

### 31.205-44

of meeting facilities, transportation, subsistence, and incidental costs;

(2) Costs of attendance by contractor employees, including travel costs (see 31.205-46); and

(3) Costs of attendance by individuals who are not employees of the contractor, *provided*;

(i) Such costs are not also reimbursed to the individual by the employing company or organization, and

(ii) The individual's attendance is essential to achieve the purpose of the conference, meeting, convention, symposium, etc.

[48 FR 42301, Sept. 19, 1983, as amended at 53 FR 27467, July 20, 1988; 60 FR 42660, Aug. 16, 1995]

### 31.205-44 Training and education costs.

Costs of training and education that are related to the field in which the employee is working or may reasonably be expected to work are allowable, except as follows:

(a) Overtime compensation for training and education is unallowable.

(b) The cost of salaries for attending undergraduate level classes or part-time graduate level classes during working hours is unallowable, except when unusual circumstances do not permit attendance at such classes outside of regular working hours.

(c) Costs of tuition, fees, training materials and textbooks, subsistence, salary, and any other payments in connection with full-time graduate level education are unallowable for any portion of the program that exceeds two school years or the length of the degree program, whichever is less.

(d) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, and fellowships are considered contributions and are unallowable.

(e) Training or education costs for other than bona fide employees are unallowable, except that the costs incurred for educating employee dependents (primary and secondary level studies) when the employee is working in a foreign country where suitable public education is not available may be included in overseas differential pay.

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(f) Contractor contributions to college savings plans for employee dependents are unallowable.

[70 FR 57472, Sept. 30, 2005]

### 31.205-45 [Reserved]

### 31.205-46 Travel costs.

(a) *Costs for transportation, lodging, meals, and incidental expenses.* (1) Costs incurred by contractor personnel on official company business are allowable, subject to the limitations contained in this subsection. Costs for transportation may be based on mileage rates, actual costs incurred, or on a combination thereof, provided the method used results in a reasonable charge. Costs for lodging, meals, and incidental expenses may be based on per diem, actual expenses, or a combination thereof, provided the method used results in a reasonable charge.

(2) Except as provided in paragraph (a)(3) of this section, costs incurred for lodging, meals, and incidental expenses (as defined in the regulations cited in paragraphs (a)(2)(i) through (iii) of this section ) shall be considered to be reasonable and allowable only to the extent that they do not exceed on a daily basis the maximum per diem rates in effect at the time of travel as set forth in the—

(i) Federal Travel Regulation, prescribed by the General Services Administration, for travel in the contiguous United States, available on a subscription basis from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, Stock No. 922-002-00000-2;

(ii) Joint Travel Regulations, Volume 2, DoD Civilian Personnel, Appendix A, prescribed by the Department of Defense, for travel in Alaska, Hawaii, and outlying areas of the United States, available on a subscription basis from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, Stock No. 908-010-00000-1; or

(iii) Standardized Regulations (Government Civilians, Foreign Areas), section 925, *Maximum Travel Per Diem Allowances of Foreign Areas*, prescribed by the Department of State, for travel in areas not covered in paragraphs

(a)(2)(i) and (ii) of this section, available on a subscription basis from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, Stock No. 744-088-00000-0.

(3) In special or unusual situations, actual costs in excess of the above-referenced maximum per diem rates are allowable provided that such amounts do not exceed the higher amounts authorized for Federal civilian employees as permitted in the regulations referenced in paragraph (a)(2)(i), (ii), or (iii) of this section. For such higher amounts to be allowable, all of the following conditions must be met:

(i) One of the conditions warranting approval of the actual expense method, as set forth in the regulations referred in paragraph (a)(2)(i), (ii), or (iii) of this section, must exist.

(ii) A written justification for use of the higher amounts must be approved by an officer of the contractor's organization or designee to ensure that the authority is properly administered and controlled to prevent abuse.

(iii) If it becomes necessary to exercise the authority to use the higher actual expense method repetitively or on a continuing basis in a particular area, the contractor must obtain advance approval from the contracting officer.

(iv) Documentation to support actual costs incurred shall be in accordance with the contractor's established practices, subject to paragraph (a)(7) of this section, and provided that a receipt is required for each expenditure of \$75.00 or more. The approved justification required by paragraph (a)(3)(ii) of this section and, if applicable, paragraph (a)(3)(iii) of this section must be retained.

(4) Paragraphs (a)(2) and (3) of this section and paragraphs (a)(2)(i), (ii), and (iii) of this section do not incorporate the regulations cited in paragraphs (a)(2)(i), (ii), and (iii) of this section in their entirety. Only the maximum per diem rates, the definitions of lodging, meals, and incidental expenses, and the regulatory coverage dealing with special or unusual situations are incorporated herein.

(5) An advance agreement (see 31.109) with respect to compliance with para-

graphs (a)(2) and (3) of this section may be useful and desirable.

(6) The maximum per diem rates referenced in subparagraph (a)(2) of this subsection generally would not constitute a reasonable daily charge—

(i) When no lodging costs are incurred; and/or

(ii) On partial travel days (e.g., day of departure and return).

Appropriate downward adjustments from the maximum per diem rates would normally be required under these circumstances. While these adjustments need not be calculated in accordance with the Federal Travel Regulation or Joint Travel Regulations, they must result in a reasonable charge.

(7) Costs shall be allowable only if the following information is documented:

(i) Date and place (city, town, or other similar designation) of the expenses;

(ii) Purpose of the trip; and

(iii) Name of person on trip and that person's title or relationship to the contractor.

(b) Airfare costs in excess of the lowest priced airfare available to the contractor during normal business hours are unallowable except when such accommodations require circuitous routing, require travel during unreasonable hours, excessively prolong travel, result in increased cost that would offset transportation savings, are not reasonably adequate for the physical or medical needs of the traveler, or are not reasonably available to meet mission requirements. However, in order for airfare costs in excess of the above airfare to be allowable, the applicable condition(s) set forth above must be documented and justified.

(c)(1) *Cost of travel by contractor-owned, -leased, or -chartered aircraft*, as used in this paragraph (c), includes the cost of lease, charter, operation (including personnel), maintenance, depreciation, insurance, and other related costs.

(2) The costs of travel by contractor-owned, -leased, or -chartered aircraft are limited to the allowable airfare described in paragraph (b) of this section for the flight destination unless travel by such aircraft is specifically required

by contract specification, term, or condition, or a higher amount is approved by the contracting officer. A higher amount may be agreed to when one or more of the circumstances for justifying higher than allowable airfare listed in paragraph (b) of this section are applicable, or when an advance agreement under paragraph (c)(3) of this section has been executed. In all cases, travel by contractor-owned, -leased, or -chartered aircraft must be fully documented and justified. For each contractor-owned, -leased, or -chartered aircraft used for any business purpose which is charged or allocated, directly or indirectly, to a Government contract, the contractor must maintain and make available manifest/logs for all flights on such company aircraft. As a minimum, the manifest/log shall indicate—

- (i) Date, time, and points of departure;
- (ii) Destination, date, and time of arrival;
- (iii) Name of each passenger and relationship to the contractor;
- (iv) Authorization for trip; and
- (v) Purpose of trip.

(3) Where an advance agreement is proposed (see 31.109), consideration may be given to the following:

(i) Whether scheduled commercial airlines or other suitable, less costly, travel facilities are available at reasonable times, with reasonable frequency, and serve the required destinations conveniently.

(ii) Whether increased flexibility in scheduling results in time savings and more effective use of personnel that would outweigh additional travel costs.

(d) 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).

[48 FR 42301, Sept. 19, 1983, as amended at 51 FR 12301, Apr. 9, 1986; 51 FR 27489, July 31, 1986; 51 FR 36972, Oct. 16, 1986; 56 FR 41739, Aug. 22, 1991; 57 FR 20377, May 12, 1992; 61 FR 31657, June 20, 1996; 62 FR 40237, July 25, 1997; 62 FR 64933, Dec. 9, 1997; 68 FR 28083, May 22, 2003; 68 FR 56688, Oct. 1, 2003; 74 FR 65614, Dec. 10, 2009; 84 FR 19847, May 6, 2019]

#### **31.205-47 Costs related to legal and other proceedings.**

(a) *Definitions.* As used in this subsection—

*Costs* include, but are not limited to, administrative and clerical expenses; the costs of legal services, whether performed by in-house or private counsel; the costs of the services of accountants, consultants, or others retained by the contractor to assist it; costs of employees, officers, and directors; and any similar costs incurred before, during, and after commencement of a judicial or administrative proceeding which bears a direct relationship to the proceedings.

*Fraud* means —

(1) Acts of fraud or corruption or attempts to defraud the Government or to corrupt its agents;

(2) Acts which constitute a cause for debarment or suspension under 9.406-2(a) and 9.407-2(a); and

(3) Acts which violate the False Claims Act, 31 U.S.C., sections 3729-3731, or 41 U.S.C. chapter 87, Kickbacks.

*Penalty* does not include restitution, reimbursement, or compensatory damages.

*Proceeding* includes an investigation.

(b) Costs incurred in connection with any proceeding brought by: A Federal, State, local, or foreign government for a violation of, or failure to comply with, law or regulation by the contractor (including its agents or employees) (41 U.S.C. 4310 and 10 U.S.C. 3750); a contractor or subcontractor employee submitting a whistleblower complaint of reprisal in accordance with 41 U.S.C. 4712 or 10 U.S.C. 4701; or a third party in the name of the United States under the False Claims Act, 31 U.S.C. 3730, are unallowable if the result is—

(1) In a criminal proceeding, a conviction;