

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 13, 2014.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA amend 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. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 31.205–6 by—

- a. Revising the heading of paragraph (p), and paragraphs (p)(1) and (p)(2);
- b. Redesignating paragraph (p)(3) as paragraph (p)(4); and
- c. Adding a new paragraph (p)(3).

The revised and added text reads as follows:

31.205–6 Compensation for personal services.

* * * * *

(p) *Limitation on allowability of compensation.* (1) *Senior executive compensation limit for contracts awarded before June 24, 2014.* (i) *Applicability.* This paragraph (p)(1) applies to the following:

(A) To all executive agencies, other than DoD, NASA, and the Coast Guard, for contracts awarded before June 24, 2014;

(B) To DoD, NASA, and the Coast Guard for contracts awarded before December 31, 2011;

(ii) *Costs incurred after January 1, 1998.* Costs incurred after January 1, 1998 for the compensation of a senior executive in excess of the benchmark compensation amount determined applicable for the contractor fiscal year by the Administrator, Office of Federal Procurement Policy (OFPP), under 41 U.S.C 1127 as in effect prior to June 24, 2014, are unallowable (10 U.S.C. 2324(e)(1)(P) and 41 U.S.C 4304(a)(16), as in effect prior to June 24, 2014). This limitation is the sole statutory limitation on allowable senior executive compensation costs incurred after

January 1, 1998, under contracts awarded before June 24, 2014, and applies whether or not the affected contracts were previously subject to a statutory limitation on such costs. (Note that pursuant to section 804 of Pub. L. 105–261, the definition of “senior executive” in paragraph (p)(4) has been changed for compensation costs incurred after January 1, 1999.)

(2) *All employee compensation limit for contracts awarded before June 24, 2014.* (i) *Applicability.* This paragraph (p)(2) applies to DOD, NASA, and the Coast Guard for contracts awarded on or after December 31, 2011 and before June 24, 2014;

(ii) *Costs incurred after January 1, 2012.* Costs incurred after January 1, 2012, for the compensation of any contractor employee in excess of the benchmark compensation amount, determined applicable for the contractor fiscal year by the Administrator, Office of Federal Procurement Policy (OFPP) under 41 U.S.C 1127 are unallowable (10 U.S.C. 2324(e)(1)(P)).

(3) *All employee compensation limit for contracts awarded on or after June 24, 2014.* (i) *Applicability.* This paragraph (p)(3) applies to all executive agency contracts awarded on or after June 24, 2014, and any subcontracts thereunder;

(ii) *Costs incurred on or after June 24, 2014.* Costs incurred on or after June 24, 2014, for the compensation of all employees in excess of the benchmark compensation amount determined applicable for the contractor fiscal year by the Administrator of the Office of Federal Procurement Policy are unallowable. See <http://www.whitehouse.gov/omb/procurement/cecp>.

(iii) *Exceptions.* An agency head may establish one or more narrowly targeted exceptions for scientists, engineers, or other specialists upon a determination that such exceptions are needed to ensure that the executive agency has continued access to needed skills and capabilities. In making such a determination, the agency shall consider, at a minimum, for each contractor employee in a narrowly targeted excepted position—

(A) The amount of taxpayer funded compensation to be received by each employee; and

(B) The duties and services performed by each employee.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2014–0052, Sequence No. 3]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–75; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005–75, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–75, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: June 24, 2014.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–75 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–75

Item	Subject	FAR Case	Analyst
*I	EPEAT Items (Interim)	2013–016	Chambers.
*II	Contracting with Women-Owned Small Business Concerns	2013–010	Morgan.
*III	Limitation on Allowable Government Contractor Compensation Costs (Interim)	2014–012	Chambers.

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005-75 amends the FAR as specified below:

Item I—EPEAT Items (FAR Case 2013-016) (Interim)

This interim rule implements changes in the Electronic Product Environmental Assessment Tool (EPEAT®)-registry requirements at FAR subpart 23.7. The FAR requirement to procure EPEAT®-registered products is revised to incorporate the revised standard applicable to personal computer products and to add the standards for imaging equipment and televisions.

Item II—Contracting with Women-Owned Small Business Concerns (FAR Case 2013-010)

This final rule adopts as final, without change, an interim rule that amended FAR 19.1505 to remove the dollar limitation for set-asides for economically disadvantaged women-owned small business (EDWOSB)

concerns or women-owned small business (WOSB) concerns eligible under the Women-Owned Small Business (WOSB) Program. The interim rule implemented section 1697 of the National Defense Authorization Act for Fiscal Year 2013, Public Law 112-239, which amended section 8(m) of the Small Business Act, (15 U.S.C. 637(m)).

As a result of this change, contracting officers may set aside acquisitions for competition restricted to EDWOSB concerns or WOSB concerns eligible under the WOSB Program at any dollar level above the micro-purchase threshold, provided the other requirements for a set-aside under the WOSB Program are met.

Item III—Limitation on Allowable Government Contractor Compensation Costs (FAR Case 2014-012) (Interim)

This interim rule amends the FAR to implement section 702 of the Bipartisan Budget Act of 2013. In accordance with section 702, this interim rule revises the allowable cost limit relative to the compensation of contractor and subcontractor employees. In the current FAR, this limitation on the allowability of compensation is an amount set

annually by the Office of Federal Procurement Policy and covers all Federal agencies; it is currently \$952,308. Under this interim rule, this limitation on a contractor's employee's compensation will be \$487,000, adjusted annually to reflect the change in the Employment Cost Index for all workers as calculated by the Bureau of Labor Statistics. Also, in accordance with section 702, this interim rule implements the possible exception to this allowable cost limit for scientists, engineers, or other specialists upon an agency determination that such exceptions are needed to ensure that the executive agency has continued access to needed skills and capabilities. Because most contracts awarded to small businesses are awarded on a fixed-price basis, the impact of this compensation limitation on small businesses will be minimal.

Dated: June 13, 2014.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

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