

advertising costs to eliminate confusion as to which cost principle governs. 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: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 92-613.

SUPPLEMENTARY INFORMATION:

A. Background

The General Accounting Office (GAO), in its report GAO/NSIAD-93-79, "CONTRACT PRICING: Unallowable Costs Charged to Defense Contracts", dated November 20, 1992, recommended that the cost principles at FAR 31.205-1, 31.205-13, and 31.205-14 be revised to eliminate confusion as to which cost principle was controlling. The December 1992 OMB SWAT summary report on civilian agency contracting practices also recommended these cost principles be made more explicit.

Revisions to FAR 31.205-13 and 31.205-14, based on recommendations of the GAO and OMB SWAT, and implementation of the Federal Acquisition Streamlining Act of 1994, Public Law 103-355, were published as a final rule in the Federal Register (60 FR 42662) on August 16, 1995.

This final rule amends the third cost principle cited in the GAO and the OMB SWAT reports. The rule amends the cost principle at FAR 31.205-1, Public relations and advertising costs, by removing from paragraph (f)(5) the parenthetical reference to other cost principles to eliminate any confusion as to which cost principle governs. A proposed rule was published in the Federal Register on March 29, 1996 (61 FR 14216). Two sources submitted public comments. All comments were considered in developing the final rule.

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 use simplified acquisition procedures or are

awarded on a competitive, fixed-price basis, and do not require application of the FAR cost principles.

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: September 11, 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 31.205-1(f)(5) is revised to read as follows:

31.205-1 Public relations and advertising costs.

* * * * *

(f) * * *

(5) Costs of promotional material, motion pictures, videotapes, brochures, handouts, magazines, and other media that are designed to call favorable attention to the contractor and its activities.

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[FR Doc. 96-32009 Filed 12-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 31

[FAC 90-43; FAR Case 95-003; Item X]

RIN 9000-AG73

Federal Acquisition Regulation; Impairment of Long-Lived Assets

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

ACTION: Interim rule adopted as a final rule with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule to amend the Federal Acquisition Regulation (FAR) to clarify the cost allowability rules

concerning the recognition of losses when carrying values of impaired assets are written down for financial reporting purposes. 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: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 95-003.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule clarifies that impairment losses recognized for financial accounting purposes under the Financial Accounting Standards Board Statement of Financial Accounting Standards (SFAS), No. 121, Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed of, dated March 1995, are not allowable for Government contract costing.

The SFAS applies to long-lived assets (such as land, buildings, and equipment), certain identifiable intangibles, and related goodwill. If impaired assets are to be held for use, the SFAS requires a write-down to fair value when events or circumstances (e.g., environmental damage, idle facilities arising from declining business, etc.) indicate that carrying values may not be fully recoverable. Once written down, the previous carrying amount of an impaired asset could not be restored if the impairment were subsequently removed.

In contrast to the SFAS provisions, Cost Accounting Standard (CAS) 9904.409, Depreciation of Tangible Capital Assets, provides quite different criteria and guidance to recognize gains and losses for Government contract purposes. The language at CAS 9904.409-40 (a)(4) and (b)(4), CAS 9904.409-50(j), and related Promulgation Comment 10, Gain or Loss, makes it clear that gains and losses are recognized only upon asset disposal; no other circumstances trigger such recognition. The language at CAS 9904.409-50(i) makes it clear that changes in depreciation may result from other permissible causes, e.g., changes in estimated service life, consumption of services, and residual value.

This final rule amends FAR 31.205-11, Depreciation, and 31.205-16, Gains and Losses on Disposition or

Impairment of Depreciable Property or Other Capital Assets, to clarify that these subsections reflect the CAS provisions that an asset be disposed of in order to recognize a gain or loss. Consequently, for Government contract purposes, (1) an impairment loss is recognized only upon disposal of the impaired asset and is measured, like other losses, as the difference between the net amount realized and the impaired asset's undepreciated balance; (2) Government contractors recover the carrying values of impaired assets held for use by retaining pre-write-down depreciation or amortization schedules as though no impairment had occurred; and (3) changes in depreciation are allowable from other permissible causes.

An interim rule was published in the Federal Register on December 14, 1995 (60 FR 64254). Four sources submitted public comments. All comments were considered in developing this final rule.

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 use simplified acquisition procedures or are awarded on a competitive fixed-price basis and do not require application of the FAR cost principles.

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: September 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Accordingly, the interim rule amending 48 CFR Part 31 and published at 60 FR 64254, December 14, 1995, is adopted as a final rule with the following changes:

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 31.205–11(o) is revised to read as follows:

31.205–11 Depreciation.

* * * * *

(o) In the event of a write-down from carrying value to fair value as a result of impairments caused by events or changes in circumstances, allowable depreciation of the impaired assets shall be limited to the amounts that would have been allowed had the assets not been written down (see 31.205–16(g)). However, this does not preclude a change in depreciation resulting from other causes such as permissible changes in estimates of service life, consumption of services, or residual value.

3. Section 31.205–16(g) is revised to read as follows:

31.205–16 Gains and losses on disposition or impairment of depreciable property or other capital assets.

* * * * *

(g) With respect to long-lived tangible and identifiable intangible assets held for use, no loss shall be allowed for a write-down from carrying value to fair value as a result of impairments caused by events or changes in circumstances (e.g., environmental damage, idle facilities arising from a declining business base, etc.). If depreciable property or other capital assets have been written down from carrying value to fair value due to impairments, gains or losses upon disposition shall be the amounts that would have been allowed had the assets not been written down.

[FR Doc. 96–32010 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

48 CFR Part 31

[FAC 90–43, FAR Case 96–003, Item XI]

RIN 9000–AH35

Federal Acquisition Regulation; Local Government Lobbying Costs

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

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule to amend the Federal Acquisition Regulation (FAR) to make allowable the costs of lobbying activities to influence local legislation

in order to directly reduce contract costs or to avoid material impairment of the contractor's authority to perform the contract. 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.

DATES: Effective Date: December 20, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 18, 1997 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405. Please cite FAC 90–43, FAR case 96–003, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 96–003.

SUPPLEMENTARY INFORMATION:

A. Background

Sections 2101 and 2151 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) (FASA) added to the lists of unallowable costs found at 10 U.S.C. 2324(e)(1) and 41 U.S.C. 256, the costs of lobbying the legislative body of a political subdivision of a state (i.e., local lobbying). As a result, under FAR Case 94–754 (60 FR 42659, August 16, 1995), FAR 31.205–22(a) (3) and (4) were revised to make unallowable the costs associated with any attempt to influence local legislation. The paragraph at FAR 31.205–22(b) contains a list of activities exempted from the provisions at 31.205–22(a). Included in the exempted activities are lobbying activities to influence state legislation in order to directly reduce contract costs, or to avoid material impairment of the contractor's authority to perform the contract. This interim rule amends FAR 31.205–22(b)(2) to treat lobbying activities to influence local legislation in a manner consistent with the treatment of lobbying activities to influence state legislation.

B. Regulatory Flexibility Act

The interim rule is not expected 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.*