

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Part 31**

[FAR Case 93-18]

RIN 9000-AG58

**Federal Acquisition Regulation;  
Definition of Bid and Proposal Costs**

**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 are proposing changes to the Federal Acquisition Regulation (FAR) by revising the definition of bid and proposal (B&P) costs to clarify that B&P costs related to all types of funding instruments (e.g., contracts, grants, cooperative agreements, and other similar types of agreements) are allowable costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

**DATES:** Comments should be submitted on or before October 20, 1995. To be considered in the formulation of a final rule.

**ADDRESSES:** Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405.

Please cite FAR case 93-18 in all correspondence related to this case.

**FOR FURTHER INFORMATION CONTACT:** 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 FAR case 93-18.

**SUPPLEMENTARY INFORMATION:****A. Background**

The proposed FAR rule would revise the definition of bid and proposal (B&P) costs at FAR 31.205-18(a) to clarify that B&P costs related to all types of funding instruments (e.g., contracts, grants, cooperative agreements, and other similar types of agreements) are allowable costs. The definition currently does not address proposal costs associated with grants or cooperative

agreements. This change was requested by the Director of Defense Procurement to address an issue which arose under a competition being conducted by the Advanced Research Projects Agency (ARPA) and to make the cost principle compatible with the definition of B&P costs in Cost Accounting Standard 420 (4 CFR 9904.420-30).

**B. Regulatory Flexibility Act**

This proposed 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.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. The cost principles apply only to contracts for which cost or pricing data has been submitted. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 93-18), in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the proposed 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: August 15, 1995.

**C. Allen Olson,**

*Director, Office of Federal Acquisition Policy.*

Therefore, it is proposed that 48 CFR Part 31 be 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 31.205-18 is amended in paragraph (a) by revising the definition of *Bid and proposal (B&P) costs* to read as follows:

**31.205-18 Independent research and development and bid and proposal costs.**

\* \* \* \* \*

*Bid and proposal (B&P) costs*, as used in this subsection, means the costs

incurred in preparing, submitting, and supporting bids and proposals (whether or not solicited) on potential Government or non-Government contracts, grants, cooperative agreements, or other transactions (coordinated research, consortia, and other similar types of agreements). The term does not include the costs of effort sponsored by a grant, cooperative agreement, or other transaction, or required in the performance of a contract.

\* \* \* \* \*

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**48 CFR Part 31**

[FAR Case 93-26]

RIN 9000-AG59

**Federal Acquisition Regulation;  
Business Meals**

**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 are proposing changes to the Federal Acquisition Regulation (FAR) to clarify when the costs of meals for contractor employees are allowable. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

**DATES:** Comments should be submitted on or before October 20, 1995, to be considered in the formulation of a final rule.

**ADDRESSES:** Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4037, Washington, DC 20405.

Please cite FAR case 93-26 in all correspondence related to this case.

**FOR FURTHER INFORMATION CONTACT:** 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 FAR case 93-26.

**SUPPLEMENTARY INFORMATION:****A. Background**

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," recommended several FAR changes which were viewed to have Government-wide benefit. The purpose of the proposed revisions was to make the FAR less general with regard to the allowability of certain costs.

One area identified for clarification is the costs of business meals of contractor employees who are not on official travel. Audits and reviews revealed that these costs were variously claimed as allowable as employee morale costs, necessary to accomplish business, or as a normal business expense.

FAR 31.205-43(c)(1) is amended to remove the word "subsistence." The title of FAR 31.205-46 is revised to include business meals and a new paragraph (g) is added to make it clear that the costs of meals for contractor employees is unallowable unless the employee is on official company travel or the meals are an integral part of a *bona fide* business meeting as described in FAR 31.205-43(c).

#### **B. Regulatory Flexibility Act**

The proposed rule clarifies a condition of cost allowability for contractors who wish to be reimbursed under Government contracts subject to

FAR Subpart 31.2. The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies, but the rule is not expected to have a significant economic impact on a substantial number of small entities because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 93-26), in correspondence.

#### **C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the proposed 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: August 15, 1995.

**C. Allen Olson,**

*Director, Office of Federal Acquisition Policy.*

Therefore, it is proposed that 48 CFR Part 31 be 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).

#### **31.205-43 [Amended]**

2. Section 31.205-43 is amended in paragraph (c)(1) by removing the word "subsistence,".

3. Section 31.205-46 is amended by revising the section heading and adding paragraph (g) to read as follows:

#### **31.205-46 Travel costs and business meals.**

\* \* \* \* \*

(g) Costs of meals by contractor employees are unallowable unless—

- (1) The employee is on official company travel; or
- (2) The meals are an integral part of activities described under 31.205-43(c).

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