

CASE MANAGEMENT RECORD

John

ORIGINAL
 UPDATED

CASE NUMBER:		DAR: 85-200		CAAC:		FAR: 85-64	
TITLE: Co. Furnished Autos							
REFERENCE: GSA ltr of 2/14/86							
ORIGINATION DATE:							
SYNOPSIS: FAR See forwards Public Comment							
PRIORITY:				ORIGINATOR CODE:			
KEYWORDS:							
CASE REFERENCES:							
FAR CITES:							
DFARS CITES:							
CASE MANAGER: N				SUBCOUNCIL ASSIGNMENT:			
COGNIZANT COMMITTEES: CCP							
RECOMMENDED ACTION:							
BOX RECORD		1)	2)	3)	4)	5)	6)
7a)	7b)	7c)	8a)	8b)	8c)	9)	
10)	11)	12)	13a)	13b)			
DISCUSSION DATE:				DOCKET DATE:			
REPORT DATE:							
FAC	NUMBER:	DATE:		ITEM:			
DAC	NUMBER:	DATE:		ITEM:			
DEPARTMENTAL	NUMBER:	DATE:					
BULLETIN	NUMBER:	DATE:					
CASE CLOSED:				CASE COMPLETED:			
REG. FEES APPLICABLE:							



General
Services
Administration

Office of
Acquisition
Policy

Washington, DC 20405

FEB 14 1986

Colonel Otto J. Guenther
Director, Defense Acquisition
Regulatory Council
ASD(A&L)DASD(P)DARS
C/O 3E791, The Pentagon
Washington, DC 20301-3062

Dear Colonel Guenther:

Additional comments received under Federal Acquisition Regulation (FAR) Case 85-64, concerning company-furnished automobiles, are forwarded for your review and for your determination of appropriate action.

Sincerely,

MARGARET A. WILLIS
FAR Secretariat

Enclosures

cc: Chairman, Civilian Agency Acquisition Council (Attn: Team
Leader, Contract Cost, Price and Finance)

Subject: Company-furnished automobiles

Response Number	Date Received	Date of Letter	Commentor	Comments
85-64-30	1/30/86	1/20	GTE Telecom Incorporated	85-63 thru 85-6
85-64-31	1/30/86	1/21	Department of the Treasury	85-63 thru 85-6
85-64-32	1/30/86	1/24	Nuclear Regulatory Commission	85-63 thru 85-6
85-64-33	1/30/86	1/24	National Labor Relations Board	85-63 thru 85-6
85-64-34	1/30/86	1/21	Motorola, Inc.	85-63 thru 85-6
85-64-35	1/30/86	1/23	U.S.A. Railroad Retirement Board	85-63 thru 85-6
85-64-36	1/30/86	1/24	U.S. Small Business Administration	85-63 thru 85-6
85-64-37	2/03/86	1/28	Federal Deposit Insurance Corporation	85-63 thru 85-6 and 85-71

Legend: CONC: Concur
 N/A: Not Applicable
 NC: No Comments
 C: Comments
 FC: Forthcoming Comments

Published FR: 50FR 51776
 Date: 12/19/85

To: CAAC/DARC
 Date: _____



85-64-30

GTE Telecom Incorporated

1850 M Street, N.W. Suite 1120
Washington, D. C. 20036
(202) 463-5200

January 20, 1986

FAR Secretariat (VRS),
General Services Administration
18th & F Street, N.W., Room 4041
Washington, DC 20405

re: FAR cite case(s) 85-63 thru 68

Dear Ms. Willis:

Thank you for your letter dated December 23, 1985. At this time, GTE Telecom Incorporated will not be responding to this case. However, we are continually interested in the proposed FAR amendments and welcome the opportunity to comment on the proposed rules.

Sincerely,

A handwritten signature in cursive script that reads "Jan Schmidt / sdc".

Jan K. Schmidt
Manager, Government Communications

JKS:efd

JAN 30 1986



DEPARTMENT OF THE TREASURY
WASHINGTON

JAN 21 1986

Ms. Margaret A. Willis
FAR Secretariat (VRS)
General Services Administration
18th & F Sts., NW, Room 4041
Washington, DC 20405

Dear Ms. Willis:

This responds to your letter of December 23, 1985, in which you requested comments regarding the following:

- FAR Case 85-63 concerning unallowable costs;
- FAR Case 85-64 concerning company furnished automobiles;
- FAR Case 85-65 concerning implementation of Congressional direction regarding the costs of club memberships;
- FAR Case 85-66 concerning costs of litigating appeals against the Government;
- FAR Case 85-67 concerning executive lobbying costs; and,
- FAR Case 85-68 concerning alcoholic beverage costs.

We concur with the proposed revised coverage in FAR 31.201-2, FAR 31.205-6, FAR 31.205-46, FAR 31.205-14, FAR 31.205-33, FAR 31.205-52 and FAR 31.205-51, with the following comment:

- It is not clear whether the proposed language for FAR 31.205-33, which disallows legal costs involved in claims and appeals with the Government, is in conflict with the Equal Access to Justice Act (EAJA) P.L. 99-80. EAJA allows such costs if the contractor wins the case. If this relief is being withdrawn, we oppose the disallowance as being detrimental to small businesses, despite the regulatory flexibility analysis.

We note, however, the editorial statement at the end of the proposed change, which states the proposal is not a change in policy as these costs are currently unallowable.

X If this is the case, what is the status of EAJA?

Thank you for the opportunity to comment on these proposed FAR changes.

Sincerely,

Thomas P. O'Malley
Director
Office of Procurement



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

85-64-32

JAN 24 1986

Ms. Margaret A. Willis
FAR Secretariat (VRS)
General Services Administration
18th and F Streets, Room 4041
Washington, DC 20405

Dear Ms. Willis:

REFERENCE: FAR CASES 85-63, 85-64, 85-65, 85-66, 85-67, and 85-68

This responds to your December 23, 1985 letter to Ms. Patricia G. Norry. We have reviewed the proposed changes to the following and concur as written.

- a. FAR 31.201-2, concerning unallowable costs under FAR 31.205. (FAR Case 85-63)
- b. FAR 31.205-6 and 31.205-46, concerning company-furnished automobiles. (FAR Case 85-64)
- c. FAR 31.205-14, concerning implementation of Congressional direction regarding the cost of membership in social, dining, and country clubs. (FAR Case 85-65)
- d. FAR 31.205-33, concerning costs of litigating appeals against the Government. (FAR Case 85-66)
- e. FAR 31.205-52, concerning executive lobbying costs. (FAR Case 85-67)
- f. FAR 31.205-51, concerning alcoholic beverage costs. (FAR Case 85-68)

Any questions you have concerning this matter may be addressed to Sharon Wollett of my staff at 492-4741.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kellogg V. Morton".

Kellogg V. Morton, Chief
Operations Support Branch
Division of Contracts
Office of Administration

RECEIVED

JAN 30 1986



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C. 20570

24 JAN 1986

Margaret A. Willis
FAR Secretariat (VRS)
General Services Administration
18th & F Street, NW, Room 4041
Washington, D.C. 20405

Re: FAR Case 85-63 thru 68

Dear Ms. Willis:

We have reviewed the proposed changes to the Federal Acquisition Regulation with respect to 48 CFR Part 31 Far Case 85-63, 85-64, 85-65, 85-66, 85-67 and 85-68, and have no significant comments.

Thank you for the opportunity to comment.

Sincerely,

Ernest Russell
Director of Administration

RECEIVED

JAN 30 1986



January 21, 1986

Ms. Margaret Willis
 FAR Secretariat (VR)
 General Services Administration
 18th & F Streets, N.W.
 Washington, D.C. 20405

Dear Ms. Willis:

We welcome the opportunity to comment on the proposed rule changes to the FAR Part 31.2 as follows:

FAR 31.201-2	Unallowable Costs Under FAR 31.205 (FAR Case No. 85-63)
FAR 31.206-6,46	Company-furnished Automobiles (FAR Case No. 85-64)
FAR 31.205-14	Costs of Membership in Social, Dining and Country Clubs (FAR Case No. 85-65)
FAR 31.205-33	Costs of Litigating Appeals Against the Government and Professional and Consulting Service Costs (FAR Case No. 85-66)
FAR 31.205-52	Executive Lobbying Costs (FAR Case No. 85-67)
FAR 31.205-51	Alcoholic Beverage Costs (FAR Case No. 85--68)

We strongly disagree with the statement contained in the Federal Register relative to the Paperwork Reduction Act. Our company is convinced that the administration of these proposed changes to the current cost principles and new ones will significantly increase the costs of collecting and administering required information. The Paperwork Reduction Act not only speaks to the submission of data required of a proposed revision but also the creation of data.

We take strong exception to the statement made under the Regulatory Flexibility Act that many of the proposed revisions or additions to the regulations noted above are "not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 et.seq.) because most contracts awarded to small entities are awarded on a competitive fixed price basis and cost principles do not apply." Our small subcontractors have non-competitively awarded fixed price and cost reimbursable contracts which will be impacted adversely and directly by these revisions.

JAN 30 1986

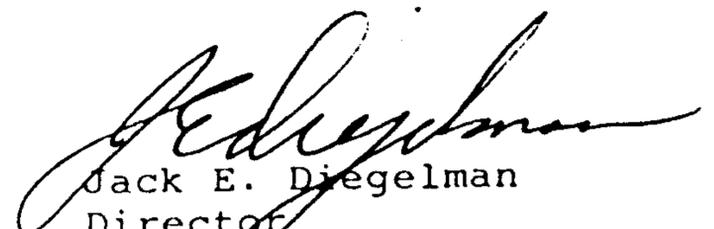
Ms. Margaret Willis
FAR Secretariat (VR)
General Services Administration
Washington, D.C. 20405

There is concern that none of these proposed changes take into account the cost of implementation when a contractor's facility has only a small amount of Government business, this cost being far in excess of benefits derived to the Government and which may, in fact, reduce the industrial base available to the Government to produce the needed supplies and services. Thus, competition for these contracts may be further reduced, which is not in concert with legislation recently enacted to enhance competition.

The comments, revisions, and other suggestions made should be given careful consideration as a result of the certification requirements imposed on contractors.

We believe that other options should be explored to better accomplish the statutory requirements in the legislation.

Sincerely,


Jack E. Diegelman
Director
Government Affairs

JED/g
Attachment

FAR 31.201-6, 46 - Company-furnished Automobiles

We recognize the Council's concern that the Government is reimbursing contractor employees' personal costs; however, we cannot see how providing company-furnished automobiles for personal use is any different from any other form of compensation to employees. Providing an automobile instead of additional salary does not mean this form of compensation is unreasonable. We believe the costs of all forms of compensation should be governed under existing reasonableness criteria.

Under the existing compensation cost principle (including the proposed revision that addresses the individual elements of compensation), recognition is given to the mix of compensation elements, which may vary from contractor to contractor. Further, the proposed revision of that portion of the cost principle that addresses the individual elements of compensation specifically recognizes that one element of cost, which might be high, can be offset by another element of compensation which is low, when compared to an appropriate standard. We see no reason why one element of fringe benefits, transportation, should be treated differently than any other element.

In addition, recently published Treasury regulations require the recognition of taxable income by individuals using company provided vehicles for personal purposes. Accordingly, we recommend that the imputed compensation for personal use of automobiles be allowable to the extent included in income pursuant to the Treasury regulations, subject to the reasonableness and other allowability criteria embodied in the compensation cost principle. To do otherwise is inconsistent with the clear intent of the compensation cost principle to allow management flexibility in the selection of forms of compensation.

Our recommendation is to amend the current cost principle on Compensation for Personal Service, FAR 31.205-6(m) Fringe Benefits, as follows:

"Amounts attributable to personal use of automobiles reported as compensation to employees will be considered as part of their compensation."

The proposed revision to FAR 31.205-46, Travel Costs, should be withdrawn for the same reason as given above. We believe our recommendations are consistent with the intent of Section 911 of the Defense Procurement Act of 1985.

85-64-33

UNITED STATES OF AMERICA
RAILROAD RETIREMENT BOARD
844 RUSH STREET
CHICAGO, ILLINOIS 60611

BUREAU OF SUPPLY AND SERVICE

January 23, 1986

Ms. Margaret A. Willis
FAR Secretariat (VRS)
General Services Administration
18th and F Streets, NW, Room 4041
Washington, DC 20405

References: FAR Cases 85-63, 85-64, 85-65, 85-66, 85-67 and 85-68

Dear Ms. Willis:

We have reviewed the proposed amendment to the Federal Acquisition Regulation (FAR) Sections 31.201-2 and 205-6, 46, 14, 33, 52, and 51. We have no comments to make at this time.

Very truly yours,


Henry M. Valiulis
Director of Supply
and Service

JAN 30 1986





U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

85-64-36

JAN 24 1986

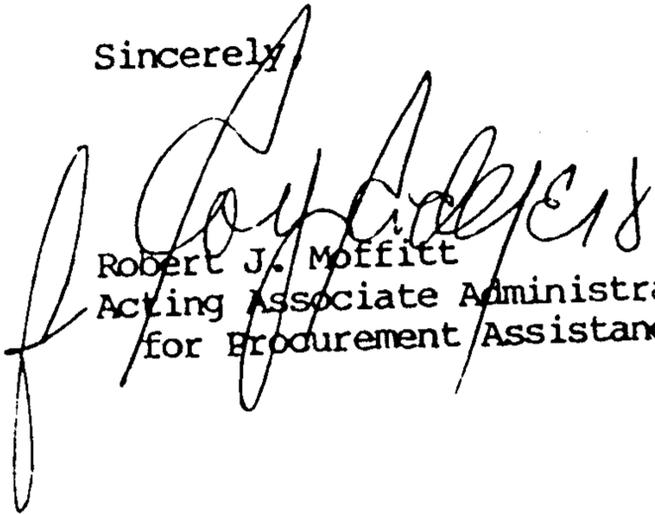
Ms. Margaret A. Willis
FAR Secretariat (VRS)
General Services Administration
18th & F Street, N. W.
Room 4041
Washington, D. C. 20405

Dear Ms. Willis:

This is in response to your letter of December 23, 1985 enclosing a Federal Register notice requesting comments on six proposed rules to amend the Federal Acquisition Regulation (FAR) with respect to cost principles (FAR Cases 85-63, 85-64, 85-65, 85-66, 85-67, and 85-68).

The Small Business Administration, Office of Procurement Assistance, interposes no objection at this time to the proposed rules covering selling costs. Comments concerning the Regulatory Flexibility Act are the responsibility of the Office of Advocacy. Their comments will be furnished to you separately.

Sincerely,


Robert J. Moffitt
Acting Associate Administrator
for Procurement Assistance

JAN 30 1986

FDIC

Federal Deposit Insurance Corporation

85-64-36

January 28, 1986

Margaret A. Willis
FAR Secretariat
General Services Administration
Office of Acquisition Policy
Washington, D.C. 20405

Reference: FAR Cases 85-71
85-63 through 68

Dear Ms. Willis:

Thank you for allowing the Federal Deposit Insurance Corporation the opportunity to comment on the referenced proposed rules. We do not, however, have any comments on these issues.

Sincerely



Andrew Freimuth
Chief, Support
Services Section

RECEIVED

FEB - 3 1986