



Office of the General Counsel

B-237892; B-237893

February 7, 1990

Margaret A. Willis  
FAR Secretariat  
General Services Administration

Dear Ms. Willis:

This responds to your letter of November 9, 1989, requesting our comments on two proposed revisions of the Federal Acquisition Regulation (FAR). These are FAR case Nos. 89-70 and 89-73.

FAR case No. 89-70 is a proposal to revise the rules concerning the costs of postretirement benefits. The most significant change would amend FAR section 31.205-6(m) to provide that the costs of postretirement benefits other than pensions, such as retiree health care, are allowable only if paid currently. According to the background information accompanying the proposed change, the FAR councils believe that the current practice of reimbursing unfunded accruals provides cash flow advantages to contractors that cannot be justified as sound public policy. We agree with the councils and therefore favor this proposed change.

In addition, FAR case No. 89-70 would further amend FAR section 31.205-6(m) and add a contract clause at FAR section 215-38 to provide for the government to receive an equitable share of amounts that revert to a contractor upon termination or reduction of a previously funded plan for postretirement benefits other than pensions. Also, the clauses at FAR sections 52.216-7 and 52.232-16 would be revised concerning the timing of, respectively, reimbursements and progress payments with respect to certain fringe benefits. We have no objection to these changes.

FAR case No. 89-73 is a proposal to revise various provisions in FAR Parts 29 and 52 concerning dollar value thresholds relating to taxes. Specifically, FAR section 29.201 would be revised to eliminate the existing threshold of \$100 and instruct contracting officers to solicit prices on a tax-exclusive basis whenever the government is exempt from a tax. FAR sections 29.401-3, 29.401-4, and 29.402-2 would be revised to make clear that contract clauses relating to taxes generally are not

applicable to procurements of less than \$25,000. Finally, the contract clauses at FAR sections 52.229-3, 52.229-4, 52.229-6, and 52.229-7 would be revised to increase from \$100 to \$250 the minimum adjustment in contract price that will be made to account for tax increases or decreased occurring after contract award. We have no objection to these proposed changes.

Sincerely yours,

*for* *James F. Hinchman*  
James F. Hinchman  
General Counsel