

Impairment of Depreciable Property or Other Capital Assets, to clarify that these subsections reflect the CAS provisions that an asset be disposed of in order to recognize a gain or loss. Consequently, for Government contract purposes, (1) an impairment loss is recognized only upon disposal of the impaired asset and is measured, like other losses, as the difference between the net amount realized and the impaired asset's undepreciated balance; (2) Government contractors recover the carrying values of impaired assets held for use by retaining pre-write-down depreciation or amortization schedules as though no impairment had occurred; and (3) changes in depreciation are allowable from other permissible causes.

An interim rule was published in the Federal Register on December 14, 1995 (60 FR 64254). Four sources submitted public comments. All comments were considered in developing this final rule.

B. 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 FAR cost principles.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which 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: September 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Accordingly, the interim rule amending 48 CFR Part 31 and published at 60 FR 64254, December 14, 1995, is adopted as a final rule with the following changes:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 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).

2. Section 31.205-11(o) is revised to read as follows:

31.205-11 Depreciation.

* * * * *

(o) In the event of a write-down from carrying value to fair value as a result of impairments caused by events or changes in circumstances, allowable depreciation of the impaired assets shall be limited to the amounts that would have been allowed had the assets not been written down (see 31.205-16(g)). However, this does not preclude a change in depreciation resulting from other causes such as permissible changes in estimates of service life, consumption of services, or residual value.

3. Section 31.205-16(g) is revised to read as follows:

31.205-16 Gains and losses on disposition or impairment of depreciable property or other capital assets.

* * * * *

(g) With respect to long-lived tangible and identifiable intangible assets held for use, no loss shall be allowed for a write-down from carrying value to fair value as a result of impairments caused by events or changes in circumstances (e.g., environmental damage, idle facilities arising from a declining business base, etc.). If depreciable property or other capital assets have been written down from carrying value to fair value due to impairments, gains or losses upon disposition shall be the amounts that would have been allowed had the assets not been written down.

[FR Doc. 96-32010 Filed 12-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 31

[FAC 90-43, FAR Case 96-003, Item XI]

RIN 9000-AH35

Federal Acquisition Regulation; Local Government Lobbying Costs

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

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule to amend the Federal Acquisition Regulation (FAR) to make allowable the costs of lobbying activities to influence local legislation

in order to directly reduce contract costs or to avoid material impairment of the contractor's authority to perform the contract. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: Effective Date: December 20, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 18, 1997 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405. Please cite FAC 90-43, FAR case 96-003, in all correspondence related to this case. **FOR FURTHER INFORMATION CONTACT:** Mr. Jeremy Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 96-003.

SUPPLEMENTARY INFORMATION:

A. Background

Sections 2101 and 2151 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355) (FASA) added to the lists of unallowable costs found at 10 U.S.C. 2324(e)(1) and 41 U.S.C. 256, the costs of lobbying the legislative body of a political subdivision of a state (i.e., local lobbying). As a result, under FAR Case 94-754 (60 FR 42659, August 16, 1995), FAR 31.205-22(a) (3) and (4) were revised to make unallowable the costs associated with any attempt to influence local legislation. The paragraph at FAR 31.205-22(b) contains a list of activities exempted from the provisions at 31.205-22(a). Included in the exempted activities are lobbying activities to influence state legislation in order to directly reduce contract costs, or to avoid material impairment of the contractor's authority to perform the contract. This interim rule amends FAR 31.205-22(b)(2) to treat lobbying activities to influence local legislation in a manner consistent with the treatment of lobbying activities to influence state legislation.

B. Regulatory Flexibility Act

The interim rule is not expected 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 FAR cost principles. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR part also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.*, (FAR case 96-003), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to fully implement Sections 2101 and 2151 of the Federal Acquisition Streamlining Act of 1994 with regard to the allowability of lobbying costs to influence local legislation. However, pursuant to Pub. L. 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formulation of the final rule.

List of Subjects in 48 CFR Part 31:

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 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).

2. Section 31.205-22(b)(2) is revised to read as follows:

31.205-22 Lobbying and political activity costs.

* * * * *

(b) * * *

(2) Any lobbying made unallowable by paragraph (a)(3) of this subsection to influence state or local legislation in order to directly reduce contract cost, or to avoid material impairment of the contractor's authority to perform the contract.

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[FR Doc. 96-32011 Filed 12-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 46 and 52

[FAC 90-43; FAR Case 92-035; Item XII]

RIN 9000-AG76

Federal Acquisition Regulation; Clause Flowdown

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 have agreed to a final rule to amend the Federal Acquisition Regulation (FAR) to reduce the number of contract clauses requiring flowdown to subcontractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 92-035.

SUPPLEMENTARY INFORMATION:

A. Background

The Councils conducted an extensive review of all FAR clauses requiring flowdown to subcontractors in an effort to eliminate any unnecessary flowdown requirements. This final rule eliminates the requirement for flowdown of the clauses at FAR 52.215-26, 52.216-5, 52.216-6, 52.216-16, 52.216-17, 52.222-1, 52.236-21, 52.244-2, 52.246-23, 52.246-24, and 52.246-25.

A proposed rule was published in the Federal Register on December 27, 1995, at 60 FR 67024. Three sources submitted public comments. All comments were considered in developing the final rule.

B. 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 elimination of the mandatory flowdown requirements from the amended FAR clauses does not eliminate the ability of prime contractors and subcontractors to agree to similar clauses in appropriate circumstances.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose any new recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which 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 46 and 52

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 46 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 46 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 46—QUALITY ASSURANCE

46.806 [Removed]

2. Section 46.806 is removed.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.215-26 [Amended]

3. Section 52.215-26 is amended by revising the clause date to read "(FEB 1997)", and by removing paragraph (d).

4. Section 52.216-5 is amended by revising the introductory paragraph, the clause date, and paragraph (i) to read as follows:

52.216-5 Price Redetermination—Prospective.

As prescribed in 16.205-4, insert the following clause:

PRICE REDETERMINATION—PROSPECTIVE (FEB 1997)

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