

25.1000 Scope of subpart.

This subpart implements sanctions imposed by the President (58 FR 31136, May 28, 1993) pursuant to section 305(g)(1) of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2515(g)(1)). These sanctions apply to countries that discriminate against U.S. products or services in Government procurement. This subpart does not apply to the Department of Defense. For thresholds that are unique to individual agencies (e.g., Power Marketing Administration of the Department of Energy), see agency regulations.

3. Section 25.1002 is amended by revising paragraph (c)(2) to read as follows:

25.1002 Trade sanctions.

* * * * *

(c) * * *

(2) When a determination is made according to this paragraph (c), the agency shall notify the United States Trade Representative within 30 days after contract award.

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DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Part 29**

[FAC 97-03; FAR Case 97-018; Item VI]

RIN 9000-AH79

**Federal Acquisition Regulation; New
Mexico Gross Receipts and
Compensating Tax**

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 on a final rule amending the Federal Acquisition Regulation (FAR) to identify the Defense Special Weapons Agency as an agency that has entered into an agreement with the State of New Mexico regarding taxation. 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: December 9, 1997.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501-4764. Please cite FAC 97-03, FAR case 97-018.

SUPPLEMENTARY INFORMATION:**A. Background**

This final rule amends FAR 29.401-6 by adding the Defense Special Weapons Agency to the list in paragraph (c)(1) as an agency that has entered into an agreement with the State of New Mexico to eliminate double taxation under New Mexico's Gross Receipts and Compensating Tax Act. Because participating Federal agencies may or may not be executive agencies, the term "executive" has been deleted in paragraphs (b) and (c)(1).

B. Regulatory Flexibility Act

This final rule does not constitute a significant FAR revision within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and publication for public comments is not required. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-03, FAR case 97-018), 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 requires the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 29

Government procurement.

Dated: December 1, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR part 29 is amended as set forth below:

PART 29—TAXES

1. The authority citation for 48 CFR Part 29 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).

29.401-6 [Amended]

2. Section 29.401-6 is amended in the introductory text of paragraph (b) and paragraph (c)(1) by removing "executive"; and also in the list following paragraph (c)(1) by adding, in alphabetical order, "United States Defense Special Weapons Agency;"

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DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Part 31**

[FAC 97-03; FAR Case 96-325; Item VII]

RIN 9000-AH50

**Federal Acquisition Regulation;
Compensation of Certain Contractor
Personnel**

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

ACTION: Interim rule adopted as final with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to adopt as final, with changes, the interim rule published as Item XI of Federal Acquisition Circular 90-45 on January 2, 1997. The rule amends the Federal Acquisition Regulation (FAR) to implement Section 809 of the Fiscal Year 1997 National Defense Authorization Act (Pub. L. 104-201) by placing a Governmentwide ceiling on allowable compensation costs for contractor personnel in senior management positions under contracts that are awarded during fiscal year 1997. 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 9, 1998.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 97-03, FAR case 96-325.

SUPPLEMENTARY INFORMATION:

A. Background

An interim rule was published in the **Federal Register** at 62 FR 269, January 2, 1997. The preamble to the interim rule erroneously contained an effective date of January 1, 1997; the rule applies to contracts awarded on or after the date the rule was published (January 2, 1997).

This final rule differs from the interim rule by making an editorial change for clarity. At FAR 31.205-6(p)(1), "that exceed" replaces the phrase "in excess of."

Public comments were received from 11 sources. 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 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 contained in this rule.

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: December 1, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final With Change

Accordingly, the interim rule amending 48 CFR Part 31, which was published at 62 FR 269, January 2, 1997, is adopted as a final rule with the following change:

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 31.205-6 is amended by revising paragraph (p)(1) to read as follows:

31.205-6 Compensation for personal services.

* * * * *

(p) * * * (1) For contracts awarded during fiscal year 1997, costs incurred from October 1, 1996, through September 30, 1997, for compensation of an officer in a senior management position that exceed \$250,000 per year are unallowable (Section 809 of Public Law 104-201).

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DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 31 and 42**

[FAC 97-03; FAR Case 95-032; Item VIII]

RIN 9000-AH37

Federal Acquisition Regulation; Independent Research and Development/Bid and Proposal Costs for Fiscal Year 1996 and Beyond

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 on a final rule amending the Federal Acquisition Regulation (FAR) allowable cost criteria for Independent Research and Development (IR&D)/Bid and Proposal (B&P) costs for fiscal year 1996 and beyond, by removing the requirements to calculate or negotiate a ceiling for IR&D/B&P costs. In addition, the final rule clarifies that costs incurred in preparing, submitting, and supporting offers on potential cooperative arrangements are allowable to the extent they are allocable, reasonable, and not otherwise unallowable. 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 9, 1998.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 97-03, FAR case 95-032.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published on November 14, 1996 (61 FR 58452). The final rule differs from the proposed rule by revising the last sentence at FAR 31.205-18(e) for clarification and by deleting "and B&P" from the heading at 31.205-18(d) to better convey the subject matter of the paragraph.

Public comments were received from four sources. The 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 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 contained in this rule.

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 Parts 31 and 42

Government procurement.

Dated: December 1, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 31 and 42 are amended as set forth below:

1. The authority citation for 48 CFR Parts 31 and 42 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).