

SUPPLEMENTARY INFORMATION:**A. Background**

The guidance for determining cost allowability at FAR 31.201-2 previously did not explicitly state that contractors must maintain adequate cost records in order to be reimbursed for all claimed costs nor did it specifically state that the contracting officer has the authority to disallow costs which are determined to be inadequately supported. This requirement and authority have, heretofore, been considered to be implicit in the cost principles. However, the Councils are revising the FAR to explicitly address these issues because the Office of Federal Procurement Policy SWAT Team on Civilian Agency Contracting in its report of December 3, 1992, "Improving Contracting Practices and Management Controls on Cost-Type Federal Contracts," found that agencies were having difficulty because the FAR was silent on these issues. A new paragraph (d) is added to FAR 31.201-2 to explicitly state that costs claimed for reimbursement must be adequately supported and that the contracting officer may disallow costs which are inadequately supported. A proposed rule was published in the Federal Register at 59 FR 47776 on September 16, 1994. After evaluation of public comments, the Councils agreed to convert the proposed rule to a final rule without further change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended 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. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.201-2 is amended by adding paragraph (d) to read as follows:

31.201-2 Determining allowability.

* * * * *

(d) A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles in this subpart and agency supplements. The contracting officer may disallow all or part of a claimed cost which is inadequately supported.

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48 CFR Part 31

[FAC 90-39; FAR Case 93-006; Item XX]

RIN 9000-AF98

Federal Acquisition Regulation; Legislative Lobbying Costs

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) cost principles concerning lobbying costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-006.

SUPPLEMENTARY INFORMATION:**A. Background**

This FAR case was opened to address issues raised by the Office of Management and Budget SWAT team concerning the requirement to maintain records which are in addition to normal records maintained to record lobbying costs under FAR 31.205-22(f). The FAR rule deletes 31.205-22(f) because it conflicts with the recordkeeping requirements in 31.201-6(c), 31.205-22(e), and Cost Accounting Standards (CAS) 405, Accounting for Unallowable Costs (48 CFR 9904.405-50(a)). In addition, the Councils believe that 31.205-22(f) is inconsistent with the clause at 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, which requires contractors to disclose lobbying activities. The reporting of such activities must necessarily be based upon certain contractor records which support the disclosures. The rule also removes the prohibition against reimbursing executive lobbying costs at 31.205-50 and adds it to the list of specifically unallowable lobbying costs at 31.205-22(a). A proposed rule was published in the Federal Register at 59 FR 47776 on September 16, 1994. After evaluation of public comments, the Councils agreed to convert the proposed rule to a final rule without further change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 the revisions clarify a condition of allowability for contractors who wish to be reimbursed under Government contracts. The revisions eliminate a subsection which may be misinterpreted in its application and more accurately describe the subject matter of the cost principle. Further, most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors,

contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended 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. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–22 is amended by revising the section heading; at the end of paragraph (a)(4) by removing the word “or”; at the end of paragraph (a)(5) by removing the period and inserting “;or”; by adding paragraph (a)(6); and by removing paragraph (f) and redesignating paragraph (g) as (f) to read as follows:

31.205–22 Lobbying and political activity costs.

(a) * * *

(6) Costs incurred in attempting to improperly influence (see 3.401), either directly or indirectly, an employee or officer of the Executive branch of the Federal Government to give consideration to or act regarding a regulatory or contract matter.

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31.205–50 [Reserved]

3. Section 31.205–50 is removed and reserved.

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48 CFR Part 31

[FAC 90–39; FAR Case 93–022; Item XXI]

RIN 9000–AG00

Federal Acquisition Regulation; Travel Costs

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) have agreed on a final rule to amend the Federal Acquisition

Regulation (FAR) to specify the documentation required to support the allowability of contractors' claimed travel costs. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. It is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–39, FAR case 93–022.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register at 59 FR 47777, September 16, 1994, because the CAAC and the DARC determined that the FAR did not adequately specify what documentation is required to support travel costs incurred under Government contracts. The rule reflects a recommendation made by the Office of Federal Procurement Policy SWAT Team on Civilian Agency Contracting in its report of December 3, 1992, entitled “Improving Contracting Practices and Management Controls on Cost-Type Federal Contracts,” which found that agencies were having difficulty because the travel cost principle is silent on the documentation requirements.

The rule amends FAR 31.205–46 by adding paragraph (a)(7) which sets forth specific documentation criteria for travel costs. The major difference between the final rule and the proposed rule is that the final rule strikes the reference to “time” and adds a parenthetical after “place” in (a)(7)(i) to make the rule consistent with similar requirements already imposed by section 274 of the Internal Revenue Code for claiming costs for Federal tax purposes (26 U.S.C. 274(d)). The final rule also coincides with guidance currently contained in the Defense Contract Audit Manual (CAM) at CAM 7–1002.2.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 most contracts awarded to small entities are awarded on a competitive, fixed-price

basis and the cost principles do not apply. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended 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. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–46 is amended—
(a) By adding a heading to paragraph (a) and by revising paragraph (a)(1);
(b) By revising the first sentence of paragraph (a)(3)(iv); and
(c) By adding paragraph (a)(7) immediately preceding paragraph (b) to read as follows:

31.205–46 Travel costs.

(a) *Costs for transportation, lodging, meals, and incidental expenses.* (1) Costs incurred by contractor personnel on official company business are allowable, subject to the limitations contained in this subsection. Costs for transportation may be based on mileage rates, actual costs incurred, or on a combination thereof, provided the method used results in a reasonable charge. Costs for lodging, meals, and incidental expenses may be based on per diem, actual expenses, or a combination thereof, provided the method used results in a reasonable charge.

* * * * *

(3) * * *

(iv) Documentation to support actual costs incurred shall be in accordance with the contractor's established practices, subject to paragraph (a)(7) of this subsection, and provided that a receipt is required for each expenditure in excess of \$25.00. * * *

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