

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Part 31

[FAC 97-05; FAR Case 97-007; Item IX]

RIN 9000-AH76

Federal Acquisition Regulation; Travel
Reimbursement

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

ACTION: Interim rule adopted as final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published as Item IX of Federal Acquisition Circular 97-03 at 62 FR 64932, December 9, 1997, to a final rule without change. The rule amends the Federal Acquisition Regulation (FAR) to increase from \$25 to \$75 the threshold at which contractor personnel must provide a receipt to support travel expenditures. 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 21, 1998.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 97-05, FAR case 97-007.

SUPPLEMENTARY INFORMATION:

A. Background

An interim rule was published in the **Federal Register** on December 9, 1997 (62 FR 64932). The interim rule amended FAR 31.205-46 to increase from \$25 to \$75 the threshold at which contractor personnel must provide a receipt to support travel expenditures. Public comments were received from one source. All comments were considered in developing the final rule. The interim rule is converted to a final rule without 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 use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the cost principle contained in this rule.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is deemed to apply because the final rule contains information collection requirements. Since the threshold at which contractor personnel must provide a receipt to support travel expenditures has been increased, a request to decrease the burden hours previously approved under Office of Management and Budget (OMB) Control Number 9000-0088 was submitted to OMB under 44 U.S.C. 3501, *et seq.* Public comments concerning this request were invited through **Federal Register** notice dated December 9, 1997 (62 FR 64932). No public comments were received.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final Without
Change

Accordingly, the interim rule amending 48 CFR Part 31, which was published at 62 FR 64932, December 9, 1997, is adopted as a final rule without change.

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).

[FR Doc. 98-16120 Filed 6-19-98; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Part 48

[FAC 97-05; FAR Case 96-011; Item X]

RIN 9000-AH37

Federal Acquisition Regulation; No-
Cost Value Engineering Change
Proposals

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to clarify that no-cost value engineering change proposals (VECPs) may be used when, in the contracting officer's judgment, reliance on other VECP approaches likely would not be more cost-effective, and the no-cost settlement would provide adequate consideration to the Government. 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 June 22, 1998.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 21, 1998 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

E-Mail comments submitted over the Internet should be addressed to: farcase.96-011@gsa.gov.

Please cite FAC 97-05, FAR case 96-011 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein, Procurement Analyst, at (202) 501-3775. Please cite FAC 97-05, FAR case 96-011.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule clarifies that the no-cost VECP guidance at FAR 48.104-3 permits the use of no-cost settlements when the contracting officer has balanced the administrative costs of negotiating a settlement against the anticipated savings, and when, in the contracting officer's judgment, reliance on other VECP approaches likely would not be more cost-effective, and the no-cost settlement would provide adequate consideration to the Government. The no-cost VECP alternative was not intended for use when significant cost savings are anticipated on the instant contract.

B. Regulatory Flexibility Act

The changes may 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 rule could reduce the number of no-cost VECP settlements negotiated between the Government and private entities. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and is summarized as follows:

This interim rule clarifies that the guidance at FAR 48.104-3, Sharing alternative—no-cost settlement method, permits use of no-cost VECP settlements when the contracting officer has balanced the administrative costs of negotiating a settlement against the anticipated savings; and, in the contracting officer's judgment, reliance on other VECP approaches likely would not be more cost-effective, and the no-cost settlement would provide adequate consideration to the Government. The no-cost VECP alternative was not intended for use when significant cost savings are anticipated on the instant contract.

A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration and may be obtained from the FAR Secretariat at the address above. Comments are invited. Comments from small entities concerning the affected FAR subpart also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR Case 96-011), in correspondence.

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 collection 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.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to preclude misinterpretation and misuse of existing guidance and resulting VECP settlements that do not provide the Government with appropriate consideration. However, pursuant to Pub. L. 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 48

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 48 is amended as set forth below:

PART 48—VALUE ENGINEERING

1. The authority citation for 48 CFR Part 48 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 48.104-3 is revised to read as follows:

48.104-3 Sharing alternative—no-cost settlement method.

In selecting an appropriate mechanism for incorporating a VECP into a contract, the contracting officer shall analyze the different approaches available to determine which one would be in the Government's best interest. Contracting officers should balance the administrative costs of negotiating a settlement against the anticipated savings. A no-cost settlement may be used if, in the contracting officer's judgment, reliance on other VECP approaches likely would not be more cost-effective, and the no-cost settlement would provide adequate consideration to the Government. Under this method of settlement, the contractor would keep all of the savings on the instant contract, and all savings on its concurrent contracts only. The Government would keep all savings resulting from concurrent contracts placed with other sources, savings from all future contracts, and all collateral savings. Use of this method must be by

mutual agreement of both parties for individual VECPs.

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DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 5, 8, 31, 45, and 53**

[FAC 97-05; Item XI]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Technical amendments.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation in order to update references and make editorial changes.

EFFECTIVE DATE: June 22, 1998.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755.

List of Subjects in 48 CFR Parts 5, 8, 31, 45, and 53

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 5, 8, 31, 45, and 53 are amended as set forth below:

1. The authority citation for 48 CFR Parts 5, 8, 31, 45, and 53 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).

PART 5—PUBLICIZING CONTRACT ACTIONS**5.201 [Amended]**

2. Section 5.201 is amended in paragraph (b)(2) by revising "(see 5.205(d))" to read "(see 5.205(e))".

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES**8.404 [Amended]**

3. Section 8.404 is amended in the first sentence of paragraph (a) by revising "13.202(c)(3)" to read "13.303-2(c)(3)".