

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Part 31****[FAR Case 2002-001]****RIN 9000-AJ46****Federal Acquisition Regulation;
Economic Planning, Employee Morale,
and Travel Cost Principles**

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) by revising three cost principles: (1) Economic planning costs; (2) Employee morale, health, welfare, food service, and dormitory costs and credits; and (3) Travel costs. The changes are to increase clarity and readability.

DATES: Interested parties should submit comments in writing on or before October 28, 2002 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—farcase.2002-001@gsa.gov.

Please submit comments only and cite FAR case 2002-001 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Jeremy Olson at (202) 501-3221. Please cite FAR case 2002-001.

SUPPLEMENTARY INFORMATION:**A. Background**

The proposed rule amends FAR 31.205-12 by eliminating paragraphs (b) and (c). Paragraph (b) states that economic planning costs are allowable as “indirect costs to be properly allocated.” In the Councils’ opinion, it duplicates coverage already at 31.202, Direct costs; 31.203, Indirect costs; and 31.201-4, Determining allocability. Paragraph (c) provides that Independent

Research and Development (IR&D) costs are not allowable economic planning costs. We believe 31.205-18, Independent research and development and bid and proposal costs, clearly applies to IR&D costs, and that it is not necessary to state that economic planning costs do not include IR&D costs. The intent of the elimination of paragraphs (b) and (c) is to eliminate duplication and not to change the meaning of the current cost principle.

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 proposed 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 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 cost principles discussed in this rule. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part 31 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2002-001), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed 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. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: August 20, 2002.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 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. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c), 2473(c).

31.205-6 [Amended]

2. Amend section 31.205-6 in paragraph (m)(2) by removing “(see 31.205-46(f))” and adding “(see 31.205-46(d))” in its place.

3. Revise section 31.205-12 to read as follows:

31.205-12 Economic planning costs.

Economic planning costs are allowable. Economic planning costs are the costs of general long-range management planning concerned with the future overall development of the contractor’s business. Economic planning costs do not include organization or reorganization costs covered by 31.205-27. See 31.205-38 for determining the allowability of market planning costs other than economic planning costs.

4. Amend section 31.205-13 by revising paragraphs (a), (d), and (f) to read as follows:

31.205-13 Employee morale, health, welfare, food service, and dormitory costs and credits.

(a) Aggregate costs incurred on activities designed to improve working conditions, employer-employee relations, employee morale, and employee performance (less income generated by these activities) are allowable, subject to the limitations contained in this subsection. Some examples of allowable activities are—

- (1) House publications;
- (2) Health clinics;
- (3) Wellness/fitness centers;
- (4) Employee counseling services; and
- (5) Food and dormitory services for the contractor’s employees at or near the contractor’s facilities. These services include—

(i) Operating or furnishing facilities for cafeterias, dining rooms, canteens, lunch wagons, vending machines, living accommodations; and

- (ii) Similar types of services.

(d)(1) The allowability of food and dormitory losses are determined by the following factors:

(i) Losses from operating food and dormitory services are allowable only if the contractor’s objective is to operate such services on a break-even basis.

(ii) Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conducive to the accomplishment of the objective in paragraph (d)(1)(i) of this subsection are not allowable, except as

described in paragraph (d)(1)(iii) of this subsection.

(iii) A loss may be allowed to the extent that the contractor can demonstrate that unusual circumstances exist such that even with efficient management, operating the services on a break-even basis would require charging inordinately high prices, or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas. The following are examples of unusual circumstances:

(A) The contractor must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available.

(B) The contractor's charged (but unproductive) labor costs would be excessive if the services were not available.

(C) If cessation or reduction of food or dormitory operations will not otherwise yield net cost savings.

(2) Costs of food and dormitory services shall include an allocable share of indirect expenses pertaining to these activities.

* * * * *

(f) Contributions by the contractor to an employee organization, including funds from vending machine receipts or similar sources, are allowable only to the extent that the contractor demonstrates that an equivalent amount

of the costs incurred by the employee organization would be allowable if directly incurred by the contractor.

31.205-46 [Amended]

5. Amend section 31.205-46 as follows:

a. Remove paragraphs (b) and (c), and redesignate paragraphs (d), (e), and (f) as (b), (c), and (d), respectively; and

b. In the introductory text of newly designated paragraph (c)(2), remove "paragraph (d)" each time it appears (twice) and add "paragraph (b)" in their place; and remove "paragraph (e)(3)" and add "paragraph (c)(3)" in its place.

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