

views as problematic and to provide specific proposals for appropriate revisions. It should be noted that the continuing Defense Procurement and Acquisition Policy initiative to reduce accounting and administrative burdens in the cost principles, without jeopardizing the Government's interests, has resulted in significant changes or deletions involving more than 20 different cost principles to date, including the recent major revisions to the relocation cost principle (FAR 31.205-35) that made employee "tax gross-ups" and spouse employment assistance payments allowable for the first time, as well as increased the maximum allowable lump-sum amount for miscellaneous expenses from \$1,000 to \$5,000. In addition, cost principle streamlining cases are currently in process regarding compensation (FAR 31.205-6), training and education (FAR 31.205-44), depreciation (FAR 31.205-11), expanded relocation lump-sum (FAR 31.205-35), and travel (FAR 31.205-46) costs. The Councils continue to believe that such a case-by-case cooperative effort with industry offers the best opportunity for meaningful change in this often controversial area.

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.

C. 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 discussed in this rule.

D. 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 Part 31

Government procurement.

Dated: July 16, 2003.

Laura Auletta,

Director, Acquisition Policy Division.

■ 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 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).

31.205-1 [Amended]

■ 2. Amend section 31.205-1 in paragraph (f)(1) by removing from the parenthetical "31.205-38(c)" and adding "31.205-38(b)(5)" in its place.

31.205-12 [Amended]

■ 3. Amend section 31.205-12 in paragraph (a) by removing the word "generalized" and adding "general" in its place.

■ 4. Amend section 31.205-33 by revising the first sentence of the introductory text of paragraph (f); and removing the parenthetical sentence. The revised text reads as follows:

31.205-33 Professional and consultant service costs.

* * * * *

(f) Fees for services rendered are allowable only when supported by evidence of the nature and scope of the service furnished (see also 31.205-38(c)). * * *

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■ 5. Revise section 31.205-38 to read as follows:

31.205-38 Selling costs.

(a) "Selling" is a generic term encompassing all efforts to market the contractor's products or services, some of which are covered specifically in other subsections of 31.205. The costs of any selling efforts other than those addressed in this cost principle are unallowable.

(b) Selling activity includes the following broad categories:

(1) *Advertising.* Advertising is defined at 31.205-1(b), and advertising costs are subject to the allowability provisions of 31.205-1(d) and (f).

(2) *Corporate image enhancement.* Corporate image enhancement activities, including broadly targeted sales efforts, other than advertising, are included within the definition of public relations at 31.205-1(a), and the costs of such efforts are subject to the allowability provisions at 31.205-1(e) and (f).

(3) *Bid and proposal costs.* Bid and proposal costs are defined at 31.205-18

and are subject to the allowability provisions of that subsection.

(4) *Market planning.* Market planning involves market research and analysis and general management planning concerned with development of the contractor's business. Long-range market planning costs are subject to the allowability provisions of 31.205-12. Other market planning costs are allowable.

(5) *Direct selling.* Direct selling efforts are those acts or actions to induce particular customers to purchase particular products or services of the contractor. Direct selling is characterized by person-to-person contact and includes such efforts as familiarizing a potential customer with the contractor's products or services, conditions of sale, service capabilities, etc. It also includes negotiation, liaison between customer and contractor personnel, technical and consulting efforts, individual demonstrations, and any other efforts having as their purpose the application or adaptation of the contractor's products or services for a particular customer's use. The cost of direct selling efforts is allowable.

(c) Notwithstanding any other provision of this subsection, sellers' or agents' compensation, fees, commissions, percentages, retainer or brokerage fees, whether or not contingent upon the award of contracts, are allowable only when paid to bona fide employees or established commercial or selling agencies maintained by the contractor for the purpose of securing business.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 39

[FAC 2001-15; FAR Case 2002-012; Item VII]

RIN 9000-AJ53

Federal Acquisition Regulation; Section 508 Micropurchase Exception Sunset Provision

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

ACTION: Final rule.