

views as problematic and to provide specific proposals for appropriate revisions. It should be noted that the continuing Defense Procurement and Acquisition Policy initiative to reduce accounting and administrative burdens in the cost principles, without jeopardizing the Government's interests, has resulted in significant changes or deletions involving more than 20 different cost principles to date, including the recent major revisions to the relocation cost principle (FAR 31.205-35) that made employee "tax gross-ups" and spouse employment assistance payments allowable for the first time, as well as increased the maximum allowable lump-sum amount for miscellaneous expenses from \$1,000 to \$5,000. In addition, cost principle streamlining cases are currently in process regarding compensation (FAR 31.205-6), training and education (FAR 31.205-44), depreciation (FAR 31.205-11), expanded relocation lump-sum (FAR 31.205-35), and travel (FAR 31.205-46) costs. The Councils continue to believe that such a case-by-case cooperative effort with industry offers the best opportunity for meaningful change in this often controversial area.

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.

C. 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 discussed in this rule.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the 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: July 16, 2003.

Laura Auletta,

Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 31 as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 1. The authority citation for 48 CFR part 31 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

31.205-1 [Amended]

■ 2. Amend section 31.205-1 in paragraph (f)(1) by removing from the parenthetical "31.205-38(c)" and adding "31.205-38(b)(5)" in its place.

31.205-12 [Amended]

■ 3. Amend section 31.205-12 in paragraph (a) by removing the word "generalized" and adding "general" in its place.

■ 4. Amend section 31.205-33 by revising the first sentence of the introductory text of paragraph (f); and removing the parenthetical sentence. The revised text reads as follows:

31.205-33 Professional and consultant service costs.

* * * * *

(f) Fees for services rendered are allowable only when supported by evidence of the nature and scope of the service furnished (see also 31.205-38(c)). * * *

* * * * *

■ 5. Revise section 31.205-38 to read as follows:

31.205-38 Selling costs.

(a) "Selling" is a generic term encompassing all efforts to market the contractor's products or services, some of which are covered specifically in other subsections of 31.205. The costs of any selling efforts other than those addressed in this cost principle are unallowable.

(b) Selling activity includes the following broad categories:

(1) *Advertising.* Advertising is defined at 31.205-1(b), and advertising costs are subject to the allowability provisions of 31.205-1(d) and (f).

(2) *Corporate image enhancement.* Corporate image enhancement activities, including broadly targeted sales efforts, other than advertising, are included within the definition of public relations at 31.205-1(a), and the costs of such efforts are subject to the allowability provisions at 31.205-1(e) and (f).

(3) *Bid and proposal costs.* Bid and proposal costs are defined at 31.205-18

and are subject to the allowability provisions of that subsection.

(4) *Market planning.* Market planning involves market research and analysis and general management planning concerned with development of the contractor's business. Long-range market planning costs are subject to the allowability provisions of 31.205-12. Other market planning costs are allowable.

(5) *Direct selling.* Direct selling efforts are those acts or actions to induce particular customers to purchase particular products or services of the contractor. Direct selling is characterized by person-to-person contact and includes such efforts as familiarizing a potential customer with the contractor's products or services, conditions of sale, service capabilities, etc. It also includes negotiation, liaison between customer and contractor personnel, technical and consulting efforts, individual demonstrations, and any other efforts having as their purpose the application or adaptation of the contractor's products or services for a particular customer's use. The cost of direct selling efforts is allowable.

(c) Notwithstanding any other provision of this subsection, sellers' or agents' compensation, fees, commissions, percentages, retainer or brokerage fees, whether or not contingent upon the award of contracts, are allowable only when paid to bona fide employees or established commercial or selling agencies maintained by the contractor for the purpose of securing business.

[FR Doc. 03-18538 Filed 7-23-03; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 39

[FAC 2001-15; FAR Case 2002-012; Item VII]

RIN 9000-AJ53

Federal Acquisition Regulation; Section 508 Micropurchase Exception Sunset Provision

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 (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to convert this FAR case from an interim rule to a final rule without change. The final rule amends the FAR to extend the Electronic and Information Technology (section 508) micropurchase exception to October 1, 2004.

DATES: *Effective Date:* July 24, 2003.

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, or Ms. Angelena Moy, Case Manager, at (703) 602-1302. The TTY Federal relay number for further information is 1-800-877-8973. Please cite FAC 2001-15, FAR case 2002-012.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 67 FR 80321, December 31, 2002, that amended FAR 39.204(a) to extend the Electronic and Information Technology (EIT) micropurchase exception until October 1, 2004.

The 60-day comment period for the interim rule ended March 3, 2003. Public comments were received from four commenters. One commenter submitted comments that are not relevant and outside the scope of the rule. Another commenter, the American Foundation for the Blind (AFB), believes that the Government is not doing enough to resolve the small purchase problem so that an exception is not needed. The AFB also believes that the Government should create tools with questions and measurements for the Federal purchaser to utilize in determining accessibility.

The remaining two commenters fully support the rule. They also submitted their views on labeling products for micropurchases made using the Government purchase card, and one of the commenter also addressed how it accomplished its internal 508 training. Summaries of these views follow:

1. Suggested that many firms in the information technology industry are unwilling to make blanket statements on a product label regarding section 508 because interpretations of the standards and product information may vary, exposing companies to litigation under the False Claims Act.

2. Stated that creating a label that would provide sufficient information to Federal buyers would be difficult and expensive.

3. Stated that the majority of the Governmentwide purchase card purchases are generally made using the Internet or by phone, and it is unlikely that the Government buyer would see the label until after the purchase.

4. Recommended that, as an alternative to labeling, the Government purchaser use the Voluntary Product Accessibility Template (VPAT) as a tool in making an informed decision regarding accessibility.

5. Suggested that the VPAT assists the Government in meeting the Acquisition Planning and Market Research requirements established in FAR parts 7 and 10, respectively.

6. One commenter described their intensive efforts to train their sales forces to assist purchasers in making their accessibility determinations and to put in place systems that ensure engineers include accessibility as a key design requirement.

The above views will be considered before the Government formulates its next step regarding acquisition of electronic and information technology products and services under micropurchase procedures.

We applaud industry's efforts to build accessibility features into their products and their participation in making information about product features available by completing the VPAT. We encourage industry to continue to work toward a solution that will assist the Government purchase cardholder, who may have little technical knowledge regarding section 508, in purchasing products and services that meet the applicable accessibility standards.

The Federal Government is in continual collaboration with the Accessibility Forum to focus on long-term solutions that will assist the Government in making informed decisions about section 508-related procurements. We are hopeful that a solution can be found that will be agreeable to both industry and the Government.

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 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 for purchases under \$2,500 (a "micropurchase"), no competitive quotations have to be obtained and micropurchases are no longer reserved exclusively for small firms.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the 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 39

Government procurement.

Dated: July 16, 2003.

Laura Auletta,
Director, Acquisition Policy Division.

Interim Rule Adopted as Final Without Change

■ Accordingly, DoD, GSA, and NASA adopt the interim rule amending 48 CFR part 39, which was published in the **Federal Register** at 67 FR 80321, December 31, 2002, as a final rule without change.

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

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DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Parts 19 and 52

[FAC 2001-15; Item VIII]

**Federal Acquisition Regulation;
Technical Amendments**

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

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to update references and make editorial changes.

DATES: *Effective Date:* July 24, 2003.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202)