

7.105 Contents of written acquisition plans.

* * * * *

(b) *Plan of action—(1) Sources.* * * *

Consider required sources of supplies or services (see Part 8) and sources identifiable through databases including the Governmentwide database of contracts and other procurement instruments intended for use by multiple agencies available at <http://www.contractdirectory.gov>. * * *

* * * * *

PART 10—MARKET RESEARCH

■ 4. Amend section 10.002 by revising paragraph (b)(2)(iv) to read as follows:

10.002 Procedures.

* * * * *

(b) * * *

(2) * * *

(iv) Querying the Governmentwide database of contracts and other procurement instruments intended for use by multiple agencies available at <http://www.contractdirectory.gov> and other Government databases that provide information relevant to agency acquisitions.

* * * * *

[FR Doc. 03–18535 Filed 7–23–03; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 22, 31, 37, and 52**

[FAC 2001–15; FAR Case 2001–008; Item IV]

RIN 9000–AJ36

**Federal Acquisition Regulation;
Compensation Cost Principle**

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 revise the “compensation for personal services” cost principle by restructuring the paragraphs, and by removing unnecessary and duplicative language.

DATES: *Effective Date:* August 25, 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, Procurement Analyst, at (202) 501–0650. Please cite FAC 2001–15, FAR case 2001–008.

SUPPLEMENTARY INFORMATION:**A. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 67 FR 19952, April 23, 2002, with request for comments. Three respondents submitted public comments. A discussion of the comments is provided below. Differences between the proposed and the final rule are discussed in paragraphs 1, 5, 13, 15, and 19 below.

Public Comments:

1. *Comment: Designate FAR 31.205–6(c) as Reserved.* The current paragraph designations, especially paragraph (j) for pensions, have been cited in many court cases, Government contracts, and other documents over the years. All the respondents expressed concerns that the re-designation of paragraphs (d) through (p) within FAR 31.205–6 as paragraphs (c) through (o) would create confusion.

Councils’ response: Concur.

2. *Comment: Move proposed FAR 31.205–6(g)(1) (Backpay) to FAR 31.205–6(a)(1).* The respondent did not provide an explanation for this recommendation.

Councils’ response: Do not concur. The Councils believe there is merit in maintaining a separate paragraph for backpay. See paragraph 16 for further discussion.

3. *Comment: Delete proposed FAR 31.205–6(a)(2) (total compensation).* The language is duplicative of FAR 31.201–3, Reasonableness, and the focus of the cost principle should be on the reasonableness of a contractor’s total compensation plan and not on individual employees or job classes.

Councils’ response: Do not concur. The proposed paragraph makes it clear that, although compensation must conform to FAR 31.201–3, it must also conform to the more specific provisions contained in this cost principle. The Councils do not agree with the concept that the reasonableness of compensation should be based “solely” on the contractor’s total compensation plan, without consideration of the reasonableness of the compensation for individual employees or job classes of employees. See paragraph 9 for further discussion.

4. *Comment: Delete proposed FAR 31.205–6(a)(5) (unallowable cost).* The proposed language states: “Costs that are unallowable under other paragraphs of this Subpart 31.2 are not allowable under this subsection 31.205–6 solely on the basis that they constitute compensation for personal services.” In lieu of the above statement, the respondent suggested adding the following language to FAR 31.204(c): “Cost made specifically unallowable under one cost principle in this subpart are not allowable under any other cost principle.”

Councils’ response: Do not concur. Similar proposals for such a global policy statement were rejected in the past by both industry and the Government. The current language at FAR 31.204(c) was adopted instead, and the “unallowable under other paragraphs” statements in individual cost principles were retained. The Councils agree with the original drafters of the current FAR 31.205–6(a)(5) that this language is needed to avoid a situation in which activity that is specifically designated unallowable in another cost principle becomes allowable merely because it meets the criteria for allowable “compensation.”

5. *Comment: Modify proposed FAR 31.205–6(a)(6)(i) (partners and sole proprietors).* Reinstate the following portion of the current language included in FAR 31.205–6(b)(2)(i): “Compensation in lieu of salary for services rendered by partners and sole proprietors will be allowed to the extent that it is reasonable and does not constitute a distribution of profits.” This insertion would become 31.205–6(a)(6)(i)(C). “Without this reinstatement costs previously allowed could become unallowable since there are instances where these costs are not distribution of profits and the deductible amount is zero.”

Councils’ response: Partially concur. Historically, the tax deductibility limitation on allowable compensation in the cost principle is solely for closely held corporations. The Councils did not intend to change the allowability of costs in this area. However, the proposed rule inadvertently removed the qualifying phrase for “closely held corporations.” In addition, the editorial restructuring unintentionally changed the allowability of costs covered by this subsection. Accordingly, the Councils have revised FAR 31.205–6(a)(6) to clarify and rectify this situation.

6. *Comment: Remove phrase in proposed FAR 31.205–6(a)(6)(ii)(A) (distribution of profits).* Remove the unnecessary phrase “which is not an allowable cost.”