

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Part 31****[FAR Case 2001-021]****RIN 9000-AJ38****Federal Acquisition Regulation;
Training and Education 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) "Training and Education Costs" cost principle.

DATES: Interested parties should submit comments in writing on or before July 15, 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.2001-021@gsa.gov. Please submit comments only and cite FAR case 2001-021 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. Jeremy Olson at (202) 501-3221. Please cite FAR case 2001-021.

SUPPLEMENTARY INFORMATION:**A. Background**

Currently, FAR 31.205-44, Training and education costs, is somewhat restrictive in that the cost principle—

- Differentiates between vocational training, part-time college level education, full-time education, and specialized programs with numerous specific limitations on the allowability of costs associated with each of these categories. Historically, most of these specific allowability limitations were intended to reflect industry practices,

e.g., the 156 hours per year limit on compensation for part-time college level education, the 2-year limitation on full-time graduate education, and the 16 weeks per year limit for specialized programs; and

- Requires full-time education courses or degrees be "related to the field in which the employee is working or may reasonably be expected to work." The Councils propose to eliminate the current or future job relationship requirement since the associated costs represent minimal risk to the Government; and the standard is difficult to enforce, and counter to Government initiatives supporting upward mobility, job retraining, and educational advancement.

The proposed rule makes the costs associated with training and education generally allowable, subject to five public policy exceptions that are retained from the current cost principle. Except for these five expressly unallowable cost exceptions, the reasonableness of specific contractor training and education costs can best be assessed by reference to FAR 31.201-3, Determining reasonableness.

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 principle 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 Part 31 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 2001-021), 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 Part 31

Government procurement.

Dated: May 9, 2002.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 31 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. Revise section 31.205-44 to read as follows:

31.205-44 Training and education costs.

Training and education costs are allowable, except as follows:

(a) Overtime compensation for training and education is unallowable.

(b)(1) *Full-time college level education.* Costs of tuition, fees, training materials and textbooks, subsistence, salary, and any other emoluments in connection with full-time college level education, including that provided at the contractor's own facilities, are unallowable at—

(i) An undergraduate level; and

(ii) A postgraduate level, except where the course or degree pursued is related to the field in which the employee is working or may reasonably be expected to work and is limited to a total period not to exceed 2 school years or the length of the degree program, whichever is less, for each employee so trained.

(2) *Part-time college level education.* The cost of salaries for attending undergraduate or graduate level classes on a part-time basis is unallowable, except for attending such classes during working hours where circumstances do not permit attendance at these classes before or after regular working hours.

(c) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, and fellowships, are considered contributions and are unallowable.

(d) Training or education costs for other than bona fide employees are unallowable, except that the costs incurred for educating employee dependents (primary and secondary

level studies) when the employee is working in a foreign country where suitable public education is not available may be included in overseas differential pay.

(e) Costs of college plans for employee dependents are unallowable.

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