

FAR 31.205–12, Economic Planning Costs

Comment 1: Revise proposed FAR 31.205–12(a). The respondent agrees with the deletion of the current paragraphs (b) and (c). However, the respondent believes that by deleting the phrase “and that may take into account the eventual possibility of economic dislocation or fundamental alterations in those markets in which the contractor currently does business” from the first sentence in the current paragraph (a), the Councils may be unintentionally narrowing the allowability of economic planning costs. Specifically, the respondent stated that “costs associated with the generalized planning of possible divestitures may no longer be considered economic planning costs by auditors and ACOs but be considered unallowable organization costs instead.”

Councils’ response: Partially concur. It was not the Council’s intent to change the scope of this cost principle; the Councils simply concluded that the phrase in question was unnecessary. But, since industry believes its deletion would narrow the allowability of costs under this cost principle, the phrase is reinstated to the first sentence in paragraph (a). However, the Councils also want to go on record as not agreeing with the assertion that planning costs related to divestiture efforts are economic planning costs covered by this cost principle. Efforts by a contractor to analyze future market conditions and assess the impact of those conditions on its current organization are economic planning costs. Any efforts by a contractor to analyze, initiate, or change its current organization to meet future market conditions are organization or reorganization costs covered under FAR 31.205–27, Organization costs. Contractors’ general long-range planning efforts involving the contractor’s organization will need to be reviewed on a case-by-case basis.

Comment 2: Revise proposed FAR 31.205–12(a). The respondent believes that it is not necessary to include the words “determining the allowability of” in the last sentence of paragraph (a), since there is no determination to be made under FAR 31.205–38, Selling costs, regarding the allowability of other market planning costs.

Councils’ response: Concur. The Councils agree and have deleted the phrase from the last sentence in paragraph (a).

FAR 31.205–13, Employee Morale, Health, Welfare, Food Service, and Dormitory Costs and Credits

Comment 3: Delete proposed FAR 31.205–13(d). The respondent recommended the elimination of paragraph (d) regarding the cost allowability of food and dormitory services provided for employees. The respondent states that differing interpretations on how to apply the detailed provisions in paragraph (d) often occur. The respondent believes that the Government would still be adequately protected by FAR 31.201–3, Determining reasonableness, even if paragraph (d) is eliminated.

Councils’ response: Nonconcur. This section of the cost principle clarifying the allowability of dining facilities costs is statutorily required by 10 U.S.C. 2324 (f)(1)(G) and 41 U.S.C. 256 (f)(1)(G). In addition, while the respondent provided some examples where they believe subjective and interpretational differences may occur, they did not cite any specific cost principle language that is problematic. The Councils believe the current cost principle language provides adequate criteria for properly determining cost allowability in their examples.

FAR 31.205–46, Travel Costs

Comment 4: Revise proposed FAR 31.205–46. The respondent has no objection to the deletion of the current paragraphs (b) and (c) to remove duplicative coverage. However, the respondent believes this cost principle can be further streamlined by removing the existing per diem ceiling limitations on the costs incurred for lodging, meals, and incidentals by allowing reimbursement of such costs on a “reasonable charge” basis. The respondent pointed out its endorsement of the Government’s proposed rule associated with FAR case 1994–753, Travel Costs.

Councils’ response: Partially concur. The Councils agreed to delete paragraphs (b) and (c) to remove duplicative coverage.

The recommendation to remove the existing per diem ceiling limitations provided in paragraph (a)(2) for lodging, meals, and incidental expenses is outside the scope of this case. During the deliberations on FAR case 1994–753, Travel Costs, several respondents raised concerns over the potential for increased costs to the Government and potential inequities between the treatment of contractor travel costs and Federal employee travel costs. The FAR Council placed the case on hold in November 2001, pending resolution of

these concerns. The Councils have not identified procedures to mitigate the risks associated with the proposed change to the travel cost principle and are taking no further action on FAR case 1994–753.

General Reformatting of FAR 31.205

Comment 5: The respondent also recommended that the Councils consider a general reformatting of FAR part 31, Contract Cost Principles and Procedures. Specifically, consideration should be given to establishing a uniform structure for the selected costs detailed in FAR 31.205, which the respondent believes will increase the clarity and understanding of the cost principles and thereby reduce misinterpretation.

Councils’ response: Nonconcur. The Councils are unaware of any significant clarity problems with the current FAR cost principles and see no benefit in this recommendation. While it is true that the cost principles do not all share an identical format, it does not follow that this makes them difficult to understand. Moreover, such a comprehensive revision of the cost principles could actually increase disputes by substituting new wording for longstanding, court-tested language.

Of the 48 current FAR cost principles, 16 are only one paragraph long, and 11 more are only two or three paragraphs long. The Councils question the need to “force-fit” such short cost principles into a uniform format, particularly in the absence of any significant clarity problems. Not only would the recommended general reformatting of the cost principles be difficult to accomplish, but it would also offer no obvious benefit to either industry or the Government.

The Councils recommend instead that industry continue to identify those individual cost principles which it 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