



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

November 13, 2006

Danielle Brian
Executive Director
Project on Government Oversight
666 11th Street, NW
Suite 500
Washington, DC 20001

Dear Ms. Brian:

This is in response to your letter of October 17, 2006 to Mr. Haynes, in which you assert that the First Annual FAR/DFARS Review Conference, held on October 24, was a “public meeting of government officials” and as such, imposing a conference registration fee was improper. If the facts were as you presented them, we agree that there would have been a problem with charging a fee to attend. However, we have reviewed the facts and circumstances surrounding the conference and have concluded that the conference was not a “public meeting” for rule-making purposes, but instead an educational forum.

You stated that the agenda “consists exclusively of government personnel speaking about *proposed regulatory changes* to the FAR, and fielding questions and discussion.” [Emphasis added.] This conference was sponsored by the Director of the DAR Council, who advised that the conference was not such a session; rather, the conference was an educational forum presented for the purpose of sharing with the Government and industry acquisition community what the FAR and DAR Councils have done as *final rules* in the past year. As yet further indication of the educational nature of the gathering, the Defense Acquisition University, the educational institution charged with the responsibility of training and certifying government procurement professionals, assigned seven continuous learning points to the course based on its content. These points allow DoD acquisition professionals to obtain and maintain certification as members of the Defense Acquisition Workforce.

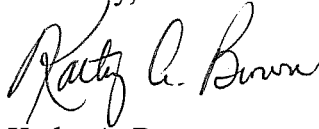
By contrast, the acquisition rule-making and public comment process focuses exclusively on *proposed* changes to the FAR and the DFARS and is highly structured to assure maximum public access. Proposed rules are published in the Federal Register, public comments are received as specified, and comments received are published, with their disposition, when the final rule is published in the Federal Register. DoD does not accept public comments on proposed rules in a public forum; such a forum may be used to explain a proposed rule, but it does not serve as a substitute means of submitting public comments. Attendees at a public forum would be reminded that in addition to the submission of comments by mail, there is a website by which comments on proposed rules can be made, www.regulations.gov. These are the only means by which DoD will accept public comments.



Notwithstanding that the conference was not a "public meeting" for rule-making purposes, we concluded that the content of the conference was of value to the acquisition community at large and that the information should be made readily available. Consequently, all the conference materials can be accessed through the Defense Procurement and Acquisition Policy website, www.acq.osd.mil/dpap/dars/index.htm.

I regret the time it has taken to respond to your letter. I trust you received my message of Monday, October 23, assuring you that while we could not get you a written response in advance of the conference, we were nevertheless addressing the issues you raised and would be responding formally as soon as possible. I understand that NASA has responded to your inquiry of them directly; the Offices of General Counsel at the General Services Administration and the Office of Management and Budget concur with the conclusions in this response. I trust that this addresses your concerns.

Sincerely,

A handwritten signature in cursive script that reads "Kathy A. Brown".

Kathy A. Brown
Associate General Counsel
(Acquisition & Logistics)