

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Parts 2, 31, 47, and 52**

[FAC 2001–14; FAR Case 2001–029; Item II]

RIN 9000–AJ33

**Federal Acquisition Regulation;  
Miscellaneous Cost Principles**

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to delete the cost principle concerning transportation costs and to revise the cost principles concerning cost of money, other business expenses, and deferred research and development costs.

**DATES:** *Effective Date:* June 23, 2003.

**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 Mr. Edward Loeb at (202) 501–1224. Please cite FAC 2001–14, FAR case 2001–029.

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

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 67 FR 13072, March 20, 2002, with request for comments. Two respondents submitted public comments. The Councils considered all comments and concluded that the proposed rule should be converted to a final rule with the following changes to the proposed rule:

1. Revise the language at FAR 31.205–10(b)(1) to state that cost of money “is measured, assigned, and allocated to contracts in accordance with 48 CFR 9904.414 or measured and added to the cost of capital assets under construction in accordance with 48 CFR 9904.417, as applicable.”

2. Change the word “cost” in paragraph 31.205–10(b)(3) to “cost of money” to maintain clarity and consistency at FAR 31.205–10. A

discussion of the comments is provided below:

*Comment:* Respondent recommends that paragraph (a)(2) of FAR 31.205–10 be revised to state that cost of money “shall be treated like an incurred cost for cost-reimbursement purposes.”

*Councils’ response:* Do not concur. The Councils believe FAR 31.205–10(a)(1) of the proposed rule clearly specifies that cost of money is an imputed cost (as opposed to an incurred cost). Paragraph (a)(2) further states that, for cost-reimbursement purposes, this imputed cost is an “incurred cost.” The Councils do not believe this language would permit a contractor to argue that cost of money is not an imputed cost. In fact, the cost principle at FAR 31.205–10 has referred to cost of money as being, for cost-reimbursement purposes, an “incurred cost” since at least as early as 1984, but has also always specifically stated that it is actually an “imputed cost.”

*Comment:* Respondent recommends revising the language in the proposed rule at FAR 31.205–10(b)(1) for cost of money that states “it is measured, assigned, and allocated to contracts in accordance with 48 CFR 9904.414 or 48 CFR 9904.417, as applicable.” Respondent notes that 48 CFR 9904.417—Cost of Money as an Element of the Cost of Capital Assets under Construction (CAS 417), addresses the measurement of cost of money attributable to assets being constructed rather than contract costs.

*Councils’ response:* Concur. The Councils revised the rule at paragraph (b)(1) to state that cost of money “is measured, assigned, and allocated to contracts in accordance with 48 CFR 9904.414 or measured and added to the cost of capital assets under construction in accordance with 48 CFR 9904.417, as applicable.”

*Comment:* Respondent recommends revising FAR 31.205–10(b)(1) by changing the word “cost” to “imputed cost” or “cost of money,” to make it consistent with the other language in the cost principle.

*Councils’ response:* Concur. The Councils changed the word “cost” in paragraph (b)(3) to “cost of money.”

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**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 principles discussed in this rule.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**List of Subjects in 48 CFR Parts 2, 31, 47, and 52**

Government procurement.

Dated: May 13, 2003.

**Laura G. Smith,**

*Director, Acquisition Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 31, 47, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 31, 47, and 52 is revised to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

**PART 2—DEFINITIONS OF WORDS  
AND TERMS**

■ 2. In section 2.101, add the definition “Facilities capital cost of money”, in alphabetical order, to read as follows:

**2.101 Definitions.**

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*Facilities capital cost of money* means “cost of money as an element of the cost of facilities capital” as used at 48 CFR 9904.414—Cost Accounting Standard—Cost of Money as an Element of the Cost of Facilities Capital.

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**PART 31—CONTRACT COST  
PRINCIPLES AND PROCEDURES****31.001 [Amended]**

■ 3. In section 31.001, remove the definitions “Cost of capital committed to facilities” and “Facilities capital.”

■ 4. Revise section 31.205–10 to read as follows:

**31.205–10 Cost of money.**

(a) *General.* Cost of money—

(1) Is an imputed cost that is not a form of interest on borrowings (see 31.205–20);