PART 2131 - CONTRACT COST PRINCIPLES AND PROCEDURES

Authority: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

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Subpart 2131.1 - Applicability

2131.103 Contracts with commercial organizations.

2131.109 Advance agreements.

Subpart 2131.2 - Contracts With Commercial Organizations

2131.201 General.

2131.201-5 Credits.

2131.203 Indirect costs.

2131.205 Selected costs.

2131.205-1 Public relations and advertising costs.

2131.205-3 Bad debts.

2131.205-6 Compensation for personal services.

2131.205-32 Precontract costs.

2131.205-38 Selling costs.

2131.205-41 Taxes.

2131.205-43 Trade, business, technical and professional activity costs.

2131.205-70 Major subcontractor service charge.

2131.205-71 Reinsurer administrative expense costs.

2131.270 Contract clauses.

Parent topic: SUBCHAPTER E - GENERAL CONTRACTING REQUIREMENTS

Subpart 2131.1 - Applicability

2131.103 Contracts with commercial organizations.

The contracting officer shall incorporate the cost principles and procedures of FAR subpart 31.2 and this part by reference in all FEGLI Program contracts because of the nature of a fixed price with limited cost redetermination plus fixed fee contract.

2131.109 Advance agreements.

FAR 31.109 is applicable to FEGLI Program contracts, except that precontract costs and nonrecurring costs that exceed $100,000 will not be allowed in the absence of an advance agreement between OPM and any potential FEGLI Contractor.

Subpart 2131.2 - Contracts With Commercial Organizations

2131.201 General.

2131.201-5 Credits.

The provisions of FAR 31.201-5 shall apply to income, rebates and other credits resulting from benefit payments that include, but are not limited to -

(a) Uncashed and returned checks.

(b) Refunds attributable to litigation with regard to payments of FEGLI Program life insurance monies.

(c) Erroneous benefit payment, refunds, overpayment, and duplicate payment recoveries.

(d) Escheatments.

2131.203 Indirect costs.

The provisions of FAR 31.203 apply to the allocation of indirect costs.

2131.205 Selected costs.

2131.205-1 Public relations and advertising costs.

The provisions of FAR 31.205-1 shall be modified to include the following:

(a) Costs of media messages are allowable if approved by the contracting officer and all of the following criteria are met:

(1) The primary objective of the message is to disseminate information on general health and fitness or encouraging healthful lifestyles;

(2) The costs of the contractor's messages are allocated to all underwritten and non-underwritten lines of business; and

(3) The contracting officer approves the total dollar amount of the contractor's messages to be charged to the FEGLI Program in advance of the policy year.

(b) Costs of media messages that inform enrollees about the FEGLI Program are allowable if approved by the contracting officer.

(c) In those instances where contracting officer approval of the total dollar amount is not solicited in advance, it is incumbent upon the contractor to show the contracting officer, for subsequent approval, that the costs are reasonable and do not unduly burden the administrative cost to the contract.

(d) Costs of messages that are intended to, or which have the primary effect of, calling favorable attention to the contractor or subcontractor for the purpose of enhancing its overall image or selling its product or services are not allowable.

2131.205-3 Bad debts.

Erroneous benefit payments. If the contractor or OPM determines that a FEGLI Program benefit has been paid in error for any reason, the contractor shall make a diligent effort to recover such erroneous payment from the recipient. The contracting officer shall allow an unrecovered erroneous payment to be charged to the contract provided the contractor demonstrates that the recovery of the erroneous payment was attempted in accordance with a system that is approved under 2146.270(b) and that either a diligent effort was made to recover the erroneous overpayment or it would not be cost effective to recover the erroneous overpayment. The contractor's compliance with a system that is approved under 2146.270(b) will be deemed to be a diligent effort to recover the erroneous overpayment.

2131.205-6 Compensation for personal services.

FAR 31.205-6 is supplemented as follows: Overtime on a FEGLI Program contract normally would meet the conditions specified in FAR 22.103. Advance approval of the contracting officer is not required for overtime, extra-pay shifts, and multi-shifts.

2131.205-32 Precontract costs.

Precontract costs will be allowable in accordance with FAR part 31, but precontract costs that exceed $100,000 will not be allowable except to the extent allowable under an advance agreement negotiated in accordance with section 2131.109 of this chapter.

2131.205-38 Selling costs.

Selling costs are not allowable costs to FEGLI contracts except to the extent that they are attributable to conducting contract negotiations with the Government and for liaison activities

involving ongoing contract administration, including the conduct of informational and enrollment activities as directed or approved by the Contracting Officer.

2131.205-41 Taxes.

(a) FAR 31.205-41, as modified in paragraphs (b) through (e), is applicable to contracts in the FEGLI Program.

(b) As long as 5 U.S.C. 8714(c) or other Federal law prohibits the imposition of taxes, fees, or other monetary payments on FEGLI Program premiums by any State, the District of Columbia, the Commonwealth of Puerto Rico, or any other political subdivision or governmental authority of those entities, payment of such preempted tax is an unallowable expense under FAR 31.205-41(b)(3).

(c) Paragraph (b)

(1) of FAR 31.205-41 is not applicable to the FEGLI Program.

(d) Notwithstanding any other provision in FAR 31.205-41, the portion of the contractor's income or excess profits taxes allocated to the FEGLI Program, except those allocated to the risk charge or the service charge, are allowable costs under the FEGLI Program, including any income or excess profit taxes that arise from the operation of this paragraph. Income or excess profits taxes allocated to the risk charge or the service charge are not allowable costs.

(e) Notwithstanding any other provision in FAR 31.205-41, an amount equal to the “DAC Tax” is an allowable tax expense under FAR 31.205-41. “DAC Tax” means an amount equal to:

(1) the amount of the contractor's Federal, state, and local income tax allocated to payments under the FEGLI Program, less (2) the amount of the contractor's Federal, state, and local income tax allocated to payments under the FEGLI Program computed without regard to the operation of 26 U.S.C. 848, which requires that certain policy acquisition expenses be capitalized over a 60- or 120-month period, plus (3) the amount of the increase, if any, in the contractor's Federal, state, and local income tax that results from the operation of this section 2131.205-41(e).

2131.205-43 Trade, business, technical and professional activity costs.

(a) FEGLI Program contractors shall seek the advance written approval of the contracting officer for allowability of all or part of the costs associated with trade, business, technical, and professional activities when the allocable costs of such participation to the FEGLI Program will exceed $2,500 annually and the contractor allocates more than 50 percent of the membership cost of a trade, business, technical, or professional organization to the FEGLI Program.

(b) When approval of costs for membership in an organization is required, the contractor must demonstrate conclusively that membership in such an organization and participation in its activities extend beyond the contractual relationship with OPM, have a reasonable relationship to providing services to FEGLI Program insureds, and that the organization is not engaged in activities such as those cited in FAR 31.205-22 (lobbying costs) for which costs are not allowable.

2131.205-70 Major subcontractor service charge.

In a subcontract for enrollment and eligibility determinations, administration of claims and payment of benefits and any other subcontract for which prior approval is necessary, when costs are determined on the basis of actual costs incurred, any amount that exceeds the allowable cost of a major subcontract (whether entitled service charge, incentive fee, profit, fee, surplus, or any other title) is not allowable under the contract. Amounts which exceed allowable costs may be paid to a major subcontractor only from the risk charge or service charge negotiated between OPM and the contractor.

2131.205-71 Reinsurer administrative expense costs.

A charge of $500 per policy year per reinsurer of the FEGLI Program as set forth in the contract is an allowable cost when documented through an internal accounting entry of the contractor and actually paid. This amount is deemed to be sufficient to reimburse reinsurers for the minor administrative expenses incurred in reinsuring the FEGLI Program.

2131.270 Contract clauses.

The clause at 2152.231-70 shall be inserted in all FEGLI Program contracts.