

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 2 and 31****[FAR Case 2001–026]****RIN 9000–AJ56****Federal Acquisition Regulation;
Depreciation Cost Principle**

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to revise the depreciation cost principle.

DATES: Interested parties should submit comments in writing on or before March 31, 2003 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Attn: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—farcase.2001-026@gsa.gov.

Please submit comments only and cite FAR case 2001–026 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano at (202) 501–1758. Please cite FAR case 2001–026.

SUPPLEMENTARY INFORMATION:**A. Background**

The Councils performed a comprehensive review of the cost principle at FAR 31.205–11, Depreciation, to evaluate the need for each specific requirement. As a result of the review, the Councils are proposing to revise the cost principle as follows:

1. *Definition of depreciation.* The language currently at FAR 31.205–11(a) is a definition for the term “depreciation.” Since the term is used throughout the FAR, the definition was moved to FAR 2.101, Definitions.

2. *Residual values.* The depreciation cost principle is more restrictive than

cost accounting standards (CAS) because it requires a contractor to use residual values in establishing depreciation costs, while the cost accounting standard for depreciation of tangible capital assets at 48 CFR 9904.409–50(h) allows contractors to ignore residual values under 10 percent for tangible personal property. The rule adds language at FAR 31.205–11(a) to make the policy on residual values consistent with CAS.

3. *Depreciation claimed for tax purposes.* Currently, FAR 31.205–11(e) limits allowable depreciation to the lesser of the depreciation used for Federal income tax purposes or for financial statements. This policy encourages contractors to use the same depreciation for both tax and financial reporting purposes. The Councils have eliminated all references to Federal income tax accounting since it is unnecessary to tie allowable depreciation to depreciation claimed for tax purposes, and to penalize contractors because they use an acceptable depreciation method for tax purposes that is different from that used for financial purposes.

4. *Write-down due to business combinations/impaired assets.* The Councils added “except as indicated in paragraphs (g) and (h) of this subsection” to FAR 31.205–11(c) of the proposed rule to eliminate any potential inequity caused among these paragraphs. In the proposed rule, the language currently in paragraphs FAR 31.205–11(n) and (o) are moved to new paragraphs (g) and (h) to specifically disallow the effect on depreciation when contractors are involved in the write-down of assets from carrying value to fair market value as a result of business combinations or impairments. In effect, these paragraphs require contractors to continue to use their depreciation schedules as if the business combination (paragraph (g)) or impaired asset write-down (paragraph (h)) never occurred. However, if there is an asset write-down due to either of these events, the depreciation calculated based on generally accepted accounting principles (GAAP) will be lower than the depreciation generated by the use of the contractor’s previous depreciation schedule. Without a stated exception to the general rule in the proposed paragraph (c) that allowable depreciation cannot exceed the amount calculated based on GAAP, one might misinterpret the cost principle and inappropriately disallow the depreciation in excess of GAAP when a write-down of an asset due to a business combination or impairment occurs.

5. *Emergency facilities.* The current paragraph at FAR 31.205–11(i) has been deleted since the Councils are not aware of any existing contracts supporting the operation of emergency facilities covered by certificates of necessity.

6. The rule makes other changes to clarify, improve the structure, and remove redundancies throughout the cost principle.

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 Councils do not expect this proposed rule to 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. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR parts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2001–026), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed 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 and 31

Government procurement.

Dated: January 23, 2003.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 2 and 31 as set forth below:

1. The authority citation for 48 CFR parts 2 and 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).