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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 2005-42; FAR Case 2009-026; Item X; Docket 2010-0088, Sequence 1]  
RIN 9000-AL54

Federal Acquisition Regulation; FAR Case 2009-026, Compensation  
for Personal Services

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

ACTION: Interim rule with request for comments.

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SUMMARY: The Civilian Agency Acquisition Council and the Defense  
Acquisition Regulations Council (Councils) are issuing an interim rule  
amending the FAR to align the FAR with the revised Cost Accounting  
Standards (CAS) Board standards 412, ``Cost Accounting Standard for  
composition and measurement of pension cost;'' and 415, ``Accounting  
for the cost of deferred compensation.''

DATES: Effective Date: June 16, 2010.

Comment Date: Interested parties should submit written comments to  
the Regulatory Secretariat on or before August 16, 2010 to be  
considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005-42, FAR Case 2009-  
026, by any of the following methods:

Regulations.gov: <http://www.regulations.gov/Submit>  
comments via the Federal eRulemaking portal by inputting ``FAR Case  
2009-026'' under the heading ``Enter Keyword or ID'' and selecting  
``Search''. Select the link ``Submit a Comment'' that corresponds with  
``FAR Case 2009-026''. Follow the instructions provided at the ``Submit  
a Comment'' screen. Please include your name, company name (if any),  
and ``FAR Case 2009-026'' on your attached document.

Fax: 202-501-4067.

Mail: General Services Administration, Regulatory  
Secretariat (MVCB), 1800 F Street, NW., Room 4041, ATTN: Hada Flowers,  
Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005-42, FAR  
Case 2009-026, in all correspondence related to this case. All comments

received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Edward N. Chambers, Procurement Analyst, at (202) 501-3221. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-42, FAR Case 2009-026.

SUPPLEMENTARY INFORMATION:

A. Background

The CAS Board published a final rule in the Federal Register at 73 FR 23961 on May 1, 2008, to amend CAS 412, ``Cost Accounting Standard for composition and measurement of pension cost,'' and CAS 415, ``Accounting for the cost of deferred compensation.'' The CAS Board specified that the accounting of Employee Stock Ownership Plan (ESOP) costs, regardless of type, would be covered by the provisions of CAS 415 only and not by CAS 412. The CAS Board also provided criteria in CAS 415 for measuring ESOP costs and assigning these costs to cost accounting periods. In order to maintain consistency between CAS and FAR in matters relating to the administration of CAS, the Councils are amending the FAR as follows:

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1. FAR 31.205-6(q)(2)(i) is deleted in its entirety to reflect the amendments promulgated by the CAS Board on May 1, 2008.
2. FAR 31.205-6(q)(2)(ii) through (vi) are redesignated as paragraphs FAR 31.205-6(q)(2)(i) through (v) due to the deletion of the existing FAR 31.205-6(q)(2)(i).
3. Redesignated FAR 31.205-6(q)(2)(i) is revised to reflect the amendments promulgated by the CAS Board on May 1, 2008.

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 interim 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 affected small businesses are currently required to comply with CAS 412 and CAS 415. While small businesses are otherwise not subject to CAS, they are subject to selected standards for the purpose of determining allowability of costs under Government contracts. Among these standards are CAS 412 and CAS 415 as set forth in FAR 31.205-6(q). For small businesses currently using CAS 415, there will be no increase in cost or effort. For small businesses that must change from CAS 412 to CAS 415, the possible change from measuring costs in accordance with CAS 412 to CAS 415 would result, at most, in a negligible increase in administrative burden because of the similarities between CAS 412 and 415. The potential increase of administrative effort, albeit minor, will be offset by the uniformity

and consistency in accounting for deferred compensation costs achieved by this rule that will benefit all entities by reducing their administrative burden. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

The Councils will also consider comments from small entities concerning the existing regulations in FAR part 31 affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAC 2005-42, FAR Case 2009-026) in all correspondence.

#### 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. chapter 35, et seq.

#### D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because this rule implements a final rule promulgated by the CAS Board, which went into effect on June 2, 2008. Further, the CAS Board rule already gone through the public rulemaking process. However, pursuant to Public Law 98-577 and FAR 1.501-3(b), the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

#### List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 2, 2010.

Edward Loeb,  
Acting Director, Acquisition Policy Division.

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

#### PART 31--CONTRACT COST PRINCIPLES AND PROCEDURES

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1. The authority citation for 48 CFR part 31 continues to read as follows:

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

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2. Amend section 31.205-6 by removing paragraph (q)(2)(i); redesignating paragraphs (q)(2)(ii) through (q)(2)(vi) as paragraphs (q)(2)(i) through (q)(2)(v), respectively; and revising the newly

redesignated (q)(2)(i) to read as follows:

31.205-6 Compensation for personal services.

\* \* \* \* \*

(q) \* \* \*

(2) \* \* \*

(i) The contractor measures, assigns, and allocates costs in accordance with 48 CFR 9904.415.

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[FR Doc. 2010-14181 Filed 6-15-10; 8:45 am]

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