(b), the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

**List of Subjects in 48 CFR Parts 52 and 53**

Government procurement.

Dated: June 2, 2010.

**Edward Loeb,**

*Acting Director, Acquisition Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 52 and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 52 and 53 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 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 2. Amend section 52.222-8 by revising the date of the clause and paragraph (b)(1) to read as follows:

**52.222-8 Payrolls and Basic Records.**

\* \* \* \* \*

PAYROLLS AND BASIC RECORDS (JUN 2010)

\* \* \* \* \*

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph(a) of this clause, except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an

individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be obtained from the U.S. Department of Labor Wage and Hour Division website at <http://www.dol.gov/whd/forms/wh347.pdf>. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Contracting Officer, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a Prime Contractor to require a subcontractor to provide addresses and social security numbers to the

Prime Contractor for its own records, without weekly submission to the Contracting Officer.

\* \* \* \* \*

#### **PART 53—FORMS**

■ 3. Amend section 53.303–WH–347 by revising the form to read as follows:

**53.303–WH–347 Department of Labor Form WH–347, Payroll (For Contractor's Optional Use).**

**BILLING CODE 6820–EP–S**



**U.S. Department of Labor**  
 Employment Standards Administration  
 Wage and Hour Division

**PAYROLL**  
 (For Contractor's Optional Use; See Instructions at [www.dol.gov/esa/whd/forms/wh347instr.htm](http://www.dol.gov/esa/whd/forms/wh347instr.htm))  
 Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

NAME OF CONTRACTOR  OR SUBCONTRACTOR  ADDRESS PROJECT OR CONTRACT NO.

OMB No.: 1215-0149  
 Expires: 12/31/2011

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) EXEMPTIONS OR	(3) WORK CLASSIFICATION	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS			(9) NET WAGES PAID FOR WEEK	
			HOURS WORKED EACH DAY										FICA	WITH HOLDING TAX	OTHER		TOTAL DEDUCTIONS

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction projects to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(e). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(i) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

**Public Burden Statement**

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and reviewing the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE		SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

Date \_\_\_\_\_  
 I, \_\_\_\_\_ (Name of Signatory Party) \_\_\_\_\_ (Title)  
 do hereby state:

(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ (Contractor or Subcontractor) \_\_\_\_\_ on the \_\_\_\_\_ (Building or Work) \_\_\_\_\_; that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said \_\_\_\_\_ (Contractor or Subcontractor) \_\_\_\_\_ from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 40 U.S.C. § 3145), and described below:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete, that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That: (a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

[FR Doc. 2010-14182 Filed 6-15-10; 8:45 am]

BILLING CODE 6820-EP-C

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 31, 49 and 52**

[FAC 2005-42; Item XII; Docket 2010-0078; Sequence 2]

**Federal Acquisition Regulation; Technical Amendments**

**AGENCIES:** 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 in order to make editorial changes.

**DATES:** *Effective Date:* June 16, 2010.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, 1800 F Street, NW., Room 4041, Washington, DC, 20405, (202) 501-4755, for information pertaining to status or publication schedules. Please cite FAC 2005-42, Technical Amendments.

**SUPPLEMENTARY INFORMATION:** This document makes amendments to the Federal Acquisition Regulation in order to make editorial changes.

**List of Subjects in 48 CFR Parts 31, 49, and 52**

Government procurement.

Dated: June 2, 2010.

**Edward Loeb,**

*Acting Director, Acquisition Policy Division.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 31, 49, and 52 as set forth below:

1. The authority citation for 48 CFR parts 31, 49, and 52 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 31—CONTRACT COST PRINCIPLES AND PROCEDURES**

31.205-6 [Amended]

2. Amend section 31.205-6 by removing paragraph (o)(6).

31.205-16 [Amended]

3. Amend section 31.205-16 by removing the last sentence of paragraph (c).

**PART 49—TERMINATION OF CONTRACTS**

4. Amend section 49.505 by revising paragraph (a) and the last sentence of paragraph (b) to read as follows:

**49.505 Other termination clauses.**

(a) *Personal service contracts.* The contracting officer shall insert the clause at 52.249-12, Termination (Personal Services), in solicitations and contracts for personal services (see Part 37).

(b) \* \* \* The contracting officer shall also insert the clause in time-and-material contracts, and labor-hour contracts.

\* \* \* \* \*

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

52.222-34 [Amended]

5. Amend section 52.222-34 by removing from paragraph (d) of Alternate I “provision” and adding “clause” in its place.

[FR Doc. 2010-14185 Filed 6-15-10; 8:45 am]

BILLING CODE 6820-EP-S

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

[Docket FAR 2010-0077, Sequence 4]

**Federal Acquisition Regulation; Federal Acquisition Circular 2005-42; Small Entity Compliance Guide**

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

**ACTION:** Small Entity Compliance Guide.

**SUMMARY:** This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. 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 the summaries of the rules appearing in Federal Acquisition Circular (FAC) 2005-42 which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding this rule by referring to FAC 2005-42 which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** The analyst whose name appears in the table below. Please cite FAC 2005-42 and the specific FAR case number. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

**RULES LISTED IN FAC 2005-42**

Item	Subject	FAR case	Analyst
I	American Recovery and Reinvestment Act (the Recovery Act) of 2009—Whistleblower Protections	2009-012	Parnell.
II	Electronic Subcontracting Reporting System (eSRS)	2005-040	Cundiff.
III	American Recovery and Reinvestment Act of 2009 (the Recovery Act)—Publicizing Contract Actions.	2009-010	Jackson.
IV	Public Disclosure of Justification and Approval Documents for Noncompetitive Contracts—Section 844 of the National Defense Authorization Act for Fiscal Year 2008.	2008-003	Woodson.
V	Additional Requirements for Market Research (Interim)	2008-007	Blankenship.
VI	American Recovery and Reinvestment Act of 2009 (Recovery Act)—GAO/IG Access	2009-011	Chambers.
VII	New Designated Country—Taiwan	2009-014	Sakalos.
VIII	Nonavailable Articles	2009-013	Davis.
IX	Disclosure and Consistency of Cost Accounting Practices for Contracts Awarded to Foreign Concerns (Interim).	2009-025	Chambers.
X	Compensation for Personal Services (Interim)	2009-026	Chambers.
XI	Payrolls and Basic Records (Interim)	2009-018	Woodson.