

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 30 and 52****[FAR Case 1999-025]****RIN 9000-AI70****Federal Acquisition Regulation; Cost
Accounting Standards Administration**

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to delineate the process for determining and resolving the cost impact on contracts and subcontracts when a contractor makes a compliant change to a cost accounting practice or follows a noncompliant practice.

DATES: Interested parties should submit comments in writing on or before June 19, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVRs), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405. Submit electronic comments via the Internet to: farcase.1999-025@gsa.gov. Please submit comments only and cite FAR case 1999-025 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson at (202) 501-0692. Please cite FAR case 1999-025.

SUPPLEMENTARY INFORMATION:**A. Background**

FAR Part 30, Cost Accounting Standards Administration, describes policies and procedures for applying the Cost Accounting Standards Board (CASB) rules and regulations to negotiated contracts and subcontracts. The CASB's rules, regulations, and Cost Accounting Standards (CAS) are codified at 48 CFR Chapter 99 (FAR Appendix). Negotiated contracts not exempt in accordance with 48 CFR

9903.201-1(b) are subject to CAS (CAS-covered contracts).

The CASB found that the Government does not always implement in a uniform manner the administrative process for making contract price and cost adjustments resulting from contractor changes in cost accounting practice. The CASB further found that the procedures and processes are not widely understood or adequately documented.

This proposed FAR rule delineates the entire cost-impact process the Government and contractor must follow when a contractor makes a compliant change to a cost accounting practice or follows a noncompliant practice. The rule should make the cost-impact process easier to understand, thereby reducing the overall amount of administrative effort currently being expended to resolve individual cases. Specifically, the rule—

1. Defines the cognizant Federal agency official (CFAO) as the contracting officer assigned to administer CAS for all contracts in a business unit. The CFAO's functions are to make determinations for all CAS-covered contracts and subcontracts, including—

- a. Whether a change in cost accounting practice or a noncompliance has occurred; and

- b. If a change in cost accounting practice or a noncompliance has occurred, how any resulting cost impacts are resolved;

2. Provides procedures that the Government and the contractor must follow when there are voluntary (including desirable) changes to disclosed or established cost accounting practices, mandatory changes required to comply with new or modified standards, and noncompliances with CAS.

3. Provides a streamlined process that does not require submission of cost-impact estimates or contract price adjustments for every CAS-covered contract affected by the change in cost accounting practice. The process creates a three-step sequential process that includes—

- a. An initial evaluation to determine materiality of the changes;

- b. If the cost is material, the use of a general dollar magnitude (GDM) proposal, whereby the contractor is provided the opportunity to include only the minimum data needed to resolve the cost impact. The rule encourages settlement of material cost impacts based on the GDM proposal to the maximum extent possible; and

- c. If the GDM proposal is insufficient or inadequately supported, the

submission of a detailed cost-impact proposal.

4. Provides revised procedures for negotiating and resolving the cost impact, including—

- a. Requiring the CFAO to invite all contracting officers to participate in negotiations when the cost or price of any of their contracts may be increased or decreased by at least \$100,000 (the current amount is \$10,000);

- b. Providing the CFAO with significant flexibility to resolve the cost impact by permitting the CFAO to use an alternate method, rather than the method of adjusting all affected contracts, provided the Government will not pay more, in the aggregate, than it would have paid if the CFAO did not use the alternate method; and

- c. Requiring the CFAO to execute all contract modifications concurrently.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because contracts and subcontracts with small businesses are exempt from all CAS requirements in accordance with 48 CFR 9903.201-1(b)(3). An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR subparts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1999-025), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) applies because the proposed rule contains information collection requirements. FAR Part 30 requires certain contractors to provide information on CAS-covered subcontracts and to submit cost-impact proposals when there are changes in cost accounting practices. The collection of this information is currently approved under Office of Management and Budget Number 9000-0129. The proposed rule decreases the collection requirements, since the rule provides a—

1. Specific, but flexible, cost-impact process that should reduce the overall administrative burden currently being experienced by contractors; and

2. General format for contractors to use in preparing cost-impact proposals. This format includes flexible criteria that permit the contractor an opportunity to include only the minimum data needed to resolve the cost impact.

Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 175 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

Respondents: 644.

Responses per respondent: 2.27.

Total annual responses: 1461.88.

Preparation hours per response:

Reduced from 200.73 to 175.00.

Total response burden hours:

Reduced from 293,471 to 255,829.

Accordingly, a request for amendment of information collection requirements will be submitted to OMB at the final rule stage.

D. Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than June 19, 2000 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, Washington, DC 20405.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVR), Room 4035, Washington, DC 20405, telephone (202) 208-7312. Please cite OMB control number 9000-0129, FAR

Case 1999-025, Cost Accounting Administration, in all correspondence.

List of Subjects in 48 CFR Parts 30 and 52

Government procurement.

Dated: April 10, 2000.

Jeremy F. Olson,

Acting Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 30 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 30 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

2. Add section 30.001 to read as follows:

30.001 Definition.

Cognizant Federal agency official (CFAO), as used in this part, means the contracting officer assigned by the cognizant Federal agency to administer the Cost Accounting Standards.

3. Amend section 30.202-6 by revising paragraphs (b), (c), and (d) to read as follows:

30.202-6 Responsibilities.

* * * * *

(b) The contracting officer must not award a CAS-covered contract until the cognizant Federal agency official (CFAO) (see 30.601) has made a written determination that a required Disclosure Statement is adequate unless, in order to protect the Government's interest, the contracting officer waives the requirement for an adequacy determination before award. In this event, the CFAO must make a determination of adequacy as soon as possible after the award.

(c) The auditor is responsible for conducting reviews of Disclosure Statements for adequacy and compliance.

(d) The CFAO is responsible for determinations of adequacy and compliance of the Disclosure Statement.

4. Revise section 30.202-7 to read as follows:

30.202-7 Determinations.

(a) *Adequacy determination.* (1) As prescribed by 48 CFR 9903.202-6 (FAR Appendix), the auditor must—

(i) Conduct a review of the Disclosure Statement to ascertain whether it is current, accurate, and complete; and
(ii) Report the results to the CFAO.

(2) The CFAO must determine if the Disclosure Statement adequately

describes the contractor's cost accounting practices and take one of the following actions:

(i) If the Disclosure Statement is inadequate, request a revised Disclosure Statement and identify any areas of inadequacy.

(ii) If the Disclosure Statement is adequate, notify the contractor in writing, with copies to the auditor and contracting officer. The notice of adequacy must state that the contractor must not consider a disclosed practice, by virtue of such disclosure, an approved practice for pricing proposals or accumulating and reporting contract performance cost data.

(3) Generally, the CFAO should furnish the contractor notification of adequacy or inadequacy within 30 days after the CFAO receives the Disclosure Statement.

(b) *Compliance determination.* (1) After the notification of adequacy, the auditor must—

(i) Conduct a detailed compliance review to ascertain whether or not the disclosed practices comply with part 31 and the CAS; and

(ii) Advise the CFAO of the results.

(2) The CFAO—

(i) Must take action regarding noncompliance with CAS under FAR 30.605;

(ii) May require a revised Disclosure Statement and adjustment of the contract price or cost allowance; and

(iii) Must process a noncompliance with part 31 separately, in accordance with normal administrative practices.

5. Amend section 30.202-8 by revising paragraph (a) to read as follows:

30.202-8 Subcontractor disclosure statements.

(a) When the Government requires determinations of adequacy or inadequacy of subcontractor disclosure statements, the CFAO of the subcontractor must provide this determination to the CFAO of the contractor or next higher-tier subcontractor. The CFAO(s) of the higher-tier subcontractor or contractor must not reverse the determination of the CFAO of the subcontractor.

* * * * *

6. Section 30.601 is revised to read as follows:

30.601 Responsibility.

(a) The cognizant Federal agency must perform CAS administration for all contracts in a business unit even when the contracting officer retains other administration functions. The CFAO must make all required determinations for all CAS-covered contracts and subcontracts, including—

(1) Whether a change in cost accounting practice or noncompliance has occurred; and

(2) If a change in cost accounting practice or noncompliance has occurred, how any resulting cost impacts are resolved.

(b) Within 30 days after the award of any new contract or subcontract subject to CAS, the contracting officer, contractor, or subcontractor making the award must request the CFAO to perform administration for CAS matters (see subpart 42.2).

30.602 [Redesignated as 30.603 and revised]

6a. Remove section 30.603 and redesignate section 30.602 as 30.603 and revise it to read as follows:

30.603 Changes to disclosed or established cost accounting practices.

30.602 [Added]

6b. Add a new section 30.602 to read as follows:

30.602 Materiality.

Agencies must adjust contracts (or use another suitable method (see 30.606)) and withhold amounts payable for CAS noncompliances, new standards, or voluntary changes only if the CFAO determines that the amounts involved are material. The CFAO must—

(a) In determining materiality, use the criteria in 48 CFR 9903.305 (FAR Appendix); and

(b) If the CFAO determines that the amount involved is immaterial—

(1) Make no contract adjustments; and

(2) In the case of noncompliance issues, inform the contractor that if the noncompliance is not corrected, the Government reserves the right to make appropriate contract adjustments should the cost impact become material in the future.

30.602-1 and 30.602-2 [Removed]

6c. Sections 30.602-1 and 30.602-2 are removed.

6d. Section 30.603-1 is added to read as follows:

30.603-1 Mandatory changes required to comply with new or modified standards.

(a) *General.* (1) Offerors must state whether or not the award of the contemplated contract would require a change to established cost accounting practices affecting existing contracts and subcontracts (see 52.230-1). The contracting officer must ensure that the contractor's response to the notice is made known to the CFAO.

(2) A new or modified standard—

(i) Is applicable prospectively to contracts and subcontracts awarded

before the effective date of the new or modified standard when a new contract or subcontract containing the clause at 52.230-2 or 52.230-5 is awarded on or after the effective date of the new or modified standard; and

(ii) May require equitable adjustments, but only to those contracts or subcontracts awarded before the effective date of the new or modified standard (see 52.230-2 or 52.230-5).

(3) Contracting officers should encourage contractors to submit to the CFAO any change in accounting practice in anticipation of complying with a new or modified standard as soon as practical after the CASB promulgates the new or modified standard.

(b) *Accounting changes.* Contractors must submit a description of any change in cost accounting practice required to comply with a new or modified CAS within 60 days (or other mutually agreed to date) after award of a contract requiring a change (see 52.230-6).

30.602-3 [Redesignated as 30.603-2 and revised]

6e. Section 30.602-3 is redesignated as 30.603-2 and revised to read as follows:

30.603-2 Voluntary changes.

(a) *General.* The contractor may voluntarily change its disclosed or established cost accounting practices. The Government may adjust the contract price for voluntary changes. However, the Government must not allow increased costs, in the aggregate, resulting from a voluntary change unless the CFAO determines that the change is desirable and not detrimental to the interests of the Government.

(b) *Accounting changes.* The contractor must notify the CFAO and submit a description of any voluntary cost accounting practice change not less than 60 days (or such other date as may be mutually agreed to) before implementation of the voluntary change (see 52.230-6).

(c) *Desirable changes.* When a contractor requests that a voluntary change be deemed desirable, the CFAO must promptly evaluate the contractor's request and must, as soon as practical, notify the contractor in writing whether the change is or is not desirable.

(d) *Retroactive changes.* If a contractor requests that a voluntary change (including those requested to be deemed desirable) include a retroactive applicability date (e.g., to the beginning of the current contractor fiscal year in which the notification is made), the contractor must submit the rationale for the action. The CFAO must promptly

evaluate the contractor's request and must, as soon as practical, notify the contractor in writing whether the change is or is not retroactive.

(e) *Contractor changes without Government notification.* If a contractor implements any change in cost accounting practice without submitting the notice required under this subsection, the CFAO must consider the change a failure to follow a cost accounting practice consistently and process it as a noncompliance in accordance with 30.605.

6f. Sections 30.604 through 30.607 are added to read as follows:

30.604 Processing changes to disclosed or established cost accounting practices.

(a) *Scope.* This section applies to mandatory and voluntary (including desirable) changes in cost accounting practices.

(b) *Procedures.* Upon receipt of the contractor's notification and description of the change in cost accounting practice, the CFAO, with the assistance of the auditor, should review the proposed change concurrently for adequacy and compliance. If the CFAO—

(1) Identifies any area of inadequacy, the CFAO must request a revised description of the new cost accounting practice;

(2) Determines that the disclosed practice is noncompliant, the CFAO must notify the contractor in writing that, if implemented, the CFAO will handle the accounting change as a noncompliance; or

(3) Determines the description of the change is both adequate and compliant, the CFAO must notify the contractor in writing. If the CFAO determines—

(i) The cost impact is material, the CFAO must—

(A) Request that the contractor submit, by a specified date, a general dollar magnitude (GDM) proposal; and

(B) Attempt to use the contractor's GDM proposal to the maximum extent possible to negotiate and resolve the cost impact; or

(ii) The cost impact is immaterial, the CFAO must provide notification to the contractor, and conclude the cost-impact process with no contract adjustments.

(c) *General dollar magnitude (GDM) proposal.* The GDM proposal—

(1) Provides information to the CFAO on the estimated overall impact of a change in cost accounting practice on affected CAS-covered contracts and subcontracts that were awarded based on the previous accounting practice; and

(2) Assists the CFAO in determining whether individual contract or

subcontract price adjustments are required.

(d) *General dollar magnitude proposal content.* The GDM proposal must—

(1) Include a sufficient number of individual contract and/or subcontract cost-impact estimates, by contract number and agency, to support the GDM estimate (including identification of the individual contracts with the largest dollar impact);

(2) Include by contract type an “All Other” category to reflect the total cost impact for those contracts not separately identified by the contractor in paragraph (d)(1) of this section;

(3) Provide a computation of the cost impact based on the difference between the estimated costs to complete under the current practice and the estimated costs to complete under the revised practice;

(4) Provide a computation of the cost impact using a consistent cost baseline. A consistent cost baseline means that the amounts before and after the change are not based on different scopes of contract efforts, levels of operation, methods of operation, or other information that is not related specifically to the cost accounting practice change. The cost impact must be based on the revised forward pricing rates and current contract estimates to complete that incorporate the new cost accounting practice;

(5) Group the CAS-covered contracts by contract type, limited to the following contract types:

(i) Firm-fixed-price.
(ii) Time-and-materials.
(iii) Incentive-type (e.g., fixed-price incentive and cost-plus-incentive-fee).
(iv) Cost-reimbursement other than incentive-type (e.g., cost-plus-fixed-fee and cost-plus-award-fee); and

(6) Recommend specific contract adjustments to settle the cost impact of the cost accounting practice change.

(e) *CFAO evaluation.* The CFAO must promptly evaluate the GDM proposal. If the cost impact is—

(1) Material, the CFAO must—
(i) Negotiate and resolve the cost impact (see 30.606);

(ii) Request that the contractor submit, by a specified date, a revised GDM proposal with specific additional individual contract data (e.g., contracts with a dollar impact exceeding a specific dollar amount); or

(iii) Request a detailed cost-impact (DCI) proposal if the CFAO determines that the GDM proposal cannot be adequately supported or does not contain sufficient data to resolve the cost impact. The CFAO must indicate in the written request to the contractor that the DCI proposal must include all

contracts and subcontracts having an estimate to complete exceeding a specified amount, established by the CFAO, that is based on the old cost accounting practice. The specified amount must be high enough so that the DCI proposal does not contain an excessive number of contracts and subcontracts but results in the proposal recognizing a reasonably high dollar percentage of the total estimate to complete; or

(2) Immaterial, the CFAO must provide notification to the contractor, and conclude the cost-impact process with no contract adjustments.

(f) *Detailed cost impact (DCI) proposal.* The DCI proposal must—

(1) Measure the magnitude of the impact of the change on existing CAS-covered contracts and subcontracts subject to adjustment;

(2) Include all contracts and subcontracts having an estimate to complete, based on the old accounting practice, exceeding a specified amount established by the CFAO;

(3) Include, by contract type, an “All Other” category to reflect the total cost impact for those contracts that do not exceed the specified amount; and

(4) Group the CAS-covered contracts by contract type, limited to the following contract types:

(i) Firm-fixed-price.
(ii) Time-and-materials.
(iii) Incentive-type (e.g., fixed-price incentive and cost-plus-incentive-fee).
(iv) Cost-reimbursement other than incentive-type (e.g., cost-plus-fixed-fee and cost-plus-award-fee).

(g) *Contract adjustments.* The CFAO—

(1) Negotiates and resolves the cost impact on behalf of all Government agencies;

(2) Must invite contracting officers to participate in negotiations when the cost or price of any of their contracts may be increased or decreased by at least \$100,000;

(3) At the conclusion of negotiations, must prepare a negotiation memorandum and send copies to auditors and contracting officers;

(4) If contract adjustments are necessary, must distribute modifications to the awarding agencies, requesting signatures by a specified date. The awarding agencies must return the signed modifications by the specified date or notify the CFAO of the reasons for the delay;

(5) After receipt of the signed modifications described in paragraph (f)(4) of this section, must concurrently obtain contractor signatures on all the modifications; and

(6) May unilaterally adjust the contract(s) if the CFAO and the

contractor fail to agree on the adjustment.

(h) *Remedies.* If the contractor does not submit the accounting change description or the required cost-impact proposal, the CFAO—

(1) With the assistance of the auditor, should estimate the general dollar magnitude of the cost impact on CAS-covered contracts and subcontracts;

(2) May withhold an amount not to exceed 10 percent of each subsequent payment related to the contractor's CAS-covered contracts (up to the estimated general dollar magnitude of the cost impact), until the contractor furnishes the required information; and

(3) May unilaterally adjust the contract(s).

30.605 Noncompliance with CAS requirements.

(a) *Types of noncompliances.* (1) A cost-estimating noncompliance occurs when there is a failure, when estimating proposal costs, to follow—

(i) Applicable CAS requirements; or
(ii) Consistently disclosed or established accounting practices.

(2) A cost-accumulation noncompliance occurs when there is a failure, when accumulating costs, to follow—

(i) Applicable CAS requirements; or
(ii) Consistently disclosed or established accounting practices.

(b) *Determination of noncompliance.*

(1) The CFAO must make an initial finding of compliance or noncompliance and notify the auditor within 15 days after receiving a report of alleged noncompliance from the auditor.

(2) If the CFAO makes an initial finding of noncompliance, the CFAO must—

(i) Immediately notify the contractor in writing of the exact nature of the noncompliance; and

(ii) Allow the contractor 60 days to agree or to submit reasons why the contractor considers the existing practices to be in compliance.

(3) The CFAO must—

(i) Review the reasons why the contractor considers the existing practices to be in compliance;

(ii) Make a determination of compliance or noncompliance;

(iii) Notify the contractor and the auditor in writing of the determination of compliance or noncompliance, including a written explanation as to why the CFAO agrees or disagrees with the contractor's rationale; and

(iv) If the CFAO makes a determination of noncompliance, follow the procedures in paragraphs (c) through (h) of this section, as appropriate.

(c) *Correcting noncompliances.* (1) The contractor must submit a description of any cost accounting practice change needed to correct a noncompliance (see 52.230-6).

(2) The CFAO—

(i) With the assistance of the auditor, should review the proposed change concurrently for adequacy and compliance (see 30.202-7); and

(ii) When the description of the change is both adequate and compliant, must notify the contractor in writing; and when the cost impact is—

(A) Material, the CFAO must—

(1) Request that the contractor submit, by a specified date, a general dollar magnitude (GDM) proposal; and

(2) Attempt to use the contractor's GDM proposal to the maximum extent possible to negotiate and resolve the cost impact;

(B) Immaterial, the CFAO must—

(1) Inform the contractor in writing that if the noncompliance is not corrected, the Government reserves the right to make appropriate contract adjustments should the noncompliance become material in the future; and

(2) Conclude the cost-impact process with no contract adjustments.

(d) *General dollar magnitude (GDM) proposal.* The GDM proposal must—

(1) Include a sufficient number of individual contract and/or subcontract cost-impact estimates, by contract number and agency, to support the GDM estimate (including identification of the individual contracts with the largest dollar impact);

(2) Include by contract type an "All Other" category to reflect the total cost impact for those contracts not separately identified by the contractor in paragraph (d)(1) of this section;

(3) Provide a computation of the cost impact as follows:

(i) For cost-estimating noncompliances, the impact is the difference between—

(A) The negotiated contract cost or price; and

(B) What the negotiated contract cost or price would have been had the contractor used a compliant practice.

(ii) For cost-accumulation noncompliances, the impact is the difference between—

(A) The costs that were accumulated under the noncompliant practice; and

(B) The costs that would have been accumulated if the compliant practice had been applied (from the time the noncompliant practice was first applied until the date the noncompliant practice was replaced with a compliant practice).

(4) Group the CAS-covered contracts by contract type, limited to the following contract types:

(i) Firm-fixed-price.

(ii) Time-and-materials.

(iii) Incentive-type (e.g., fixed-price incentive and cost-plus-incentive-fee).

(iv) Cost-reimbursement other than incentive-type (e.g., cost-plus-fixed-fee and cost-plus-award-fee);

(5) Include the total overpayments made by the Government during the period of noncompliance so that the CFAO can calculate and recover the proper interest amount; and

(6) Recommend specific contract adjustments to settle the cost impact resulting from the noncompliance.

(e) *CFAO evaluation.* The CFAO must promptly evaluate the GDM proposal. If the cost impact is—

(1) Material, the CFAO must—

(i) Negotiate and resolve the cost impact (see 30.606);

(ii) Request the contractor submit, by a specified date, a revised GDM proposal with specific additional individual contract data (e.g., contracts with a dollar impact exceeding a specific dollar amount); or

(iii) Request a detailed cost-impact (DCI) proposal if the CFAO determines that the GDM proposal cannot be adequately supported or does not contain sufficient data to resolve the cost impact. The CFAO must indicate in the written request to the contractor that the DCI proposal must include all contracts and subcontracts having a contract value exceeding a specified amount, established by the CFAO. The specified amount must be high enough so that the DCI proposal does not contain an excessive number of contracts and subcontracts but results in the proposal recognizing a reasonably high dollar percentage of the contracts impacted by the noncompliance.

(2) When the cost impact is immaterial, the CFAO must—

(i) Inform the contractor in writing that if the noncompliance is not corrected, the Government reserves the right to make appropriate contract adjustments should the noncompliance become material in the future; and

(ii) Conclude the cost-impact process with no contract adjustments.

(f) *Detailed cost-impact (DCI) proposal.* The DCI proposal must—

(1) Measure the magnitude of the impact of the noncompliance on CAS-covered contracts and subcontracts subject to adjustment;

(2) Include all contracts and subcontracts having a contract value exceeding a specified amount established by the CFAO;

(3) Include by contract type an "All Other" category to reflect the total cost impact for those contracts that do not exceed the specified amount; and

(4) Group the CAS-covered contracts by contract type, limited to the following contract types:

(i) Firm-fixed-price.

(ii) Time-and-materials.

(iii) Incentive-type (e.g., fixed-price incentive and cost-plus-incentive-fee).

(iv) Cost-reimbursement other than incentive-type (e.g., cost-plus-fixed-fee and cost-plus-award-fee).

(g) *Contract adjustments.* The CFAO must—

(1) Follow the procedures at 30.604(f); and

(2) In accordance with the clause at 52.230-2, Cost Accounting Standards, or 52.230-5, Cost Accounting Standards—Educational Institution—

(i) Include and separately identify, as part of the computation of the contract price adjustment(s), applicable interest on any increased cost paid to the contractor as a result of the noncompliance;

(ii) Compute interest from the date of overpayment to the time the adjustment is effected in accordance with 26 U.S.C. 6621(a)(2), as follows:

(A) If the costs were incurred and paid evenly over the fiscal years during which the noncompliance occurred, use the midpoint of the period in which the noncompliance began as the baseline for the computation of interest.

(B) If the costs were not incurred and paid evenly over the fiscal years during which the noncompliance occurred, use an alternate method.

(h) *Remedies.* If the contractor does not submit the required cost-impact proposal, the CFAO must follow the procedures at 30.604(h).

30.606 Resolving cost impacts.

(a) *General.* (1) The CFAO may resolve a cost impact attributed to a change in cost accounting practice or a noncompliance by adjusting a single contract, several but not all contracts, all contracts, or any other suitable method;

(2) The CFAO must choose a method to resolve the cost impact that approximates the amount, in the aggregate, that would have resulted if individual contracts had been adjusted; and

(3) Where there is a voluntary change (other than a change that the CFAO has determined to be desirable) or a noncompliance, the CFAO must not agree to a method that results in the payment of increased costs, in the aggregate, by the Government.

(b) *Adjusting contracts.* The CFAO may adjust some or all contracts with a material cost impact. When the adjustments are made to reflect increased costs associated with cost-reimbursement contracts, the CFAO

must prevent payment of the increased costs through a cost disallowance.

(c) *Alternate methods.* (1) The CFAO may use an alternate method instead of adjusting contracts to resolve the cost impact, provided the Government will not pay more, in the aggregate, than would be paid if the CFAO did not use the alternate method;

(2) The CFAO may not use an alternate method when the alternate method would result in—

(i) An under-recovery of monies by the Government (e.g., due to cost overruns);

(ii) An inappropriate increase in profit on contracts beyond the level negotiated; or

(iii) Distortions of incentive provisions and relationships between target costs, ceiling costs, and actual costs for incentive-type contracts.

(3) When using an alternate method that excludes the costs from an indirect cost pool, the CFAO must—

(i) Make such exclusion only for contractor fiscal years that have ended; and

(ii) Adjust the exclusion to reflect the Government participation rate for cost-reimbursement contracts. For example, if there are increased costs to the Government of \$100,000, and the indirect cost pool where the adjustment is to be affected has a Government participation rate of 50 percent for cost-reimbursement contracts, the contractor must exclude \$200,000 from the indirect cost pool (\$100,000/50% = \$200,000).

(d) *Offsets.* (1) The CFAO may offset increased costs to the Government against decreased costs to the Government for some or all contracts, depending upon the particular facts and circumstances.

(2) The CFAO must not use the offset process if it would result in the Government paying more, in the aggregate, than would be paid had the offset process not been used.

(3) In determining what contracts should be offset, the CFAO must consider the following:

(i) For any offsets that include incentive contracts, the CFAO must assure that the impact on the incentive provisions are not materially different from what would be obtained if individual contracts were adjusted.

(ii) Within a segment, the CFAO may combine the effect of several changes in accounting practice in the offset consideration if the changes have the same effective date.

(iii) The CFAO may offset cost increases at one segment of a company by decreases at another segment if the accounting change results in costs flowing between those segments. The

CFAO responsible for the organizational level that directed the change should administer such offsets.

(iv) When the result of the offset process is net increased costs, and the decision is to adjust a cost-reimbursement contract(s), the CFAO must prevent payment of the net increased costs through a cost disallowance.

(e) *Contract profit or fee.* (1) The CFAO must adjust profit or fee whenever specifically provided for by law or the terms of the contract.

(2) The CFAO should make any necessary adjustment to assure that the Government pays no more profit or fee, in the aggregate, than would have been paid had the change or noncompliance not occurred, unless such action is otherwise precluded by law or the terms of the contract.

(f) *Coordination.* When resolving cost impacts, the CFAO must coordinate with the affected contracting officers (see 30.604(f)) before determining the method of resolution (i.e., adjust contracts, apply an alternate method, use the offset process). However, the CFAO has the sole authority for that determination.

30.607 Subcontract administration.

When a negotiated CAS price adjustment or a determination of noncompliance is required at the subcontract level, the CFAO of the subcontractor must make the determination and furnish a copy of the negotiation memorandum to the affected CFAO(s) of the contractor or next higher-tier subcontractor, as appropriate. The CFAO(s) of higher-tier subcontractors or contractors must not reverse the determination of the CFAO of the subcontractor.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Revise section 52.230–6 to read as follows:

52.230–6 Administration of Cost Accounting Standards.

As prescribed in 30.201–4(d)(1), insert the following clause:

Administration of Cost Accounting Standards (Date)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in paragraphs (a) through (c) and (e) through (h) of this clause:

(a) Submit to the Cognizant Federal Agency Official (CFAO) a description of any cost accounting practice change as outlined in paragraphs (a)(1) through (3). If a Contractor implements any change in cost accounting practice without submitting the notice

required by this paragraph, the change will be a failure to follow paragraph (a)(4) of the clause at FAR 52.230–3, Disclosure and Consistency of Cost Accounting Practices.

(1) For any change in cost accounting practices required in accordance with paragraphs (a)(3) and (a)(4)(i) of the clause at FAR 52.230–2, Cost Accounting Standards, or paragraphs (a)(3), (a)(4)(i), or (a)(4)(iv) of the clause at FAR 52.230–5, Cost Accounting Standards—Educational Institution, submit a description of the change within 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) after award of a contract requiring this change.

(2) For any change in cost accounting practices proposed in accordance with paragraphs (a)(4)(ii) or (iii) of the clauses at FAR 52.230–2, Cost Accounting Standards, and FAR 52.230–5, Cost Accounting Standards—Educational Institution, or with paragraph (a)(3) of the clause at FAR 52.230–3, Disclosure and Consistency of Cost Accounting Practices, submit a description of the change not less than 60 days (or such other date as may be mutually agreed to) before the effective date of the proposed change. If the change includes a proposed retroactive applicability date (e.g., to the beginning of the current Contractor fiscal year in which the notification is made), submit rationale supporting the proposed retroactive applicability date.

(3) Submit a description of the change necessary to correct a failure to comply with an applicable CAS or to follow a disclosed practice (as contemplated by paragraph (a)(5) at FAR 52.230–2, Cost Accounting Standards, and FAR 52.230–5, Cost Accounting Standards—Educational Institution; or by paragraph (a)(4) at FAR 52.230–3, Disclosure and Consistency of Cost Accounting Practices)—

(i) Within 60 days (or such other date as may be mutually agreed to) after the date of agreement with the initial finding of noncompliance; or

(ii) In the event of Contractor disagreement with the initial finding of noncompliance, within 60 days of the date that the CFAO notifies the Contractor of the determination of noncompliance.

(b) When requested by the CFAO, submit a general dollar magnitude (GDM) proposal on or before the date specified by the CFAO, or other mutually agreed to date.

(1) For changes subject to paragraph (a)(1) or (a)(2) of this clause, the GDM proposal shall—

(i) Include a sufficient number of individual contract and/or subcontract cost-impact estimates, by contract number and agency, to support the GDM estimate (including identification of the individual contracts with the largest dollar impact);

(ii) Include by contract type an “All Other” category to reflect the total cost impact for those contracts not separately identified;

(iii) Provide a computation of the cost impact based on the difference between the estimated costs to complete under the current practice and the estimated costs to complete under the revised practice;

(iv) Provide a computation of the cost impact using a consistent cost baseline. A consistent cost baseline means that the

amounts before and after the change are not based on different scopes of contract efforts, levels of operation, methods of operation, or other information that is not related specifically to the cost accounting practice change. The cost impact shall be based on the revised forward pricing rates and current contract estimates to complete that incorporate the new cost accounting practice;

(v) Group the CAS-covered contracts by contract type, limited to the following contract types:

- (A) Firm-fixed-price.
- (B) Time-and-materials.
- (C) Incentive-type (*e.g.*, fixed-price incentive and cost-plus-incentive-fee).
- (D) Cost-reimbursement other than incentive-type (*e.g.*, cost-plus-fixed-fee and cost-plus-award-fee); and

(vi) Recommend specific contract adjustments to settle the cost impact of the cost accounting practice change.

(2) For changes submitted pursuant to paragraph (a)(3) of this clause, the GDM proposal shall—

(i) Include a sufficient number of individual contract and/or subcontract cost impact estimates, by contract number and agency, to support the GDM estimate (including identification of the individual contracts with the largest dollar impact);

(ii) Include by contract type an “All Other” category to reflect the total cost impact for those contracts not separately identified;

(iii) Provide a computation of the cost impact as follows:

(A) For cost-estimating noncompliances, the impact is the difference between—

(1) The negotiated contract cost or price; and

(2) What the negotiated contract cost or price would have been had the Contractor used a compliant practice.

(B) For cost-accumulation noncompliances, the impact is the difference between—

(1) The costs that were accumulated under the noncompliant practice; and

(2) The costs that would have been accumulated if the compliant practice had been applied (from the time the noncompliant practice was first applied until the date the noncompliant practice was replaced with a compliant practice);

(iv) Group the CAS-covered contracts by contract type, limited to the following contract types:

- (A) Firm-fixed-price.
- (B) Time-and-materials.
- (C) Incentive-type (*e.g.*, fixed-price incentive and cost-plus-incentive-fee).
- (D) Cost-reimbursement other than incentive-type (*e.g.*, cost-plus-fixed-fee and cost-plus-award-fee);

(v) Include the total overpayments made by the Government during the period of noncompliance so that the CFAO can calculate and recover the proper interest amount; and

(vi) Recommend specific contract adjustments to settle the cost impact resulting from the noncompliance.

(c) When requested by the CFAO, submit a detailed cost-impact (DCI) proposal on or before the date specified by the CFAO, or other mutually agreed to date. The DCI proposal shall—

(1) Measure the magnitude of the impact of the change on CAS-covered contracts and subcontracts subject to adjustment;

(2) Include all contracts and subcontracts having an estimate to complete, based on the old accounting practice, exceeding a specified amount established by the CFAO;

(3) Include by contract type an “All Other” category to reflect the total cost impact for those contracts that do not exceed the specified amount; and

(4) Group the CAS-covered contracts by contract type, limited to the following contract types:

- (i) Firm-fixed-price.
- (ii) Time-and-materials.
- (iii) Incentive-type (*e.g.*, fixed-price incentive and cost-plus-incentive-fee).
- (iv) Cost-reimbursement other than incentive-type (*e.g.*, cost-plus-fixed-fee and cost-plus-award-fee).

(d) If the Contractor does not submit the information required by paragraph (a), (b), or (c) of this clause within the specified time, or any extension granted by the CFAO, the CFAO may—

(1) Withhold an amount not to exceed 10 percent of each subsequent amount payment to the Contractor's CAS-covered contracts, up to the estimated general dollar magnitude of the cost impact, until such time as the

Contractor provides the required information to the CFAO; and

(2) Unilaterally adjust the contract(s).

(e) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with paragraphs (a)(4) and (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with paragraph (a)(3) or paragraph (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause at FAR 52.230-3.

(f) For all subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, or 52.230-5—

(1) So state in the body of the subcontract, in the letter of award, or in both (do not use self-deleting clauses);

(2) Include the substance of this clause in all negotiated subcontracts; and

(3) Within 30 days after award of the subcontract, submit the following information to the Contractor's cognizant contract administration office for transmittal to the contract administration office cognizant of the subcontractor's facility:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(g) Notify the Contracting Officer in writing of any adjustments required to subcontracts under this contract and agree to an adjustment, based on them, to this contract price or estimated cost and fee. The Contractor shall—

(1) Provide this notice within 30 days after the Contractor receives the proposed subcontract adjustments; and

(2) Include a proposal for adjusting the higher-tier subcontract or the contract appropriately.

(h) For subcontracts containing the clause at FAR 52.230-2 or FAR 52.230-5, require the subcontractor to comply with all standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier. (End of clause)

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