

Contractor Employee Compensation Cap Overview

Overview – Cap on Reimbursement of Contractor’s Allowable Compensation Costs

The compensation costs for contractor employees are reimbursed to the contractor by the Government on certain contracts. The Federal Acquisition Regulations (FAR) Part 31 cost principles govern the reimbursement of contractor costs, including contractor employee compensation costs. The FAR cost principles address the allocability, allowability and reasonableness of costs to determine the amount that is reimbursable to the contractor under the contract. The cost principles are applicable to contracts where the contract pricing is negotiated on the basis of cost analysis. Cost analysis is used primarily in pricing cost reimbursement contracts, as well as in developing the hourly rates in time-and-materials/labor-hour contracts. To a lesser extent, cost analysis is used to price fixed-price contracts when the prices are negotiated on the basis of the contractor’s estimated costs of performance ([FAR 31.102](#)), e.g., in a sole-source procurement.

The reimbursement to the contractor by the Government of contractor employee compensation costs may be subject to statutory limitations. Depending upon the agency that awarded the contract and the contract award date, different statutory rules can limit the maximum amount of allowable contractor employee compensation costs that can be reimbursed. The different statutory rules on the allowability of compensation costs are applied at the contract level. Thus, a contractor may be reimbursed at different amounts for compensation costs for the same employees, even if the identical work is performed, when the compensation costs are incurred on different contracts with different agencies awarded on different dates.

In any event, any compensation cap amount provided by statute does not limit the amount of compensation that a contractor executive or employee may otherwise receive. The compensation costs in excess of the compensation cap amount are unallowable costs for Government contract reimbursement purposes. While the compensation cap amount per statute is the maximum allowable amount of compensation costs for certain executives and employees of Government contractors when those costs are allocated to the Government contracts, the compensation cap amount as applied to a particular executive or employee is not necessarily a safe harbor. Without regard to compensation cap amount, the allowable compensation costs for each affected executive or employee are still subject to the Federal Acquisition Regulation cost principles and the Cost Accounting Standards as applicable and appropriate to the circumstances, e.g., reasonableness and allocability.

The Table – Contractor Employee Compensation Cap Rules – is a tabloid summary of the different statutory compensation rules that may be applicable to the contractor’s contracts depending upon the date of the contract award, and the awarding agency.

Table - Contractor Employee Compensation Cap Rules

Contract Award Date	Applicable Agencies	Covered Employees	Cap Rule	FAR 31.205-6
Before June 24, 2014	Executive Agencies other than DoD, NASA and Coast Guard	Senior Executives	Statutory formula cap	(p)(2)
Before December 31, 2011	DoD, NASA and Coast Guard	Senior Executives	Statutory formula cap	(p)(2)
On/after December 31, 2011, and before June 24, 2014	DoD, NASA and Coast Guard	All Employees	Statutory formula cap	(p)(3)
On/after June 24, 2014	All Executive Agencies	All Employees	BBA cap	(p)(4)