

Chapter 57 – Precontract Costs

Authoritative Sources

[FAR 31.205-32](#) Precontract Costs

[FAR 31.109](#) Advanced Agreements

This chapter provides supplemental guidance on the allowability of precontract costs. Precontract costs are any costs incurred before the effective date of the contract.

This chapter addresses the following topics:

- 57-1 General Information
- 57-1.1 Related FAR Provisions
- 57-2 General Audit Guidelines

57-1 General Information

Generally, costs are only allowable if incurred after award of a government contract. Precontract costs may be allowable provided the costs were incurred:

- prior to effective date of the contract
- directly pursuant to negotiation and in anticipation of award;
- necessary to comply with the proposed delivery schedule; and
- would have been otherwise allowable if incurred after contract award.

Although not required, the cost principle suggests by referencing FAR 31.109, the parties enter into an advanced agreement to avoid disputes over the allowability of precontract costs.

57-1.1 Related FAR Provisions

FAR 31.109 Advance Agreements – recommends an advance agreement to avoid dispute or disallowance of certain costs, specifically, precontract costs.

57-2 General Audit Guidelines

For precontract costs to be allowable, the costs must meet all the elements of the cost principle.

- Costs must be incurred prior to the effective date of the contract.
- Directly pursuant to negotiation and in anticipation of award, generally means that the costs were incurred as a result of the solicitation and award process. Costs incurred before the solicitation has been issued, such as basic research and

development costs on a product that could possibly become the subject of a future solicitation, is an example of costs that would not be allowable precontract costs because they were not incurred pursuant to a solicitation or negotiation.

Additionally, precontract costs are not bid and proposal costs, which are costs incurred in preparing, submitting and supporting bids and proposals.

- Determining whether the costs were necessary to comply with the proposed delivery schedule may require the audit team to request technical assistance. The contractor does not need to demonstrate that the costs were actually required to be incurred to meet the schedule; costs may be allowable if the contractor reasonably believed the costs needed to be incurred to meet the schedule. Consider the nature of the costs incurred when evaluating whether costs were necessary to comply with the proposed delivery schedule. For example, pre-award legal costs for a protest by an unsuccessful offeror were deemed not allowable precontract costs because there was nothing to indicate the legal costs were incurred in order to meet the delivery schedule.
- Another consideration is whether the costs would have been allowable if they had been incurred after the award. If the costs are unallowable under another cost principle, they are not allowable under the precontract costs provision.