

clause of this solicitation entitled Project Labor Agreement.

(b) Consistent with applicable law, the offeror shall negotiate a project labor agreement with one or more labor organizations for the term of the resulting construction contract.

(c) Consistent with applicable law, the project labor agreement reached pursuant to this provision shall—

- 1) Bind the offeror and all subcontractors engaged in construction on the construction project to comply with the project labor agreement;
- (2) Allow the offeror and all subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;
- (3) Contain guarantees against strikes, lockouts, and similar job disruptions;
- (4) Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement;
- (5) Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and
- (6) Fully conform to all statutes, regulations, Executive orders, and agency requirements.

(d) Any project labor agreement reached pursuant to this provision does not change the terms of this contract or provide for any price adjustment by the Government.

(e) The offeror shall submit to the Contracting Officer a copy of the project labor agreement with its offer.

(End of Provision)

*Alternate I (May 2010).* As prescribed in 22.505(a)(1), substitute the following paragraphs (b) and (e) for paragraphs (b) and (e) of the basic clause.

(b) The apparent successful offeror shall negotiate a project labor agreement with one or more labor organizations for the term of the resulting construction contract.

(e) The apparent successful offeror shall submit to the Contracting Officer a copy of the project labor agreement prior to contract award.

*Alternate II (May 2010).* As prescribed in 22.505(a)(2), substitute the following paragraph (b) in lieu of paragraphs (b) through (e) of the basic clause:

(b) Consistent with applicable law, if awarded the contract, the offeror shall negotiate a project labor agreement with one or more labor organizations for the term of the resulting construction contract.

#### **52.222–34 Project Labor Agreement.**

As prescribed in 22.505(b)(1), insert the following clause:

PROJECT LABOR AGREEMENT (May 2010)

(a) *Definitions.* As used in this clause—

*Labor organization* means a labor organization as defined in 29 U.S.C. 152(5).

*Project labor agreement* means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. 158(f).

(b) The Contractor shall maintain in a current status throughout the life of the contract the project labor agreement entered into prior to the award of this contract in accordance with solicitation provision 52.222–33, Notice of Requirement for Project Labor Agreement.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts with subcontractors engaged in construction on the construction project.

(End of Clause)

*Alternate I (May 2010).* As prescribed in 22.505(b)(2), substitute the following paragraphs (b) through (f) for paragraphs (b) and (c) of the basic clause:

(b) Consistent with applicable law, the Contractor shall negotiate a project labor agreement with one or more labor organizations for the term of this construction contract. The Contractor shall submit an executed copy of the project labor agreement to the Contracting Officer.

(c) Consistent with applicable law, the project labor agreement reached pursuant to this clause shall—

- 1) Bind the Contractor and all subcontractors engaged in construction on the construction project to comply with the project labor agreement;
- (2) Allow the Contractor and all subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;
- (3) Contain guarantees against strikes, lockouts, and similar job disruptions;
- (4) Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the project labor agreement;
- (5) Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and
- (6) Fully conform to all statutes, regulations, Executive orders, and agency requirements.

(d) Any project labor agreement reached pursuant to this provision does

not change the terms of this contract or provide for any price adjustment by the Government.

(e) The Contractor shall maintain in a current status throughout the life of the contract the project labor agreement entered into pursuant to this clause.

(f) *Subcontracts.* The Contractor shall require subcontractors engaged in construction on the construction project to agree to any project labor agreement negotiated by the prime contractor pursuant to this clause, and shall include the substance of paragraphs (d) through (f) of this clause in all subcontracts with subcontractors engaged in construction on the construction project.

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## **DEPARTMENT OF DEFENSE**

### **GENERAL SERVICES ADMINISTRATION**

### **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

#### **48 CFR Chapter 1**

[Docket FAR 2010–0077, Sequence 3]

#### **Federal Acquisition Regulation; Federal Acquisition Circular 2005–41; 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 summary of the rule appearing in Federal Acquisition Circular (FAC) 2005–41 which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding this rule by referring to FAC 2005–41 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 2005–41 and the specific FAR case number. For information pertaining to status or

publication schedules, contact the FAR Secretariat at (202) 501-4755.

RULE LISTED IN FAC 2005-41

Subject	FAR case	Analyst
Use of Project Labor Agreements for Federal Construction Projects .....	2009-005	Woodson.

**SUPPLEMENTARY INFORMATION:** A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to FAR Case 2009-005.

FAC 2005-41 amends the FAR as specified below:

**Use of Project Labor Agreements for Federal Construction Projects (FAR Case 2009-005)**

This final rule amends the FAR to implement Executive Order (E.O.) 13502, Use of Project Labor Agreements for Federal Construction Projects. The

E.O. encourages the use of project labor agreements for Federal construction projects where the total cost to the Government is \$25 million or more in order to promote economy and efficiency in Federal procurement. The rule provides that an agency may, if appropriate, require that every contractor and subcontractor engaged in construction on a construction project agree, for that project, to negotiate or become a party to a project labor agreement with one or more labor organizations. The rule identifies factors that agencies may consider to help them

decide, on a case-by-case basis, whether the use of a project labor agreement is likely to promote economy and efficiency in the performance of a specific construction project, and multiple strategies for timing the Federal Government's receipt of project labor agreements.

Dated: April 2, 2010.

**Al Matera,**

*Director, Acquisition Policy Division.*

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