



Federal Register

**Wednesday,
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Part III

Department of Defense General Services Administration

National Aeronautics and Space Administration

**48 CFR Parts 2, 31, 47, and 52
Federal Acquisition Regulation;
Miscellaneous Cost Principles; Proposed
Rule**

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 2, 31, 47, and 52****[FAR Case 2001–029]****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: 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 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: Interested parties should submit comments in writing on or before May 20, 2002 to be considered in the formulation of a final rule.

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

Submit electronic comments via the Internet to: farcase.2001-029@gsa.gov. Please submit comments only and cite FAR case 2001–029 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 Jeremy Olson, at (202) 501–3221. Please cite FAR case 2001–029.

SUPPLEMENTARY INFORMATION:**A. Background**

The Councils are proposing the following changes related to the cost principles at FAR 31.205–10, Cost of money; FAR 31.205–28, Other business expenses; FAR 31.205–45, Transportation costs; and FAR 31.205–48, Deferred research and development costs:

1. *Cost of money.* Revise the cost principle by deleting—

a. Portions of the current FAR 31.205–10(a)(i) and (a)(ii) that duplicate 48 CFR 9904.414, Cost Accounting Standard—Cost of Money as an Element of the Cost of Facilities Capital;

b. FAR 31.205–10(a)(2)(ii), (a)(3), and (b)(3), because these paragraphs duplicate the recordkeeping requirements at 31.201–2(d); and

c. The definitions of “Cost of capital committed to facilities” and “facilities capital” from FAR 31.001, Definitions, since these terms are not used elsewhere in the FAR. In addition, add a definition to FAR 2.101, Definitions, for the term “facilities capital cost of money” which is used in several places in the FAR.

2. *Other business expenses.* Delete the term “when allocated on an equitable basis” from FAR 31.205–28. It is unnecessary to repeat the requirement for allocation in this cost principle since it is already addressed at FAR 31.201–4, Determining allocability; FAR 31.202, Direct costs; and FAR 31.203, Indirect costs.

3. *Transportation.* Delete this cost principle in its entirety since an affirmative statement of allowability is unnecessary, and the allocation statement is already addressed at FAR 31.201–4, 31.202, and 31.203.

4. *Deferred research and development.* Delete the word “deferred” from the title to provide a more accurate description of the scope of this cost principle. Costs that are unallowable under this cost principle are unallowable regardless of whether they are charged in the current accounting period or deferred to a future accounting period.

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 2, 31, 47, and 52 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 2001–029), 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, 31, 47, and 52

Government procurement.

Dated: March 8, 2002.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 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 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).

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

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

2.101 Definitions.

* * * * *

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);

(2) Is an “incurred cost” for cost-reimbursement purposes under applicable cost-reimbursement contracts and for progress payment purposes under fixed-price contracts; and

(3) Refers to—

(i) Facilities capital cost of money (48 CFR 9904.414); and

(ii) Cost of money as an element of the cost of capital assets under construction (48 CFR 9904.417).

(b) Cost of money is allowable provided—

(1) It is measured, assigned, and allocated to contracts in accordance with 48 CFR 9904.414 or 48 CFR 9904.417, as applicable;

(2) The requirements of 31.205–52, which limit the allowability of cost of money, are followed; and

(3) The estimated facilities capital cost of money is specifically identified and proposed in cost proposals relating to the contract under which the cost is to be claimed.

(c) Actual interest cost in lieu of the calculated imputed cost of money is unallowable.

5. In section 31.205–28, revise the introductory text to read as follows:

31.205–28 Other business expenses.

The following types of recurring costs are allowable:

* * * * *

31.205–45 [Reserved]

6. Remove and reserve section 31.205–45.

31.205–48 Research and development costs.

7. Revise the section heading of section 31.205–48, as set forth above; and remove “section” and add “subsection” in its place.

PART 47—TRANSPORTATION

8. In section 47.300, revise the introductory text of paragraph (b) to read as follows:

47.300 Scope of subpart.

* * * * *

(b) If a special requirement exists for application of any of these terms and conditions to other types of contracts; *e.g.*, cost-reimbursement contracts, for which transportation arrangements are normally the responsibility of the contractor and transportation costs are allowable, the contracting officer must

use the terms and conditions prescribed in this subpart as a guide for—

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. In section 52.215–16, revise the date of the provision and paragraph (a) to read as follows:

52.215–16 Facilities Capital Cost of Money.

* * * * *

Facilities Capital Cost of Money (May 2002)

(a) Facilities capital cost of money will be an allowable cost under the contemplated contract, if the criteria for allowability in FAR 31.205–10(b) are met. One of the allowability criteria requires the prospective contractor to propose facilities capital cost of money in its offer.

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