

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

[FAR Case 2000-014]

RIN 9000-AJ00

**Federal Acquisition Regulation;
Signing and Retention of High-
Technology Workers**

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 explicitly make allowable signing and retention bonuses that defense contractors often must offer in order to recruit and retain workers that have critical technical skills.

DATES: Interested parties should submit comments in writing on or before February 26, 2001 to be considered in the formulation of a final rule. As this rule is intended only to clarify existing regulation, the Councils are specifically interested in comments as to whether this rule has Federal cost implications which have not been identified.

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

Submit electronic comments via the Internet to: farcase.2000-014@gsa.gov

At this stage of the rulemaking process, we do not believe this is a major rule under 5 U.S.C. 804. However, the Councils seek comment on whether there are Federal cost implications which have not been identified.

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, Procurement Analyst, at (202) 501-0692. Please cite FAR case 2000-014.

SUPPLEMENTARY INFORMATION:**A. Background**

The Government increasingly is contracting for technical services. This

is driven by the need to maximize the use of technology to improve the efficiency and effectiveness of Government performance. Due to the tight labor market, companies doing business with the Government often must provide recruitment and retention bonuses to compete with predominantly non-Government firms to attract personnel with critical technical skills. This practice is analogous to the practice in the public sector of permitting signing bonuses for difficult-to-fill positions and retention allowances for essential Government employees.

The proposed rule revises FAR 31.205-34, Recruitment costs, to explicitly allow signing bonuses to recruit, as well as retention bonuses to retain, employees with critical skills (such as scientists and engineers in the software and systems integration fields). The Councils view this revision as a clarification since the FAR currently does not disallow these type of expenses. In addition, the rule moves the current limitations on help-wanted advertising costs from FAR 31.205-34(b) to the paragraph that addresses these costs (currently FAR 31.205-34(a)(1)), and makes several related editorial changes.

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 contained 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 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 2000-014), 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: December 21, 2000.

Al Matera,

Acting Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR part 31 be 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. Revise section 31.205-34 to read as follows:

31.205-34 Recruitment and retention costs.

The following costs are allowable:

(a) Costs of help-wanted advertising. However, these costs are unallowable if the advertising—

(1) Does not describe specific positions or classes of positions; or

(2) Includes material that is not relevant for recruitment purposes, such as extensive illustrations or descriptions of the company's products or capabilities.

(b) Costs of operating an employment office needed to secure and maintain an adequate labor force.

(c) Costs of operating an aptitude and educational testing program.

(d) Travel costs of employees engaged in recruiting personnel.

(e) Travel costs of applicants for interviews.

(f) Costs for employment agencies, not in excess of standard commercial rates.

(g) Signing bonuses needed to recruit employees with critical skills (such as scientists and engineers in fields like software and systems integration), if comparable to the signing bonuses being offered by firms engaged in predominantly non-Government work to attract similar job skills.

(h) Periodic retention bonuses needed to retain employees with critical skills (such as scientists and engineers in fields like software and systems integration), if comparable to the periodic retention bonuses being paid by firms engaged in predominantly non-Government work to retain similar job skills.

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