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(1) The services covered by the retainer agreement are necessary and customary;

(2) The level of past services justifies the amount of the retainer fees (if no services were rendered, fees are not automatically unallowable);

(3) The retainer fee is reasonable in comparison with maintaining an in-house capability to perform the covered services, when factors such as cost and level of expertise are considered; and

(4) The actual services performed are documented in accordance with paragraph (f) of this subsection.

(f) Fees for services rendered are allowable only when supported by evidence of the nature and scope of the service furnished (see also 31.205–38(c)). However, retainer agreements generally are not based on specific statements of work. Evidence necessary to determine that work performed is proper and does not violate law or regulation shall include—

(1) Details of all agreements (e.g., work requirements, rate of compensation, and nature and amount of other expenses, if any) with the individuals or organizations providing the services and details of actual services performed;

(2) Invoices or billings submitted by consultants, including sufficient detail as to the time expended and nature of the actual services provided; and

(3) Consultants’ work products and related documents, such as trip reports indicating persons visited and subjects discussed, minutes of meetings, and collateral memoranda and reports.


31.205–34 Recruitment costs.

(a) Subject to paragraph (b) of this subsection, the following costs are allowable:

(1) Costs of help-wanted advertising.

(2) Costs of operating an employment office needed to secure and maintain an adequate labor force.

(3) Costs of operating an aptitude and educational testing program.

(4) Travel costs of employees engaged in recruiting personnel.

(5) Travel costs of applicants for interviews.

(6) Costs for employment agencies, not in excess of standard commercial rates.

(b) Help-wanted advertising costs are unallowable if the advertising—

(1) Does not describe specific positions or classes of positions; or

(2) Includes material that is not relevant for recruitment purposes, such as extensive illustrations or descriptions of the company’s products or capabilities.


31.205–35 Relocation costs.

(a) Relocation costs are costs incident to the permanent change of assigned work location (for a period of 12 months or more) of an existing employee or upon recruitment of a new employee. The following types of relocation costs are allowable as noted, subject to the limitations in paragraphs (b) and (f) of this subsection:

(1) Costs of travel of the employee and members of the employee’s immediate family (see 31.205–46) and transportation of the household and personal effects to the new location.

(2) Costs of finding a new home, such as advance trips by the employee or the spouse, or both, to locate living quarters, and temporary lodging during the transition period for the employee and members of the employee’s immediate family.

(3) Closing costs incident to the disposition of the actual residence owned by the employee when notified of the transfer (e.g., brokerage fees, legal fees, appraisal fees, points, and finance charges), except that these costs, when added to the costs described in paragraph (a)(4) of this subsection, shall not exceed 14 percent of the sales price of the property sold.

(4) Continuing costs of ownership of the vacant former actual residence being sold, such as maintenance of building and grounds (exclusive of fixing up expenses), utilities, taxes, property insurance, and mortgage interest, after the settlement date or lease date of a new permanent residence, except that these costs, when added to the costs described in paragraph (a)(3) of
this subsection, shall not exceed 14 percent of the sales price of the property
sold.
(5) Other necessary and reasonable expenses normally incident to relocation,
such as disconnecting and connecting household appliances; automobile registration;
driver's license and use taxes; cutting and fitting rugs, draperies, and curtains; forfeited utility
fees and deposits; and purchase of insurance against damage to or loss of personal property while in transit.
(6) Costs incident to acquiring a home in the new work location, except that—
(i) These costs are not allowable for existing employees or newly recruited employees who were not homeowners before the relocation; and
(ii) The total costs shall not exceed 5 percent of the purchase price of the new home.
(7) Mortgage interest differential payments, except that these costs are not allowable for existing or newly recruited employees who, before the relocation, were not homeowners and the total payments are limited to an amount determined as follows:
(i) The difference between the mortgage interest rates of the old and new residences times the current balance of the old mortgage times 3 years.
(ii) When mortgage differential payments are made on a lump-sum basis and the employee leaves or is transferred again in less than 3 years, the amount initially recognized shall be proportionately adjusted to reflect payments only for the actual time of the relocation.
(8) Rental differential payments covering situations where relocated employees retain ownership of a vacated home in the old location and rent at the new location. The rented quarters at the new location must be comparable to those vacated, and the allowable differential payments may not exceed the actual rental costs for the new home, less the fair market rent for the vacated home times 3 years.
(9) Costs of canceling an unexpired lease.
(10) Payments for increased employee income or Federal Insurance Contributions Act (26 U.S.C. chapter 21) taxes incident to allowable reimbursed relocation costs.
(11) Payments for spouse employment assistance.
(b) The costs described in paragraph (a) of this subsection must also meet the following criteria to be considered allowable:
(1) The move must be for the benefit of the employer.
(2) Reimbursement must be in accordance with an established policy or practice that is consistently followed by the employer and is designed to motivate employees to relocate promptly and economically.
(3) The costs must not be otherwise unallowable under subpart 31.2.
(4) Amounts to be reimbursed shall not exceed the employee's actual expenses, except as provided for in paragraphs (b)(5) and (b)(6) of this subsection.
(5) For miscellaneous costs of the type discussed in paragraph (a)(5) of this subsection, a lump-sum amount, not to exceed $5,000, may be allowed in lieu of actual costs.
(i) Reimbursement on a lump-sum basis may be allowed for any of the following relocation costs when adequately supported by data on the individual elements (e.g., transportation, lodging, and meals) comprising the build-up of the lump-sum amount to be paid based on the circumstances of the particular employee's relocation:
(A) Costs of finding a new home, as discussed in paragraph (a)(2) of this subsection.
(B) Costs of travel to the new location, as discussed in paragraph (a)(1) of this subsection (but not costs for the transportation of household goods).
(C) Costs of temporary lodging, as discussed in paragraph (a)(2) of this subsection.
(ii) When reimbursement on a lump-sum basis is used, any adjustments to reflect actual costs are unallowable.
(c) The following types of costs are unallowable:
(1) Loss on the sale of a home.
(2) Costs incident to acquiring a home in the new location as follows:
(i) Real estate brokers' fees and commissions.
(ii) Costs of litigation.
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31.205–36 Rental costs.

(a) This subsection is applicable to the cost of renting or leasing real or personal property acquired under “operating leases” as defined in Financial Accounting Standards Board’s Accounting Standards Codification (FASB ASC) 840, Leases. (See 31.205–11 for Capital Leases.)

(b) The following costs are allowable:

(1) Rental costs under operating leases, to the extent that the rates are reasonable at the time of the lease decision, after consideration of (i) rental costs of comparable property, if any; (ii) market conditions in the area; (iii) the type, life expectancy, condition, and value of the property leased; (iv) alternatives available; and (v) other provisions of the agreement.

(2) Rental costs under a sale and leaseback arrangement only up to the amount the contractor would be allowed if the contractor retained title, computed based on the net book value of the asset on the date the contractor becomes a lessee of the property adjusted for any gain or loss recognized in accordance with 31.205–16(b).

(3) Charges in the nature of rent for property between any divisions, subsidiaries, or organization under common control, to the extent that they do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, facilities capital cost of money, and maintenance (excluding interest or other unallowable costs pursuant to part 31), provided that no part of such costs shall duplicate any other allowed cost. Rental cost of personal property leased from any division, subsidiary, or affiliate of the contractor under common control, that has an established practice of leasing the same or similar property to unaffiliated lessees shall be allowed in accordance with subparagraph (b)(1) above.

(c) The allowability of rental costs under unexpired leases in connection to the refund or credit requirement of paragraph (d).