

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Part 31****Federal Acquisition Regulation (FAR);
Unallowable Costs Under FAR 31.205**

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 Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 31.201-2, Determining allowability.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 21, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85-63 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4753.

SUPPLEMENTARY INFORMATION:**A. Background**

The General Accounting Office (GAO), in a May 7, 1985, report entitled, "Improvements Needed in Department of Defense Procedures to Prevent Reimbursement of Unallowable Costs on Government Contracts," recommended a FAR revision that would reduce differences and disagreements among contractors, Government auditors, and contracting officers; improve overhead negotiations; and reduce inconsistent treatment of costs under FAR 31.205. GAO has concluded that there are costs which may be made unallowable by one subsection of FAR 31.205, but allowed into the negotiation process by another subsection. They believe that the forthcoming revision of FAR 31.205-1, Public relations and advertising costs, did not go far enough in eliminating the ambiguities in the FAR which cause contractors, Government auditors, and contracting officers to have different interpretations on allowability.

Consequently, they recommended that the FAR should be amended so that any cost made specifically unallowable under any subsection of FAR 31.205. Selected costs, cannot be allowable under any other section of FAR Subpart 31.2.

The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council concurred with the GAO recommendation and are proposing a revision of FAR 31.201-2, Determining allowability, to implement that recommendation. The proposed revision includes an example that illustrates the meaning and intent of the FAR revision.

The proposed revision also complies with the provision of the Defense Procurement Improvement Act of 1985 (Title IX of the DOD Authorization Act of 1986, Pub. L. 99-145) that requires cost principle amendments to define in detail and specific terms those costs which are unallowable.

B. Regulatory Flexibility Act

The proposed change to FAR 31.201-2 is not expected to have a significant economic impact on a substantial number of small entities under 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 cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Act (Pub. L. 96-511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 13, 1985.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

PART 31—[AMENDED]

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 16 U.S.C. Chapter 137; and 42 U.S.C. 2453(a).

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

31.201-2 Determining allowability.

(d) Costs made specifically unallowable under any subsection of 31.205 are not allowable under any other sections or subsections of Subpart 31.2.

To illustrate, a contractor's donation to a scholarship fund for the family of a deceased employee that is specifically unallowable under 31.205-8, is not allowable under 31.205-13 on the basis that the objective of the contribution was to improve employer-employee relations, even though this is a generally allowable cost objective under 31.205-13.

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48 CFR Part 31**Federal Acquisition Regulation (FAR);
Company-Furnished Automobiles**

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 Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 31.205-6, Compensation for personal services, and 31.205-46, Travel costs, concerning company-furnished automobiles.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 21, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85-64 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4753.

SUPPLEMENTARY INFORMATION:**A. Background**

A provision contained in section 911 of the Defense Procurement Improvement Act of 1985 (Title IX of the DOD Authorization Act of 1986, Pub. L. 99-145) specifies that, as a minimum, the cost principles applicable to contractor costs of company-furnished automobiles shall be clarified to define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts.

The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are proposing revisions to FAR 31.205-6, Compensation for personal services, and

31.205-46. Travel costs, to implement the Act. The proposed revisions state that the cost of contractor-owned or -leased automobiles is allowable, if reasonable, to the extent that the automobiles are used for company business. Additional proposed language states that the portion of the cost of company-furnished automobiles that relates to personal use by employees is compensation for personal services and is unallowable. The Councils believe it is inappropriate for the Government to reimburse contractor employees' personal costs at taxpayers' expense.

B. Regulatory Flexibility Act

The proposed revisions to FAR 31.205-6(m) and 31.205-46(f) are not expected to have a significant economic impact on a substantial number of small entities under 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 cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public beyond those already required by the Internal Revenue Code.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 13, 1985.

Lawrence J. Rizzi,
Director, Office of Federal Acquisition and Regulatory Policy.

PART 31—[AMENDED]

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

1. The authority citation for 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. 2453(c).

2. Section 31.205-6 is amended by revising paragraph (m) to read as follows:

31.205-6 Compensation for personal services.

(m) *Fringe Benefits.* (1) Fringe benefits are allowances and services provided by the contractor to its employees as compensation in addition to regular wages and salaries. Fringe benefits include, but are not limited to, the cost of vacations, sick leave, holidays, military leave, employee insurance, and supplemental unemployment benefit plans. Except as provided elsewhere in Subpart 31.2, the costs of fringe benefits

are allowable to the extent that they are reasonable and are required by law, employer-employee agreement, or an established policy of the contractor.

(2) That portion of the cost of company-furnished automobiles that relates to personal use by employees (including transportation to and from work) is unallowable regardless of whether the cost is reported as taxable income to the employees (see 31.205-46(f)).

3. Section 31.205-46 is amended by adding paragraph (f) to read as follows:

31.205-46 Travel costs.

(f) Costs of contractor-owned or -leased automobiles, as used in this paragraph, include the costs of lease, operation (including personnel), maintenance, depreciation, insurance, etc. These costs are allowable, if reasonable, to the extent that the automobiles are used for company business. That portion of the cost of company-furnished automobiles that relates to personal use by employees (including transportation to and from work) is compensation for personal services and is unallowable as stated in 31.205-6(m)(2).

[FR Doc. 85-29875 Filed 12-18-85; 8:45 am]
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48 CFR Part 31

Federal Acquisition Regulation (FAR); Implementation of Congressional Direction Regarding the Costs of Membership in Social, Dining, and Country Clubs

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 Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 31.205-14, Entertainment costs, to implement Congressional direction regarding the costs of membership in social, dining, and country clubs.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 21, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets N.W., Room 4041, Washington, DC 20405.

Please cite FAR Case 85-65 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat; Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are considering a change to FAR 31.205-14, Entertainment costs. The change under consideration is designed to prohibit Government reimbursement of the costs of contractor memberships in social, dining, or country clubs or organizations. The proposed change is based on the Defense Improvement Act of 1985 (Title IX of the DOD Authorization Act of 1986, Pub. L. 99-145) and is considered necessary to ensure that only reasonable costs are paid under Government contracts.

B. Regulatory Flexibility Act

The proposed changes to FAR 31.205-14 are not expected to have a significant economic impact on a substantial number of small entities under 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 cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements on the public which require the approval of OMB under 44 U.S.C. 3501 et. seq. The proposed rule merely clarifies the allowability of certain membership costs incurred by contractors. Contractors already separately record membership costs in the normal course of business and such existing information provides an adequate basis for compliance with the proposed rule.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 13, 1985.

Lawrence J. Rizzi,
Director, Office of Federal Acquisition and Regulatory Policy.

PART 31—[AMENDED]

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

1. The authority citation for 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. 2453(c).