

Proposed Rule

FAR Part 30 - CAS Administration

Opening Remarks - NCMA/DDP

Discussion/Identification of Key Issues - DDP/Public

Presentations - Public

Summary of Key Issues - DDP

Closing Remarks - NCMA/DDP

- Why publish - hope CASB would drop their proposed coverage
CASB did drop coverage
GSD must proceed
- Today - focus on key issues - discuss details at a later mtg
list of issues to be modified - to be put on CPF homepage
- 8/24 9-4 Next mtg Dave C will chair
add'l mtgs
final mtg summary
- CAS Cmte will recommend changes to rule based on -
public comments + mtgs
Councils will decide whether a proposed or final rule +
wdg

SUBJECT: FAR Part 30 revision

BACKGROUND: CAS Committee changes to the proposed rule reflect—

- Public comments received on the first proposed rule,
- Public comments obtained during public meetings sponsored by the Director of Defense Procurement, and
- CAS Board's final rule on "Changes in Cost Accounting Practices."

DISCUSSION: Major changes to the proposed rule include the following—

X • Addition of definitions included in the CAS Board's final rule (required, ^{unilateral} voluntary, and desirable) and other key terms.

X • Clarification that the CFAO may make a determination of materiality at any time, i.e. before requesting a GDM or at any point in the cost impact process.

X • Addition of a new solicitation clause requiring contractors to indicate if the contract award will result in a cost accounting practice change and, if so, to prepare price proposals using the changed practice.

X • Guidance on items that may be considered by the CFAO in determining if a change is desirable.

X • Addition of CAS Board language excluding cost accounting practice changes related to external restructuring from contract price and cost adjustments.

X • Revision of GDM requirements to specify that broad based data may be used as the basis for the GDM. — Gen'l Dollar Magnitude

X • Revision of DCI requirements to provide flexibility for the CFAO to not require individual data on all contracts, but to project the cost impact on larger contracts to the remaining contract universe.


X • Elimination of the term "offsets" while including the effect of offsets in the cost impact calculation process by separating the calculation of the cost impact from the resolution of the cost impact.

X • Provision for the CFAO to execute contract mods.

RECOMMENDATION: Publish the revised rule as a proposed rule.

Haberlin, Sandra, Ms, OSD-ATL

From: Covey, Carol, Ms, OSD-ATL
Sent: Friday, May 25, 2001 10:46 AM
To: Haberlin, Sandra, Ms, OSD-ATL
Cc: Capitano, David, Mr, OSD-ATL
Subject: FW: CAS Committee Report on FAR Case 99-025, Cost Accounting Standard s (CAS) Administration


farpart30cpfchanges.d

cc

Sandy--Here are our recommended changes -- they are not extensive. Carol

>-----Original Message-----

>From: Capitano, David, Mr, OSD-ATL

>Sent: Thursday, May 24, 2001 9:00 AM

>To: Covey, Carol, Ms, OSD-ATL

>Subject: RE: CAS Committee Report on FAR Case 99-025, Cost Accounting

>Standard s (CAS) Administration

>

>

>Carol:

>

> I have some recommended changes. While it is only a
>single issue, it effects the wording in several areas of the
>proposed rule. The revised language is on the attached document.

>

Dave

>

>

>

>

>>>-----Original Message-----

>>>From: Haberlin, Sandra, Ms, OSD-ATL

>>>Sent: Friday, May 04, 2001 1:52 PM

>>>To: Covey, Carol, Ms, OSD-ATL; Sumpter, Leantha, SES, OSD-ATL

>>>Cc: Capitano, David, Mr, OSD-ATL

>>>Subject: FW: CAS Committee Report on FAR Case 99-025, Cost Accounting

>>>Standard s (CAS) Administration

>>>

>>>

>>>As indicated below, attached is a copy of the CAS Committee
>>>report re: FAR Case 1999-025. The DARC anticipates discussing
>>>the rule on May 31, 2001, and would appreciate any comments
>>>that you have by May 30, so we can include them in our

>>>discussion. Thanks, Sandy

>>>

>>>-----Original Message-----

>>>From: janes, peg [mailto:mjanes@hq.dema.mil]

>>>Sent: Friday, May 04, 2001 10:38 AM

>>>To: 'Layser, Richard, Mr, OSD-ATL'; burleigh, anne; Barry Col OSD-ATL

>>>Wilson (E-mail); Bill Kley (E-mail); Corlyss' 'Drinkard

>>(E-mail); Dave'

>>>'Beck (E-mail); David J. SAF/AQCP Powell (E-mail); gulden,

>glen; Ivana

>>>Sustersic (E-mail); faris, jeanmarie; drost, kate; russell, marolyn;

>>>Michael Maglio (E-mail); janes, peg; RDA Belton (E-mail); RDA Wright

>>>(E-mail); Roger D COL OTJAG Washington (E-mail); Tom' 'O'Toole

>>>(E-mail);

>>>shelkin, ynette; Sandra Haberlin (E-mail)

>>>Cc: kobus, tricia

>>>Subject: CAS Committee Report on FAR Case 99-025, Cost Accounting
>>>Standard s (CAS) Administration
>>>
>>>
>>>Attached is the CAS Committee's May 3, 2001 report that
>>>addresses the public
>>>comments and comments that arose in public meetings on the
>>>proposed rule
>>>published April 18, 2000. Also attached is a CMR for the report's
>>>submission. As a matter of information, there was no written
>>>record kept of
>>>the public meetings and there were no written comments
>>>submitted as a result
>>>of any of the public meetings. We are currently scheduled to
>>>discuss this
>>>case on May 31, 2001. Ms. Tricia Kobus is available to attend
>>>a 10:30 AM
>>>time-certain. Sandy just needs to check on Mr. Dave Capitano's
>>>availability, when he returns from TDY on Monday, to
>>>establish the time
>>>certain for certain. Mr. Glenn Gulden will provide you with
>>>the signed copy
>>>of the Committee report at the meeting on May 16, if you meet
>>>then. If not,
>>>I will bring it to the meeting on May 31.
>>>
>>>Peg
>>>P.S. Sandy,
>>>Please discard the advance copy I sent you
>>>yesterday. Tricia has
>>>made some editorial changes to that version to avoid confusion
>>>and to black
>>>ink the changes in Tab E so that they print as dark as the
>>>rest of the text.
>>>
>>>Peg
>>>
>>>
>>>
>>
>

(B) Flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease in cost accumulations--;

(3) Be in a format acceptable to the CFAO but, as a minimum, include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in cost accumulations by executive agency (see FAR 2.101), including any impact the change may have on contract incentives, fee, and profit.

(ii) For unilateral changes, the increased/decreased costs paid by the United States--; and

(4) When requested by the CFAO, ~~shall~~ identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(d) For any change in cost accounting practice subject to paragraph (a)(1), (a)(2), or (a)(3) of this clause, the DCI proposal shall--

(1) Calculate the cost impact in accordance with paragraph (e) of this clause;

(2) Show the increase/decrease in cost accumulations for each affected CAS-covered contract unless the CFAO and Contractor agree to--

(i) Include only those affected CAS-covered contracts having an estimate to complete exceeding a specified amount; and

(ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts, using the results in paragraph (d)(2)(i) of this clause; ~~and~~

(3) Be in a format acceptable to the CFAO but, as a minimum, include the information in paragraph (c)(3) of this clause--; and

(4) ~~Shall~~ When requested by the CFAO, identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

30.604 Processing changes to disclosed or established cost accounting practices.

(e) *General dollar magnitude proposal content.* The GDM proposal--

(1) Must calculate the cost impact in accordance with paragraph (h) of this section. NC

(2) May use one or more of the following methods to determine the increase/decrease in cost accumulations: NC

(i) A sample of contracts representative of the contract universe.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts.

(B) Flexibly-priced contracts. NC

(iii) Any other method that provides a reasonable approximation of the total increase/decrease in cost accumulations.

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the following data grouped by fixed-price and flexibly-priced contracts: NC

(i) The total increase/decrease in cost accumulations by executive agency (see 2.101), including any impact the change may have on contract incentives, fee, and profit.

(ii) For unilateral changes, the increased/decreased costs paid by the United States.

(4) When requested by the CFAO, must identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5. NC

(g) *Detailed cost impact proposal.* The DCI proposal--

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) Must show the increase/decrease in cost accumulations for each affected CAS-covered contract unless the CFAO and contractor agree to-- NC

(i) Include only those affected CAS-covered contracts exceeding a specified amount; and

(ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts, using the results in paragraph (g)(2)(i) of this section;

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the requirements at paragraph (e)(3) of this section. NC

(4) When requested by the CFAO, must identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

30.605 Processing noncompliances.

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

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) May use one or more of the following methods to determine the increase/decrease in contract price or cost accumulations:

(i) A sample of contracts that is representative of the contract universe.

(ii) When the noncompliance involves cost accumulating, the change in indirect rates multiplied by the total estimated base for only flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease.

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in contract price and/or cost accumulations by executive agency (see 2.101), including any impact the noncompliance may have on contract incentives, fee, and profit.

(ii) The increased/decreased costs paid by the United States.

(iii) The total overpayments made by the Government during the period of noncompliance. The total overpayments must be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal.

(4) When requested by the CFAO, must identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

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

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) Must show the increase/decrease in contract price and/or cost accumulations for each affected

CAS-covered contract unless the CFAO and contractor agree to--

(i) Include only those affected CAS-covered contracts having--

(A) Contract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase/decrease in contract price and/or cost accumulations for all affected CAS-covered contracts using the results in paragraph (f)(2)(i) of this section; MC

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the information in paragraph (d)(3) of this section.

(4) When requested by the CFAO, must identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

PART 52--SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

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)

(c) For any change in cost accounting practice subject to paragraph (a)(1), (a)(2), or (a)(3) of this clause, the GDM proposal shall--

(1) Calculate the cost impact in accordance with paragraph (e) of this clause--;

(2) Use one or more of the following methods to determine the increase/decrease in cost accumulations:

(i) A sample of contracts representative of the contract universe.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts.

FOUR PAGES ORIGINATING WITH THE
NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION (NASA)
REFERRED TO NASA FOR REVIEW AND DIRECT
RESPONSE



"kobus, tricia" <tkobus@hq.dema.mil> on 11/22/2000 12:46:36 PM

To: Bob Deppe , Bob Morales , Catherine Malstrom , David Capitano, Frank Knapp , Gary Neil , Gordon Johns , Joe Li
Subject: FAR 30 Revision

At the last public meeting on FAR Part 30, I stated that I expected the CAS Committee to complete the Part 30 revision by the end of the year. Since that time, the CAS Committee has been working non-stop on the CAS Board's Advance Notice of Proposed Rulemaking on Post-retirement Benefits (PRBs) which is due to the CAS Board by December 19th. Due to the complexity and length of the PRB case, I expect this case to continue requiring 100 percent of the CAS Committee's time until the CAS Board's due date. Therefore, I do not expect the CAS Committee to have the Part 30 revision completed until some time next year.

Tricia Kobus



"David Capitano" <CAPITADJ@acq.osd.mil> on 10/19/2000 08:12:11 AM

To: pmitchell, susan.barajas, pete.jeranko, robert_morales, roger.holbrook, tkobus, mgallagher, joseph.lecren, gneil, p:
Subject: Charts Used In 10/17 Meeting

I am forwarding Frank's charts used at the meeting. My office appreciates everyone's participation and input during the public meeting process. If you have any questions, please give me a call at (b)(2),(b)(6) or send me an E-mail.

Thank you,

Dave Capitano

----- Forwarded by David Capitano on 10/19/2000 8:10:08 AM

From: "Knapp, Frank" (b)(2),(b)(6) on 10/18/2000 05:39 PM

To: David Capitano/DefProc/PrinDep/OUUSD_AT@OUUSD_AT

cc:

Subject: Charts Used In 10/17 Meeting

Dave,

Attached is the material I presented yesterday in our meeting in Vienna. Also included are charts I have since prepared showing my recommended approach in situations where negotiated CAS-covered contracts, future CAS-covered contracts, and commercial contracts/other Govt. contracts are all present.

Let me know if you have any questions or think there are errors.

Thanks again for giving me the opportunity to share my thoughts on this matter.

Frank Knapp
(b)(2),(b)(6)

Increased Costs Computation - Scenario 1

FFP = Lower, Flexibly Priced = Higher

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	490	-10		10	500
Flex-Priced	<u>500</u>	<u>510</u>	<u>10</u>	<u>10</u>		<u>510</u>
Subtotal	1,000	1,000	--		20	1,010
Future CAS	<u>600</u>	<u>580</u>	<u>-20</u>			<u>580</u>
Total CAS K's	1,600	1,580	-20			1,590
Commercial	250	260	10			
Other USG	<u>150</u>	<u>160</u>	<u>10</u>			
Total	2,000	2,000	--			

Impact

- Future CAS K's Included = \$10 Increased Costs (\$1,590 - \$1,580)
- Future CAS K's Ignored = \$10 Increased Costs (\$1,010 - \$1,000)

Increased Costs Computation - Scenario 2

FFP = Higher, Flexibly Priced = Lower

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	510	10		-10	500
Flex-Priced	500	490	-10	10		490
Subtotal	1,000	1,000	--		--	990
Future CAS	600	580	-20			580
Total CAS K's	1,600	1,580	-20			1,570
Commercial	250	260	10			
Other USG	150	160	10			
Total	2,000	2,000	--			

Impact

- Future CAS K's Included = \$10 Decreased Costs (\$1,570 - \$1,580)**
- Future CAS K's Ignored = \$10 Decreased Costs (\$990 - \$1,000)**

Increased Costs Computation - Scenario 3

FFP = Lower, Flexibly Priced = Lower

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	490	-10		10	500
Flex-Priced	500	490	-10	-10		490
Subtotal	1,000	980	-20		--	990
Future CAS	600	630	30			630
Total CAS K's	1,600	1,610	10			1,620
Commercial	250	240	-10			
Other USG	150	150	--			
Total	2,000	2,000	--			

Impact

- Future CAS K's Included = \$20 Increased Costs (\$1,620 - \$1,600)**
- Future CAS K's Ignored = \$10 Increased Costs (\$990 - \$980)**

Increased Costs Computation - Scenario 4

FFP = Higher, Flexibly Priced = Higher

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	510	10		10	500
Flex-Priced	500	510	10	-10		510
Subtotal	1,000	1,020	20		--	1,010
Future CAS	600	570	-30			570
Total CAS K's	1,600	1,590	-10			1,580
Commercial	250	260	10			
Other USG	150	150	--			
Total	2,000	2,000	--			

Impact

- Future CAS K's Included = \$10 Decreased Costs (\$1,580 - \$1,590)**
- Future CAS K's Ignored = \$10 Increased Costs (\$1,010 - \$1,000)**

Accounting Changes

Increased Costs Calculation

October 17, 2000

Agenda

- **Background**
- **Illustrations of Alternative Conditions**
- **Discussion**
- **Recommended Cost Impact Measurement Method**

Background

- **Accounting Changes Shift Costs Among Contracts**
 - **From One Contract to Another**
 - **Fixed vs. Flexibly Priced**
 - **From One Customer's Contracts to Another**
 - **Government vs. Commercial**
 - **Air Force vs. Navy**
 - **Etc.**
 - **Between Current & Future Contracts**
 - **Negotiated vs. Un-Negotiated**
- **Current Regulations Are Confusing Re Measurement of Increased Costs**

Background

- **Current Cost Impact Measurement Process Limits Impact Measurement to Existing Contracts Only**
 - **Recognizes Shifts Between Contract Types**
 - **Recognizes Shifts Between Customers**
 - **However, Effect of Cost Shifts Between Current and Future Government Contracts Only Partially Recognized**
- **Total Forecasted Costs Are Used to Measure Impacts**
- **Presence of Future Work In Cost Data Affects Impact of Accounting Changes on Current Contracts**
- **Without Full Recognition of the Effect of Future Work In Cost Impact Calculations, Significant Inequities Result**

Agenda

- **Background**
- **Illustrations of Alternative Conditions**
- **Discussion**
- **Recommended Cost Impact Measurement Method**

Illustrations

- **Simplifying Assumptions**
 - **Contractor is 100% Government Business**
 - **All Contracts Are Negotiated on Cost Basis**
 - **All Work Has Been Negotiated (Existing K's Only)**

Increased Costs Computation - Scenario 1

FFP = Lower, Flexibly Priced = Higher

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>
FFP	500	490	-10		10
Flex-Priced	<u>500</u>	<u>510</u>	<u>10</u>	<u>10</u>	
Total	1,000	1,000	--		20

Increased Costs = \$20

Increased Costs Computation - Scenario 1

FFP = Lower, Flexibly Priced = Higher

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	490	-10		10	500
Flex-Priced	<u>500</u>	<u>510</u>	<u>10</u>	<u>10</u>		<u>510</u>
Total	1,000	1,000	--		20	1,010

Real Impact to USG = \$10 Increase (1,010-1,000)

Increased Costs Computation - Scenario 2

FFP = Higher, Flexibly Priced = Lower

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>
FFP	500	510	10		-10
Flex-Priced	<u>500</u>	<u>490</u>	<u>-10</u>	<u>-10</u>	
Total	1,000	1,000	--		-20

Decreased Costs = \$20

Increased Costs Computation - Scenario 2

FFP = Higher, Flexibly Priced = Lower

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	510	10		-10	500
Flex-Priced	<u>500</u>	<u>490</u>	<u>-10</u>	<u>-10</u>		<u>490</u>
Total	1,000	1,000	--		-20	990

Real Impact to USG = \$10 Windfall (990-1,000)

Illustrations

- **Simplifying Assumptions**
 - **Contractor is 100% Government Business**
 - **All Contracts Are Negotiated On Cost Basis**
 - **Future Work Has Not Been Negotiated**

Increased Costs Computation - Scenario 3

Existing Contracts Lower, Future Contracts Higher

<u>Approach</u> <u>Contract</u> <u>Type</u>		ETC	ETC		<u>Traditional</u>
	<u>Current</u> <u>Acctg.</u>	<u>New</u> <u>Acctg.</u>	<u>Cost</u> <u>Shift</u>	<u>Increased</u> <u>Payments</u>	<u>Windfall</u> <u>Profit</u>
FFP	500	490	-10		10
Flex-Priced	<u>500</u>	<u>490</u>	<u>-10</u>	<u>-10</u>	
Subtotal	1,000	980	-20		--
Future USG	<u>600</u>	<u>620</u>	<u>20</u>		
Total	1,600	1,600	--		

Increased Costs = 0

**Reduction In Costs Allocated to Current Contracts Resulted Solely
From Presence of Future Work In Forecast Data**

Increased Costs Computation - Scenario 3

Existing Contracts Lower, Future Contracts Higher

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	490	-10		10	500
Flex-Priced	500	490	-10	-10		490
Subtotal	1,000	980	-20		--	990
Future USG	600	620	20			620
Total	1,600	1,600	--			1,610

- **Real Impact to USG = \$10 Increase (\$1,610-1,600)**
- **Historically, Astute ACO's Have Required Equitable Adjustment (i.e., Desirable Treatment)**

Increased Costs Computation - Scenario 4

Existing Contracts Higher, Future Contracts Lower

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>
FFP	500	510	10		-10
Flex-Priced	<u>500</u>	<u>510</u>	<u>10</u>	<u>10</u>	
Subtotal	1,000	1,020	20		--
Future USG	<u>600</u>	<u>580</u>	<u>-20</u>		
Total	1,600	1,600	--		

- Increased Costs = 0
- Increase In Costs Allocated to Current Contracts Resulted Solely From Presence of Future Work In Forecast Data

Increased Costs Computation - Scenario 4

Existing Contracts = Higher, Future Contracts = Higher

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	510	10		-10	500
Flex-Priced	500	510	10	10		510
Subtotal	1,000	1,020	20		--	1,010
Future USG	600	580	-20			580
Total	1,600	1,600	--			1,590

- **Impact to USG - Existing K's Only = \$10 Increase (1,010-1,000)**
- **Real Impact to USG = \$10 Windfall (1,590-1,600)**
- **If Future K's not included in impact, USG Gets \$20 Windfall**
 - **\$10 Overall Windfall**
 - **\$10 Cost Impact Adjustment**

Agenda

- **Background**
- **Illustrations of Alternative Conditions**
- **Discussion**
- **Recommended Cost Impact Measurement Method**

Discussion

- **Presence of Future Work In Forecast Data Is a Major Factor Affecting Cost Impact Calculations**
- **Limiting Cost Impact Calculation to Current Contracts Only Is Inequitable**
 - **Govt. Protected When Decreased Costs On Current Contracts Are Offset By Increases on Future Contracts**
 - **However, No Similar Protection to Contractor When Increased Costs on Current Work Offset By Reductions on Future Contracts - Unearned Windfall to Govt.**
- **Govt. Not at Risk If Future Contracts Included in Cost Impact Calculation**
 - **Contractor Must Price Using New Accounting Practices**
 - **Any Subsequent Accounting Changes Will Require Further Adjustment**

Agenda

- **Background**
- **Illustrations of Alternative Conditions**
- **Discussion**
- **Recommended Cost Impact Measurement Method**

Recommended Measurement Method

Increased Costs equals the difference between what the USG will pay under the new accounting on its CAS-covered contracts (both current and future), if no impact adjustments are made, and what would be paid if the new practices had been used to establish prices for those contracts, or what would be paid using the current practices if lower in the aggregate.

Increased Costs Computation - Scenario 1

FFP = Lower, Flexibly Priced = Higher

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	490	-10		10	500
Flex-Priced	500	510	10	10		510
Total	1,000	1,000	--		20	1,010

•Proposed Adjustment Calculation

Increased Costs equals the difference between what the USG will pay under the new accounting, if no impact adjustments are made, and what would be paid if the new practices had been used to establish prices, or what would be paid using the current practices if lower in the aggregate.

•In This Example = \$10 Increased Costs (\$1,010 - \$1,000)

Increased Costs Computation - Scenario 2

FFP = Higher, Flexibly Priced = Lower

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	510	10		-10	500
Flex-Priced	500	490	-10	-10		490
Total	1,000	1,000	--		-20	990

•Proposed Adjustment Calculation

Increased Costs equals the difference between what the USG will pay under the new accounting, if no impact adjustments are made, and what would be paid if the new practices had been used to establish prices, or what would be paid using the current practices if lower in the aggregate.

•In This Example = \$10 Windfall to USG (\$990 - \$1,000)

Increased Costs Computation - Scenario 3

Existing Contracts Lower, Future Contracts Higher

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	490	-10		10	500
Flex-Priced	500	490	-10	-10		490
Subtotal	1,000	980	-20		--	990
Future USG	600	620	20			620
Total	1,600	1,600	--			1,610

•Proposed Adjustment Calculation

Increased Costs equals the difference between what the USG will pay under the new accounting, if no impact adjustments are made, and what would be paid if the new practices had been used to establish prices, or what would be paid using the current practices if lower in the aggregate.

•In This Example = \$10 Increased Costs (\$1,610 - \$1,600)

Increased Costs Computation - Scenario 4

FFP = Higher, Flexibly Priced = Higher

<u>Contract Type</u>	<u>ETC Current Acctg.</u>	<u>ETC New Acctg.</u>	<u>Cost Shift</u>	<u>Traditional Approach Increased Payments</u>	<u>Windfall Profit</u>	<u>w/o Adj. USG Pays</u>
FFP	500	510	10		-10	500
Flex-Priced	500	510	10	10		510
Subtotal	1,000	1,020	20		--	1,010
Future USG	600	580	-20			580
Total	1,600	1,600	--			1,590

- Proposed Adjustment Calculation**

Increased Costs equals the difference between what the USG will pay under the new accounting, if no impact adjustments are made, and what would be paid if the new practices had been used to establish prices, or what would be paid using the current practices if lower in the aggregate.

- In This Example = \$10 Windfall to USG(\$1,590 - \$1,600)**



- Accounting Change - Cost Impact Calculation 2.ppt



- Cost Impact Calculation - Commercial.ppt

Recommended Measurement Method

Increased costs equals the difference between what the USG will pay under the new accounting on its CAS-covered contracts, if no impact adjustments are made, and what would be paid if the new practices had been used to establish prices for those contracts, or what would be paid using the current practices if lower in the aggregate.



Sandy Haberlin

10/19/2000 10:29 AM

.....

Sent by: Sandy Haberlin

To: TKOBUS

Subject: Re: CAS Administration FAR Case

Tricia, now that public meetings are over, please provide a date for a report and a rule. Thanks, Sandy

----- Forwarded by Sandy Haberlin on 10/19/2000 10:24:54 AM -----

From: David Capitano on 10/19/2000 10:24 AM

To: Sandy Haberlin/DARS/DefProc/PrinDep/OUUSD_AT@OUUSD_AT

cc:

Subject: Re: CAS Administration FAR Case

Sandy:

We do not plan to have any more public meetings on this case.

I think it is a good idea to talk with Tricia on the date. I think that we should be finished sometime in late-December or early January. The meeting brought out alot of major issues, and that coupled with the PRB case, this will cause us to need some time. In addition, we are going to need to talk to our friends at OMB (CAS Board) before we will be ready to go to the DAR Council, so that we do not have a repeat of the last go-around.

Dave

Issues identified during public hearing on 8/2/00 re 99025

Outline of Key Issues
Proposed Rule - FAR Part 30, CAS Administration (proposed rule)

- When materiality determinations are made and what documentation is needed to make those determinations.
- Whether discreet materiality criteria is feasible.
- Whether to describe what constitutes obviously immaterial.
- Extent of emphasis on use of business judgement.
 - Need for guidelines on making materiality decisions before a General Dollar Magnitude (GDM) Proposal is submitted.
 - Extent of reliance upon guidance on cost impact process contained in CAS Working Group Papers.
- The amount of effort required to generate a GDM and/or DCI Proposal.
 - Whether more of the current process in Part 52 can be retained.
 - Whether a GDM Proposal should include specific contract data or only generic data.
 - Whether cost impacts can be resolved using generic data.
 - Whether GDM/DCI Proposals can be generated under the format in the proposed rule without determining the cost impact for all contracts.
 - Whether the contractor should be required to maintain a CAS-covered contract universe to generate a GDM and/or DCI Proposal.
- The distinction between a General Dollar Magnitude Proposal and a Detailed Cost Impact Proposal.
 - Whether the GDM Proposal and DCI Proposal described in the current rule can be combined into a single proposal.
 - Whether there is a need to certify GDM and/or DCI Proposals.
 - The need for rationale to accompany a CFAO's request for submission of a DCI Proposal.
- The amount of flexibility provided for in the format of cost

Outline of Key Issues

Proposed Rule - FAR Part 30, CAS Administration

impact proposals.

- Format requirements versus guidelines.
 - The feasibility of establishing minimum threshold requirements for GDM and/or DCI Proposals.
 - The number of contract types needed.
 - Whether and to what extent the rule should emphasize CFAO advance consultation with the auditor and the contractor.
 - Whether the GDM and/or DCI proposal should include the contract number and/or agency.
- The method of computing cost impacts for accounting changes and noncompliances.
 - Whether the computation is based on estimates to complete or original contract prices for noncompliances and/or accounting changes, and whether the basis of this computation differs between contract types.
 - The feasibility of requiring use of current forward pricing rates.
 - The extent of inclusion of cost impacts on future contracts.
 - Whether the method of computation should differ based on whether the change occurs at the home office or the segment.
 - "Cost estimating" versus "cost accumulation" noncompliances.
 - Whether there is a need to distinguish between a cost estimating and cost accumulation noncompliance.
 - The difference between a cost estimating and cost accumulation noncompliance.
 - If and when a particular contract can be subject to both a cost estimating and cost accumulation noncompliance.
 - The requirement to notify the Government 60 days prior to implementing an accounting change.

Outline of Key Issues

Proposed Rule - FAR Part 30, CAS Administration

- The feasibility of requiring advance notification of changes.
 - The feasibility of the requirement to notify the government within 60 days after award of a contract that triggers a mandatory change.
 - The purpose of retroactive changes.
 - Whether there is a need to prohibit retroactive changes beyond the contractor's current fiscal year.
- Definition of offsets.
 - What constitutes an offset.
- Criteria for using the offset process.
 - Whether offsetting is a discretionary or mandatory requirement (whether CFAO's must offset to the maximum extent practical).
 - Whether the offset process must give approximately the same result, in the aggregate, as if individual contracts were adjusted.
 - The proper way to implement the concepts of increased and decreased costs.
 - The extent the working group guidance papers can be utilized in developing offset criteria.
- Offsetting cost increases on one type of contract (e.g., fixed price) with cost decreases on another type of contract (e.g., cost reimbursable).
- Offsetting cost impacts of multiple changes that occur within the same year.
 - To what extent are offsets permitted for multiple changes that occur in the same year.
 - To what extent are offsets permitted between segments for changes made at the direction of an intermediate or home

Outline of Key Issues

Proposed Rule - FAR Part 30, CAS Administration

office.

- To what extent are offsets permitted between noncompliances that occur in the same year, or between a noncompliance and an accounting change that occur in the same year.
- The treatment of undisclosed cost accounting practice changes.
 - Whether there is a need to define "undisclosed".
 - If and when undisclosed changes are treated as noncompliances.
 - If and when undisclosed changes are treated as voluntary changes.
 - The relationship between undisclosed changes and the requirement to remit interest for noncompliances where increased costs have been paid.
- Adjustments to firm fixed price contracts for cost impacts resulting from voluntary accounting changes.
 - If and when to adjust negotiated contract targets/ceilings for incentive (e.g., FPI and/or CPIF) contracts.
- Treatment of immaterial cost impacts as noncompliances.
 - Circumstances under which an immaterial cost impact is and is not treated as a cost estimating and/or cost accumulation noncompliance.
- Submission of a cost impact proposal when a contractor does not agree there is a noncompliance or an accounting change.
 - Whether to exclude from the requirement for submission of a cost impact proposal instances where the contractor does not agree a noncompliance or accounting change has occurred.
 - Whether to require and/or emphasize the need for the CFAO to make a decision regarding compliance/noncompliance, or accounting change/no accounting change, before requesting a cost impact proposal.

Outline of Key Issues
Proposed Rule - FAR Part 30, CAS Administration

- Adjustment of future indirect cost pools to reflect cost impacts.
 - If and when future indirect cost pools (forward pricing and/or incurred cost) are adjusted.
 - Whether the decision to adjust indirect cost pools requires mutual agreement.
- Criteria for what constitute a desirable change.
 - The criteria for CFAO's to follow in determining if a change is desirable.
 - The distinction between an exemption and a desirable change.
 - The criteria and process for exemptions.
 - The applicability date of an exemption (date of change, date of restructuring approval, date cost impact proposal is submitted, or some other date).
- Adjustment of profit/fee.
 - The circumstances under which adjustments of profit/fee are made for different types of contracts (cost reimbursable contracts, firm fixed price contracts, and other contract types).

Administration published in the Federal Register at 65 FR 20854 on April 18, 2000, which is included on this Webpage in the Word document entitled "Proposed FAR Part 30". The Director of Defense Procurement would like to hear the views of interested parties on what they believe to be the key issues pertaining to the proposed rule. An initial meeting was held on August 2, 2000. In preparation for that meeting, this office prepared a listing of possible issues, which is included on this Webpage in the Word document entitled "FAR Part 30 Issues". This listing has been updated to include the public input obtained during the August 2, 2000 meeting. The updated listing is available on this Webpage in the Word document entitled "FAR Part 30 Issues Identified on August 2".

Detailed public input on each of the issues contained in the updated listing will be solicited at the subsequent public meetings. The issues will be addressed at the meetings in the same order as they appear on the updated listing. The next public meeting is scheduled for August 24, 2000, from 9:00 A.M. to 4:00 P.M. at NCMA. The dates and times of subsequent meetings will be posted on this Webpage as they are finalized.

As an issue is addressed at a public meeting, we will annotate that on this Webpage. However, this does not preclude additional discussion of the issue at a subsequent meeting if such discussion is requested by any interested party. Current updates regarding the status of discussions on a particular issue or issues can also be obtained by calling Dave Capitano at 703-695-9764.

Streamlining the Cost Accounting Standards:

The Director of Defense Procurement, in conjunction with the National Contract Management Association (NCMA), is sponsoring a series of public meetings to discuss potential areas of

streamlining for the Cost Accounting Standards (CAS). The Director of Defense Procurement would like to hear the views of interested parties regarding any areas of the CAS that present streamlining opportunities (elimination, revision, and/or amendment), particularly in light of the evolution of Generally Accepted Accounting Principles, the advent of Acquisition Reform, and experience gained from implementation.

An initial meeting was held on August 3, 2000. In preparation for this meeting, this office prepared a listing of some possible streamlining areas, which is included on this Webpage in the Word document entitled "CAS Streamlining". This listing has been updated to include the public input obtained during the August 3, 2000 meeting. The updated listing is available on this Webpage in the Word document entitled "CAS Streamlining Issues Identified on August 3".

Detailed public input on each of the issues contained in the updated listing will be solicited at the subsequent public meetings. The next public meeting is scheduled for August 23, 2000, from 9:00 A.M. to 4:00 P.M. at NCMA. The order of topics to be addressed at the subsequent meetings is as follows:

An evaluation of those standards that have been identified for potential elimination (CAS 404, 405, 406, 407, 408, 409, 411, 417, and 420).

Whether the CAS threshold of \$500,000 should be raised to \$550,000 to match the raise in the TINA threshold.

Whether the CAS exemption for accounting practice changes should be revised.

Whether the CAS applicability requirements should be revised to

exclude firm fixed price contracts that are not subject to TINA.

Whether the requirement to file a Disclosure Statement should apply only to business units that are subject to full CAS coverage.

Whether the CAS requirements should include an exemption for commercial contractors.

An evaluation of those standards where potential revision, but not complete elimination, has been identified (CAS 401, 402, 403, 410, 412, 413, 414, 415, 416, and 418).

Whether the Disclosure Statement should be revised in a manner that ties it more directly to accounting practices.

As an issue is addressed at a public meeting, we will annotate that on this Webpage. However, this does not preclude additional discussion of the issue at a subsequent meeting if such discussion is requested by any interested party. Current updates regarding the status of discussions on a particular issue or issues can also be obtained by calling Dave Capitano at 703-695-9764.

Directions:

Public meetings will be held at the NCMA, 1912 Woodford Drive, Vienna, VA 22182. Directions may be found in the attached document entitled "Directions".

If you have any questions concerning the above information, please call David Capitano at 703-695-9764.

View a copy of the June 18, 1996 Report on Payment of

Special Report

COST ACCOUNTING STANDARDS

The Defense Department held two days of public meetings Aug. 2 and 3 on its controversial proposed rule on Cost Accounting Standards administration as well as on areas for possible CAS streamlining. Following are highlights of those meetings, which were hosted by the National Contract Management Association at its headquarters in Vienna, Va.

Industry Urges That CAS Administration Rule Focus On Equity, Materiality of Cost Impact to Government

The Defense Department Aug. 2 received input on the proposed Federal Acquisition Regulation rule on the treatment of a federal contractor's failure to comply with or changes to the cost accounting practices it has disclosed for use on CAS-covered contracts.

Contractor representatives at the public meeting urged that:

- Any rule should allow administrative contracting officers the discretion to use good business judgment to achieve an equitable result for both the contractor and the government in a particular situation.

- Cost impacts should be resolved using "generic data" reflecting a contractor's business mix, rather than individual contracts, whenever possible.

- Language and concepts that can simplify CAS administration and reduce burdens on both the government and contractors already exist—for example, in the FAR clause on CAS administration, and in working group papers developed by DOD during the period when the CAS Board was not funded.

DOD drafted the proposed FAR rule issued in April in light of government and contractor concerns that the CAS Board's proposals were overly complex and cumbersome (73 FCR 459). The CAS Board omitted coverage of process and administrative issues in its final rule on cost accounting practice changes, issued in June (73 FCR 705). It left such coverage to the FAR Council, of which DOD is a member.

DOD's effort to forge a consensus began in 1999 when government and industry representatives met to discuss alternatives to the CAS Board's proposed rule on cost accounting practice changes (73 FCR 11).

Continuing concerns on the part of contractors, industry and bar associations, and federal

officials regarding the FAR proposal (74 FCR 10) prompted DOD to attempt to resolve these concerns through public meetings.

The cost impact process is intended to ensure that the government does not pay increased costs when a contractor makes certain types of changes to the cost accounting practices it has disclosed for use under CAS-covered contracts. By law, the government is precluded from paying increased costs in the aggregate resulting from such changes.

Initial Suggestions. Among the suggestions made at the meeting were that the CAS administration rule:

- Provide criteria to help administrative contracting officers to determine the materiality of the cost impact to the government resulting from the cost accounting practice change.

- Establish that if a cost impact is "obviously immaterial," nothing more is required of the contractor.

- Make clear that ACOs should use good business judgment based on specific situations.

- Include some of the 1979 DOD working group guidance on the cost impact process.

- Allow use of generic data based on a contractor's mix of commercial and federal contracts—but not individual contracts—for purposes of showing the general dollar magnitude (GDM) of the impact on government contracts resulting from the change.

- Provide guidance for resolving cost impacts using generic data.

- If information beyond the GDM is needed, allow the ACO and the contractor to agree on a threshold for analyzing cost impacts on individual contracts.

- Do not distinguish between cost estimating and cost accumulating noncompliances, but

consider the effects of a particular noncompliance.

- Recognize that accounting practice changes may be dictated from the highest corporate levels, and that contractor accounting personnel may be required to implement them immediately, without giving the government 60 days' notice.

- Require that decisions on whether there has been a CAS noncompliance or accounting practice change be made before cost impact issues are considered.

Offsets Controversial. Offsets—that is, when increased costs to the government on one contract may be offset against decreased costs to the government on another contract—were a topic of controversy at the meeting, with some participants calling for the rule to define offsets.

Carol Covey, DOD deputy director of defense procurement (DDP) for cost, pricing, and finance, cited two primary issues:

- (1) how to use offsets to determine whether the government will pay increased costs in the aggregate; and

- (2) even if there are no increased costs in the aggregate to the government, there may be inequities among government agencies, as when a cost accounting practice change increases costs to NASA by \$5 million and decreases costs to DOD by \$5 million.

Contractor representatives maintained that in the second situation, the resolution should be treated as an internal government matter.

DDP's David Capitano stressed that the drafters of the proposed rule did not intend to allow the government to reap the benefits of decreased costs on cost-type contracts while requiring the contractor to absorb increased costs on fixed price contracts.

The next public meeting is scheduled for Aug. 24. Other meetings will be scheduled as necessary and announced on the Internet. There will be a final public meeting to review changes and remaining issues. DDP will then submit the draft rule to the Federal Acquisition Regulatory Council, which will then decide whether to issue a final rule or a revised proposed rule.

By MARTHA A. MATTHEWS

Industry, DOD Agree on Initial Priorities For Considering CAS Streamlining

Industry and Defense Department representatives at the Aug. 3 public meeting on streamlining the Cost Accounting Standards agreed on initial priorities for recommendations to present to the CAS Board.

Participants agreed that the early focus should be on the noncontroversial issues, including CAS standards that duplicate other standards—for example, generally accepted accounting principles, the Financial Accounting Standards that govern publicly traded companies, or the cost allocation standards in CAS 403, 420, or 418—and those which DOD and contractors agree can

CAS Administration Issues

The April 18 proposed FAR rule on Cost Accounting Standards administration outlines a three-step sequence of submissions by contractors, and encourages settlement at the lowest step possible:

- (1) an initial evaluation to determine the materiality—that is, the impact on government contract costs—of the cost accounting practice change;

- (2) if the cost impact is material, a general dollar magnitude (GDM) proposal reflecting the minimum data needed to resolve the cost impact; and

- (3) if the GDM proposal is insufficient or inadequately supported, a detailed cost impact (DCI) proposal.

Discussion Topics. Based on the comments received on the rule, DOD identified the following issues for discussion in the public meetings:

- when materiality determinations are made and what documentation is needed to make those determinations;
- the amount of effort required to generate a GDM proposal;
- the distinction between a GDM proposal and a DCI proposal;
- the amount of flexibility provided in the format of cost impact proposals;
- the method of computing cost impacts—use of estimates to complete, original contract prices, or forward pricing rates;
- “cost estimating” versus “cost accumulation” noncompliances;
- the requirement to notify the government 60 days before implementing a cost accounting practice change;
- the definition of offsets;
- criteria for using the offset process, which eliminates the need for adjusting individual contracts;
- offsetting cost increases on one type of contract—for example, fixed-price—with cost decreases on another type of contract—for example, cost reimbursable;
- offsetting cost impacts of multiple changes that occur within the same year;
- the treatment of undisclosed cost accounting practice changes;
- adjustments to firm fixed-price contracts for cost impacts resulting from voluntary accounting changes;
- treatment of immaterial cost impacts as noncompliances;
- submission of a cost impact proposal when a contractor does not agree there is a noncompliance or an accounting practice change;
- adjustment of future indirect cost pools to reflect cost impacts;
- criteria for what constitutes a desirable change; and
- adjustment of profit/fee.

be revised or eliminated without impairing the interests of either. These include:

- CAS 404, Capitalization of Tangible Assets;
- CAS 405, Accounting for Unallowable Costs;
- CAS 408, Accounting for Costs of Compensated Personnel Absence;
- CAS 409, Depreciation of Tangible Capital Assets;
- CAS 411, Accounting for Acquisition Costs of Material;
- CAS 417, Cost of Money as an Element of the Cost of Capital Assets Under Construction; and
- CAS 420, Accounting for Independent Research and Development and Bid and Proposal (IR&D/B&P) Costs.

Other initial priorities include:

- Expanding the exemption in the recent CAS rule on cost accounting practice changes as recommended in the DOD alternative submitted to the CAS Board by Under Secretary of Defense for Acquisition, Technology, and Logistics Jacques S. Gansler in February (73 FCR 272); and

- Revising the CAS coverage threshold to make it consistent with the Truth in Negotiations Act threshold.

Other, more controversial possibilities will be addressed in subsequent meetings.

Director of Defense Procurement Deidre Lee—who headed the Office of Federal Procurement Policy and chaired the CAS Board when it agreed to put streamlining on its agenda (73 FCR 244)—said that DOD will “do the staff work” to supplement the small staff available to the board, but the ultimate decisions on the recommendations will be up to the board.

Streamlining the CAS was one of the recommendations made in the April 1999 report of the panel convened by the General Accounting Office to consider the role and mission of the CAS Board in light of recent acquisition reforms.

Industry Urges Fresh Approach. Industry participants urged a “start from scratch” approach to CAS streamlining, in which industry and government representatives begin with a blank slate and consider what is needed to protect the government’s interests—and implement the CAS Board’s statutory mandate—while facilitating entry of new firms into the federal marketplace.

Robert Deppe of Lockheed Martin Corp. called for reducing the coverage and scope of CAS requirements, with more focus on simplifying administration than on individual standards. He said industry recommends:

- revising CAS disclosure requirements to apply to full CAS coverage to home offices only where necessary;
- greatly simplifying the CAS disclosure statement form;
- linking the CAS coverage threshold to the TINA threshold and increasing CAS thresholds related to home office allocations and capitalization;
- eliminating CAS coverage for firm fixed price contracts and getting rid of CAS flowdown to subcontractors on such contracts;
- expanding the CAS exemption related to cost accounting practice changes and creating a CAS exemption for commercial contractors—those with less than 10 percent government business; and
- eliminating cost allocation principles from the FAR.

Industry participants complained that the current CAS disclosure statement—which can run to 100 pages with attachments—is a tremendous barrier to entry into the government marketplace.

The current statement requires information that, while useful to the government, is available from the contractor through other means and does not bear on accounting practices, they said. An example is the current requirement to disclose all pension plans.

One government participant suggested revising the CAS disclosure statement to present the compliance alternatives available to contractors in various areas—in other words, to provide “an exposition of how to comply” with the various CAS standards.

While there was general agreement in favor of simplifying the disclosure form, there was also some concern that this might be beyond the scope of the current effort.

DOD: Issues With Individual Standards. David Capitano, of the DOD office of cost, pricing, and finance, enumerated possible areas for streamlining that have been identified by DDP. A copy of this listing is available on DDP’s Web site. DDP will update this listing based on input from the public meeting as well as input to be obtained by the Defense Contract Audit Agency.

Some meeting participants suggested that the CAS streamlining effort focus on reducing barriers to entry into the federal marketplace by commercial firms, while others said it should include clarifications to current standards in order to reduce disputes.

Participants from both industry and the government suggested that two of the most controversial CAS standards—CAS 412, Composition and Measurement of Pension Costs, and CAS 413, Adjustment and Allocation of Pension Costs—be excluded from the streamlining consideration. There is a fundamental division between industry and government on substantive issues regarding these standards, and both are currently the subject of litigation.

However, others argued that there are substantive issues not being litigated that might be considered, and process issues that could also be examined.

The group generally agreed to the following criteria for considering revision/elimination of particular standards:

- Is there already sufficient guidance from other sources—for example, GAAP, FAS, or CAS allocation standards?
- Does the standard address policy issues rather than accounting practices?
- Does the standard pose a barrier to new entrants to the federal marketplace, and could that barrier be reduced by CAS revisions?
- Is the benefit to be achieved from a revision significant?

The next meeting in the series is scheduled for Aug. 24. Streamlining meetings will continue to be held back-to-back with meetings on CAS administration in order to facilitate participation by government and contractor personnel outside the Washington, D.C. area.

By MARTHA A. MATTHEWS

Information on developments related to the proposed rule on CAS administration and the CAS streamlining effort is available at: <http://www.acq.osd.mil/dp/cpf>.



"janes, peg" <mjanes@hq.dema.mil> on 07/19/2000 04:08:28 PM

To: Sandy Haberlin, Michael Sipple cc: "kobus, tricia" , "faris, jeanmarie"
Subject: RE: 99-025 CAS ADMINISTRATION

Sandy and Mike,

Based on the discussion at Table Talk this morning, I have advised Tricia Kobus that the Committee report has been put on hold and that a decision on either a new due date for the report or other disposition of the tasking will be made based on the status report we receive after the first public meeting.

I take issue with Carol Covey's proposal, as related in Sandy's note below, that the Committee will be expected to address comments received in the public meeting(s) in its report. We have no published process that would allow for that. I would propose that if additional comments are received in the public meeting(s) that we publish the rule again for public comment and that the Committee respond only to the comments received in response to the proposed rule(s). We can limit the comment period to 30 days so that it does not take up an inordinate amount of additional time. But, I believe we must do this. There simply is no precedent and no part of the rule-making process that allows us (i.e., the DAR Council and the CAS Committee) to consider comments received during a public meeting in finalizing the rule.

Peg

-----Original Message-----

From: Sandy Haberlin [mailto:(b)(2),(b)(6)]
Sent: Wednesday, July 19, 2000 2:16 PM
To: (b)(2),(b)(6)
Cc: Michael Sipple
Subject: 99-025 CAS ADMINISTRATION

Tricia and Peg, I spoke with Carol Covey and she indicated the following:

"Tricia Kobus who chairs the CAS Committee has told all the committee members they must attend the public meetings in order to hear and understand what the public has to say. Dave, Tricia, and I envision the committee will go back with new found understanding as a result of the give-and-take at the meetings and incorporate into its recommendations to the DAR Council fixes to the proposed rule. So yes, the committee report will reflect the results

of the meetings.

There is no panel for Tricia to be on. This will be me chairing a very informal meeting with just discussion back and forth. "

Tricia, I anticipate that in your report you will have to address the public

comments that you received in writing, and also address changes in the proposed

rule resulting from the public meeting. The Council will establish a new due

date for the report after we have a better understanding of the timing of all

the meetings. Sandy

Michael Sipple 06/30/2000 04:45 PM

To: Sandy Haberlin, Richard Layser
Subject: Public Meeting

Never heard back from Carol. I guess we'll have to see how this plays out. I don't expect either of you to fall on your sword over this; however, if Dee ask, I'd express our concerns.

Mike

----- Forwarded by Michael Sipple on 6/30/2000 4:43:53 PM -----

From: Michael Sipple on 06/29/2000 04:07 PM
To: Carol Covey/DefProc/PrinDep/OUSD_AT@OUSD_AT
cc:
Subject: Public Meeting

Missed your call. I have no problem with you co-chairing a FAR CAS public meeting as DoD's rep. Since this is a FAR rule, I recommend that you invite Ed Loeb to be the co-chair. I also recommend that you invite NASA (Tom O'Toole) and the chair of our CAS Committee (Trisha Kobis) to participate on the panel. Others?

In my opinion, NCMA is welcome to "host" the event at its HQ and participate fully in the audience, but I don't think a non-Gov't entity should be allowed to co-chair a FAR public meeting. (I guessing that the "NCMA" rep also submitted public comments.) Whether or not this is a FACA issue is for the attorneys to decide. I just don't like the idea.

Secondary issue--I'm not sure what to tell the Cmte regarding the public comments. I doubt that they will be excited about resolving public comments if they are cut out of the public meeting process.

I'm also trying to think of clever ways to let you and NCMA have at it. Maybe close this case and let you do your further research.

Mike




Carol Covey

07/19/2000 02:06 PM

Sent by: Carol Covey

To: Sandy Haberlin cc: David Capitano

Subject: Re: Various 

Sandy--On CAS administration case, Tricia Kobus who chairs the CAS Committee has told all the committee members they must attend the public meetings in order to hear and understand what the public has to say. Dave, Tricia, and I envision the committee will go back with new found understanding as a result of the give-and-take at the meetings and incorporate into its recommendations to the DAR Council fixes to the proposed rule. So yes, the committee report will reflect the results of the meetings. There is no panel for Tricia to be on. This will be me chairing a very informal meeting with just discussion back and forth. (Since Ed Loeb was less than enthusiastic about co-chairing it with me, and promised he'd get back to me the next day and it's been 10 days already, I assume he does not want to co-chair.)

On 99-027, let me answer your question on Friday.

Carol

----- In Response to -----

From: Sandy Haberlin on 07/19/2000 11:54 AM

To: Carol Covey/DefProc/PrinDep/OUSD_AT@OUSD_AT

cc:

Subject: Various

Carol, Just checking on a few things:

99-027 Compensation based on Changes in the Prices of Corporate Securities: Please provide me a new due date for your input.

CAS Administration: How do you envision the CAS Cmte fitting in to the public meeting process? Will the Chair be on the panel? Right now they are tasked with providing a cmte report - obviously it must be put on hold until the process is over. Do you envision that the results of the meetings will be reflected in the cmte report (along with analysis of public comments)?

Sandy

Case Memorandum

Date: June 29, 2000

Case Title: CAS Administration

Discussion: Mike Sipple, the Acting Director of the DAR Council and the undersigned spoke with Carol Covey, the deputy Director (Cost, Pricing, and Finance) regarding the public comments. Ms. Covey indicated that she had spoken with Dee Lee, Director, Defense Procurement, today and they had agreed to conduct a public meeting, and that Ms. Covey would co-chair the meeting, along with NCMA.

The meeting is planned for mid-end of July.

Name/Title/Signature Sandra Haberlin, Case Manager:

Case Management Record

Discussion Handout

FAR Case 1999-025		Date May 4, 2001	
Title Cost Accounting Standards Administration			
Priority	Submitted By Janes		Originator Code DCMA
Case Manager Haberlin		Case References	
FAR Cites		DFARS Cites	
Cognizant Committees Cost Accounting Standards Committee			
Coordination			
Recommendation Discuss: <u>5/31/01</u>			
<p>Attached is the Cost Accounting Standards Committee's report addressing the public comments received on the proposed rule, as well as additional comments obtained by the Committee as a result of a series of public meetings held in September and October, 2000 for the purpose of discussing the proposed rule. The Committee also made changes to the proposed rule to incorporate changes made by the CAS Board's final rule on "Changes in Cost Accounting Practices" published June 14, 2000. Substantial changes have been made to the rule as originally proposed necessitating that the revised proposed rule be published as a proposed rule. All Committee members concur in the report.</p>			

May 3, 2001

MEMORANDUM FOR DIRECTOR, DEFENSE ACQUISITION REGULATIONS COUNCIL

SUBJECT: Federal Acquisition Regulation (FAR) Case 99-025, Cost Accounting Standards Administration

I. CASE SUMMARY:

This report responds to your June 30, 2000 memorandum tasking the Cost Accounting Standards (CAS) Committee to review and analyze public comments and the CAS Board's final rule published June 14, 2000.

II. RECOMMENDATION:

Publish the revised rule at TAB D as a proposed rule.

III. DISCUSSION:

A. Background

In addition to public comments received on the proposed rule, additional comments obtained by the CAS Committee through public meetings sponsored by the Director of Defense Procurement were considered. The Committee's review of the public comments and public meeting discussions resulted in additional recommendations that are included at TAB C. The CAS Committee also made changes to the proposed rule to incorporate the content of the CAS Board's final rule on "Changes in Cost Accounting Practices" that was published in the Federal Register on June 14, 2000.

B. Committee Comments

Due to the extent of the revisions made to the previously published rule, the CAS Committee recommends the revised rule at TAB D be published as a proposed rule. The Committee has revised the CAS Administration clause at 52.230-6 and has proposed a new solicitation clause at 52.230-7. Nine public comments were received in response to the proposed rule. Substantial input was obtained at the series of public meetings held during the period of September 26 through October 17, 2000. The input addressed thirteen key elements of the proposed rule. A summary of the input and the CAS Committee response for each of these key

elements is included at TAB A. A summary of additional Committee recommendations is included at TAB B and a matrix summarizing the public input is included at TAB C.

CONCLUSION:

The members of the CAS Committee listed below participated in discussions of the case and concur with the report.

Tricia Kobus
Chairman, Cost Accounting
Standards Committee

CAS Committee Members—Concurrence

David Capitano, OSD	Lou Becker, NASA
Michael Gallagher, Army	Linda Huff, EPA
Joyce Runyan, Navy	Susan Barajas, DCAA
Paul A. Schill, Air Force	Lawrence Rabyne, DCMA Legal

TAB A—Responses to Public Comments

TAB B—Additional Committee Recommendations

TAB C—Matrix Summary of Public Comments

TAB D—Revised Proposed Rule (Clean Copy)

TAB E—Revised Proposed Rule (Line In/Line Out)

RESPONSES TO PUBLIC COMMENTS

FAR Case 99-025

Nine public comments were received in response to the proposed rule. In addition, substantial input was obtained at the series of public meetings held during the period of September 26 through October 17, 2000. The public input addressed thirteen key elements of the proposed rule. The following is a summary of the public input and the CAS Committee response for each of these key elements:

A. Offsets

1. Changes made at direction of the corporate office.

Three commenters recommended that the rule require the CFAO to offset cost increases at one segment of a company with cost decreases at another segment if the accounting change is made at the direction of a higher organization level such as the home office, even though the change may not result in costs flowing between the segments.

Committee Response

The Committee disagrees. The Committee believes there are three key issues:

a. First, there are accounting changes that result in costs flowing between segments. When a change in cost accounting practice causes costs to flow between segments, the revised language at 30.604(h)(2) requires the CFAO to combine the cost impact for all affected segments. This is necessary to determine the aggregate increased cost paid resulting from that change.

b. Second, there are changes that affect the costs of only one particular segment. In these cases, the cost impact of the change in one particular segment does not affect the contract costs of any other segment (e.g., the implementation of a common cost accounting practice for two or more segments). For purposes of computing aggregate costs paid, the CFAO may, but is not required to, combine the cost impact of a change at one segment with the cost impact of a change at another segment (see 30.606(a)(3)(ii)).

c. Third, there is the case where a particular segment implements multiple changes at the same time. For purposes of computing aggregate increased costs paid, the CFAO may, but is not required to, combine the cost impact of the changes. The Committee recognizes that it may be administratively expedient to compute and resolve a single cost impact rather than separately computing a cost impact for each of the changes. Thus, the revised language at 30.606(a)(3)(i) permits, but does not require, the CFAO to combine the impact of multiple cost accounting

changes within the same segment or intermediate/home office provided the changes are implemented in the same fiscal year.

2. Requirement for offset process to give approximately same results as individual contract adjustments.

One commenter objected to the proposed language at 30.606(a)(2) that requires the CFAO to "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." The commenter believes this provision would unnecessarily and improperly limit the contracting parties' flexibility.

Committee Response

The Committee agrees that the proposed language is potentially confusing and has deleted it from the revised rule.

3. CFAO "may" offset.

Two commenters objected to the proposed language at 30.606(d) that permits but does not require the CFAO to offset increased cost to the Government against decreased cost to the Government. The commenters noted that the implementing statute requires that any contract price adjustment protect the United States from payment "in the aggregate" of increased cost and in no case shall the Government recover costs greater than the increased cost. They believe if the CFAO denies the contractor a right to offset increased costs with decreased costs, the CFAO would be in violation of the statute.

Committee Response

The Committee agrees that the proposed language is potentially confusing. The Committee intended for the proposed language to address offsets between executive agencies, but recognizes that it can be interpreted as permitting the CFAO to recover contract cost increases while not recognizing any contract cost decreases. The term "offsets" has been removed from the proposed language. To avoid potential confusion, the revised language separates the concept of computing aggregate increased cost and resolving the cost impact.

4. "Offsets" not defined.

Two commenters noted that the term "offsets" is not defined. They questioned whether the term applied to offsetting within the same type of contracts, between different types of contracts (e.g., fixed price and cost reimbursable), or both.

Committee Response

The Committee agrees that the term "offsets" is not defined. As discussed in Comment 3 above, the Committee believes it is preferable to eliminate this term rather than define it.

5. Multiple changes that occur in the same accounting period.

Two commenters recommended the proposed rule permit the contractor to combine the impact of multiple accounting changes that occur in the same accounting period. They believe this would significantly reduce the administrative burden associated with changes in cost accounting practices.

Committee Response

The Committee agrees it would be advisable to permit, but not require, the CFAO to combine the impact of multiple cost accounting practice changes that occur within the same segment or intermediate/home office provided the changes are implemented in the same cost accounting period.

B. Materiality

Five commenters expressed concern that the proposed rule did not provide the CFAO the flexibility to make a materiality determination before requiring submittal of a GDM proposal. Numerous attendees at the public meetings also expressed this concern. They believe, in many cases, the CFAO can determine that the cost impact is immaterial without the need to expend the administrative resources necessary to prepare and review a GDM proposal.

Committee Response

The Committee agrees. The proposed language at 30.602(b) has been revised to state that a determination of immateriality may be made before or after a GDM proposal has been submitted, depending on the particular facts and circumstances.

C. Desirable Changes

Three commenters recommended the proposed rule provide additional guidance to facilitate the CFAO's determination of whether a unilateral change is desirable. These commenters were concerned that the phrase "desirable and not detrimental to the Government" would be based only on whether the Government pays more. One suggestion was to add the examples provided in the February 29, 2000 letter from OUSD(AT&L) to the CAS Board.

Committee Response

The Committee agrees it would be helpful to provide additional guidance regarding what constitutes a desirable change. The proposed language at 30.603-2(b)(3) has been revised to include some factors for the CFAO to consider in determining whether or not a change is desirable. However, even if one or more of the factors is present, the CFAO may still deny the request for a desirable change.

D. Form and Content of the General Dollar Magnitude (GDM) and Detailed Cost Impact (DCI) Proposals

1. Requirements for GDM and DCI reduce flexibility.

Five commenters stated that the requirements for the GDM and DCI proposals would significantly reduce existing flexibility. These commenters, as well as several commenters at the public meetings, expressed concern that the proposed rule did not provide the CFAO and contractor the flexibility to apply practical solutions to the cost impact process.

Committee Response

The Committee agrees. The rule has been revised to state that the CFAO may:

- a. Make a materiality determination prior to receiving a GDM proposal,
- b. Permit the GDM proposal to be in any format acceptable to the CFAO, and
- c. Permit the DCI proposal to include only those contracts above a threshold agreed to by the contracting parties.

2. Effort required to generate a GDM versus a DCI.

Four commenters stated that there was no significant difference in the effort required to generate a GDM versus a DCI proposal. These commenters, as well as numerous commenters at the public meetings, noted that the proposed rule required the GDM and DCI proposals to include the cost impact for "all other contracts." To determine the cost impact for "all other contracts," the contractor would need to compute the cost impact for all contracts. This negates the benefits of the GDM, which is intended to reduce the administrative effort while providing sufficient data to resolve the cost impact.

Committee Response

The Committee agrees that the proposed language may negate the benefits of the GDM. The proposed language was intended to reduce administrative effort while providing sufficient data to resolve the cost impact. However, the Committee recognizes that including a category for "all other contracts" in the proposed language could be interpreted as requiring the contractor to expend significant effort in computing the cost impact for those contracts. The proposed rule has been revised to permit the GDM proposal to be based on any method that reasonably approximates the cost impact, including sampling a representative universe of contracts or applying the difference in indirect rates to affected CAS-covered contracts.

3. Computation of cost impact for priced vs. unpriced work.

One commenter took exception to the proposed method for computing cost impacts when there is a change in cost accounting practice. The proposed rule requires the CFAO to specify a threshold based on the contract estimates to complete. The commenter stated that, for cost type

contracts, many such estimates include both priced and unpriced contract work, and that the cost impact should be based only on priced contract work.

Committee Response

The Committee believes this issue is more appropriate for agency guidance than regulation. In addition, provided the contractor is consistent in its application, the inclusion of unpriced contract work should not affect the cost impact calculation. The estimate to complete for the unpriced work should be the same before and after the change, since both estimates should be computed using the changed cost accounting practice.

4. Computation of cost impact for fixed-price contracts.

Two commenters stated that using estimates to complete for fixed-price contracts may produce inappropriate results if the contract is in an over/under-funded status. They recommended using the negotiated contract price rather than estimates to complete. This concern/recommendation was also expressed by some commenters at the public meetings.

Committee Response

The Committee disagrees with the recommendation. While there is a certain theoretical purity to using the negotiated contract price for adjusting fixed-price contracts for cost accounting practice changes, there are several serious impediments to that approach. Although the parties to a fixed-price contract have agreed to a total price, there is often no agreement as to how much of the price represents cost and how much represents profit, and seldom an agreement on the amount of any individual cost element. Further, many fixed-price contracts will have undergone numerous price changes due to engineering modifications and other changes. In such cases, tracking an individual cost element may prove virtually impossible. There is also the danger that the confusion resulting from the attempt to reconstruct the original data will provide an opportunity to re-price loss portions of cost performance that have elapsed prior to the point of the change. For these reasons, the use of estimates to complete is appropriate rather than the negotiated contract price.

5. Threshold for submitting GDM and DCI proposals.

One commenter recommended the GDM/DCI proposal include only those contracts with a cost impact in excess of \$100,000. The commenter believes that a \$100,000 threshold would capture all material cost impacts while minimizing the number of contracts/subcontracts requiring price adjustments.

Committee Response

The Committee disagrees. Setting a threshold based on the amount of the cost impact would require the contractor to compute the impact for every contract so the CFAO could determine which contracts had impacts in excess of the threshold. This negates the benefits of the GDM proposal. After the cost impact has been determined, the CFAO has the flexibility to

adjust any or all of the contracts or use an alternative method. The proposed rule already provides flexibility so the CFAO does not have to adjust every contract.

6. Number of contract types.

Three commenters recommended the number of contract types be reduced or eliminated. These commenters believe the listing of contract types, if included, should be expressed in terms of the minimum level of detail necessary. This belief was also expressed by several attendees at the public meetings.

Committee Response

The Committee agrees. The rule has been revised to include only two contract categories, fixed-price and flexibly-priced. The revision also references the FAR provisions that define the contract types in each category.

E. Responsibilities and Roles of the CFAO

1. Determining cognizant Federal agency.

One commenter recommended the proposed rule include specific requirements for determining the cognizant Federal agency. Currently, the cognizant Federal agency is the agency that has the predominant amount of work. The commenter believes this is ambiguous and that the FAR Council should make the designation very specific.

Committee Response

The Committee disagrees that FAR Part 30 should address this issue. FAR 42.003 is the provision in question. This provision defines the cognizant Federal agency as the agency with the largest dollar amount of negotiated contracts, including options. The Committee believes Part 42 is the appropriate section to place this provision. Since this section is outside the scope of this Committee's tasking, the Committee recommends this comment be forwarded to the DAR Council for review and/or disposition.

2. Signing contract modifications.

One commenter questioned why the proposed rule requires the CFAO to distribute contract modifications to awarding agencies for signature. If the CFAO can unilaterally adjust contracts at FAR 30.606(c)(4), then the CFAO should also be able to sign bilateral contract modifications.

Committee Response

The Committee agrees. The proposed language at 30.606(c)(4) has been revised to require the CFAO to execute the modifications. This is consistent with the CFAO responsibilities in FAR 42.302(a)(11)(iv).

3. CFAO request for DCI proposal.

Two commenters recommended the CFAO be required to justify the need for a DCI proposal. In addition, several attendees at the public meetings recommended the CFAO be required to provide the contractor with rationale as to why the GDM proposal could not be used to resolve the cost impact.

Committee Response

The Committee disagrees that additional language is needed. The proposed language at 30.604(f)(2) and 30.605(e)(2) require the CFAO to request a DCI proposal when the GDM proposal is not sufficient to resolve the cost impact. The Committee believes this is sufficient supporting rationale for any CFAO request for a DCI proposal. The Committee believes requiring specific CFAO rationale could delay the cost impact process and/or result in disputes.

F. Noncompliances

1. Immaterial noncompliances.

Two commenters recommended the concept of immaterial noncompliances at 30.605(c)(2) be deleted. These commenters, along with several others at the public meetings, believe a CFAO should only make a finding of noncompliance when the amounts involved are material. They note that CAS 402, 404, and 418 contain specific language that requires a material impact before a noncompliance can exist. These commenters were concerned that Table 2 in FAR Part 15 requires contractors to notify Procuring Contracting Officers (PCOs) if they have been notified that they are or may be in noncompliance. Even when there is an immaterial cost impact, this notification extends the award process and requires expenditure of unnecessary effort by both the Government and the contractor.

Committee Response

a. The Committee believes it is important for the Government to document any noncompliance, even when it is immaterial. Such documentation protects the Government's rights should the cost impact of the noncompliance become material in the future. When a particular CAS provision specifically stipulates that a practice is compliant if the impact is immaterial, the Committee agrees a noncompliance would not exist. However, most of the provisions in CAS do not contain such a stipulation.

b. While the Committee believes the Government must document any noncompliance, we agree that the PCO does not need to be notified when the noncompliance has an immaterial impact. Therefore, the Committee recommends the DAR Council consider amending the provisions in Table 2 of FAR Part 15 to eliminate the need to notify the PCO when there is an immaterial cost impact.

2. Inadvertent noncompliances.

Two commenters recommended the proposed rule include language to address inadvertent contractor actions. They note that the Preamble to CAS 405 states "where a good faith effort has been made by a contractor in the development and implementation of his cost accounting rules, procedures, and practices, to provide for identification of expressly unallowable costs, it is intended that inadvertent failure to properly classify a particular item of cost will not be regarded as noncompliance."

Committee Response

The Committee disagrees with the recommendation. The Committee believes that, in most cases, it would be extremely difficult for a CFAO to determine whether a noncompliance was inadvertent or deliberate. This could result in significant additional administrative burden and/or disagreement. The Committee also does not believe a Preamble comment related to a single standard should be applied to any other standard or CAS regulation. In fact, the general concept of inadvertent versus deliberate noncompliances existed in the CAS regulations during the 1970's but was removed in 1978.

3. Undisclosed cost accounting practice changes.

Two commenters objected to the requirement at 30.603-2(e) that the CFAO must consider any change a noncompliance if the notification requirements are not met. The commenters believe the proposed regulation would act as a penalty provision for late paperwork. They state that a cost accounting practice change should be evaluated on the merits of the case, not on the timing of the submission of paperwork.

Committee Response

The Committee partially agrees. The rule has been revised at 30.603-2(c)(2) to permit, but not require, the CFAO to determine that a change made without notification is noncompliant. The Committee realizes there may be situations when a contractor submits "late paperwork," and the CFAO does not believe the circumstances warrant determining the change to be noncompliant. Conversely, there may also be instances where a contractor implements the change without notice and the CFAO believes the circumstances warrant determining the change to be noncompliant. It is imperative the Government be protected from instances where a contractor implements a change without notification. If the Government does not have the right to determine such changes to be noncompliant, a contractor could argue that whenever there is a failure to consistently follow disclosed practices, it is merely a failure to notify rather than a noncompliance. Thus, the Committee believes the CFAO should retain the ability to determine the change to be noncompliant.

4. "Estimating" and "accumulating" noncompliances.

Two commenters recommended the proposed rule specifically state that a failure to properly estimate costs only affects fixed-price contracts and a failure to properly accumulate

costs only affects flexibly priced contracts. Another commenter stated that a single contract should be subject to only one cost impact adjustment, i.e., either for cost estimating or cost accumulation (but not for both). In addition, several commenters at the public meetings questioned the need to add two new terms, "estimating noncompliance" and "accumulating noncompliance." These commenters noted a situation where Government personnel were citing a contractor for having an estimating noncompliance rather than stating what CAS provision the contractor was in noncompliance with (e.g., noncompliance with CAS 401).

Committee Response

The Committee believes that specific statements regarding the effects of different noncompliances on different types of contracts is more appropriate in agency guidance rather than the FAR. In addition, the Committee does not believe a contract is always limited to one type of cost adjustment. There are certain types of contracts (e.g., time and materials) that include both a fixed and a cost type portion. However, the Committee agrees the terms "estimating noncompliance" and "accumulating noncompliance" could cause confusion. The Committee has eliminated these terms and defined the term "noncompliance" at 30.001.

G. Notifications and Determinations

1. Earlier notification of changes by contractor.

One commenter stated that sixty days is insufficient for the CFAO to process a cost accounting practice change. This commenter recommended requiring the contractor to submit the change at least 120 days in advance. This issue was also raised by several attendees at the public meetings. The input at the public meetings included recommendations to reduce the number of days, increase the number of days, and completely eliminate any requirement that referenced a specific number of days.

Committee Response

The Committee disagrees. The Committee has seen no evidence to show that 60 days is insufficient to determine whether the description of the change is adequate and compliant.

2. Lack of notification should not preclude contractor implementation of a cost accounting practice change.

One commenter stated that the requirement to notify the CFAO at least sixty days in advance of implementing a cost accounting practice change would unduly restrict the implementation of new accounting practices. The commenter stated that contractors should not be forced to delay making necessary and beneficial changes to their cost accounting practices while awaiting Government review. The commenter also states that sixty days may not be practicable in a dynamic business environment.

Committee Response

The Committee has seen no evidence to indicate that sixty days notice is insufficient. In addition, the proposed language provides the flexibility to establish an alternative mutually agreeable date. In regard to precluding implementation of contractor cost accounting practice changes, the Committee believes the commenter has misinterpreted the proposed language. It is intended to address the proper treatment of cost accounting practice changes (unilateral changes versus noncompliances), as opposed to whether the change can be implemented. The Committee believes the notification requirement is needed to provide expediency and fairness to the cost impact process. It is not intended to preclude a contractor from implementing new cost accounting practices. A contractor may implement a change in cost accounting practice without providing the required notice to the Government. However, when that occurs, the revised language at 30.603-2(c)(2) permits the CFAO to determine the change a failure to follow a cost accounting practice consistently and process it as a noncompliance.

3. Initial finding of compliance/noncompliance.

One commenter stated that 15 days after receiving an audit report of alleged noncompliance is insufficient time to make an initial finding of compliance/noncompliance. The commenter recommended the provision be changed to permit the CFAO a longer period.

Committee Response

The Committee disagrees. The Committee believes the 15 days is sufficient time to issue a "notice of potential noncompliance" (this term has replaced the term "initial finding" in the previously proposed rule). One of the reasons for documenting the process in the FAR is to reduce the time needed to administer cost impacts. The Committee has seen no evidence that 15 days is insufficient time to issue the notice.

4. CFAO evaluation of the GDM proposal.

Two commenters recommended the rule require the CFAO to evaluate the GDM Proposal within 60 days of receipt.

Committee Response

The Committee disagrees. The Committee believes the potential cost of such a change outweighs any potential benefits. A 60 day requirement could cause disputes concerning the adequacy of the GDM proposal since the 60 days cannot reasonably start until an adequate GDM proposal is received. The commenters also did not provide a remedy for failure to comply with the recommended 60 day requirement.

5. CFAO notification of compliance or noncompliance.

Two commenters recommended the rule require the CFAO to notify the contractor and auditor of the compliance/noncompliance determination within 60 days after receipt of the contractor's rationale as to why the practice is compliant.

Committee Response

The Committee disagrees. The Committee has seen no evidence that, after receipt of the necessary information, CFAOs are failing to render timely compliance/noncompliance determinations.

6. CFAO withdrawal of initial finding.

Two commenters recommended the rule require the CFAO to immediately withdraw the initial finding of noncompliance if the CFAO agrees with the contractor that a noncompliance does not exist.

Committee Response

The Committee disagrees. The language at 30.605(b)(3)(iii) requires the CFAO to notify the contractor of the determination of compliance or noncompliance in accordance with FAR 1.704. The Committee does not believe the CFAO should also be required to issue a separate document withdrawing any prior preliminary "findings." However, the Committee does recognize that the term "initial finding" may cause confusion and has replaced the requirement for the CFAO to make an "initial finding" with a requirement to issue a "notice of potential noncompliance."

7. Final determination.

Two commenters recommended the rule require the CFAO to issue a "final determination" when the CFAO determines a cost accounting practice is noncompliant.

Committee Response

The Committee does not believe the term "final determination" should be added. However, the language at 30.601(a) and 30.605(b)(3)(iii) has been revised to reference the definition of "Determinations and Findings" at FAR 1.704. In addition, the revised rule requires the CFAO to issue a final decision in accordance with FAR 33.211 before making a unilateral contract adjustment.

8. Corrective action and cost impact proposals when disagreements exist.

Two commenters recommended that when the contractor disagrees with the final determination for either unilateral changes or noncompliances, the rule be revised to state that corrective action and a cost impact proposal are not required until after resolution of the issue.

Committee Response

The Committee disagrees. The Committee believes the process would be substantially lengthened if the FAR provided for a complete stoppage when a disagreement occurs.

H. Computing Cost Impact

1. Computation of cost impact for unilateral changes.

Under the proposed rule, the DCI proposal for unilateral (formerly called voluntary) changes must include all contracts with an estimate to complete in excess of a threshold established by the CFAO. One commenter recommended this threshold include only estimates to complete for priced work. Two other commenters recommended that the threshold be based on something other than an estimate to complete since compliance with the threshold would require a contractor to determine the estimate to complete for all contracts (not just those over the threshold).

Committee Response

The Committee agrees that using estimates to complete as a threshold for a DCI proposal is not always feasible since the contractor may have to determine the estimate to complete for all contracts. The rule has been revised to require submittal of a DCI proposal for all contracts in excess of a "specified amount."

2. Interest computation.

One commenter stated that, under the proposed rule, the interest computation for noncompliances must be included with the GDM and DCI proposals. This commenter recommended that the rule permit submission of the interest computation at a later date, separate from the GDM or DCI proposal.

Committee Response

The Committee agrees that interest does not need to be computed at the time the GDM or DCI proposal is submitted. The rule has been revised to eliminate this requirement. However, to assure that the necessary information for computing interest is included, the revised rule requires the GDM and DCI proposals to include the total overpayments made by the Government during the period of noncompliance. Total overpayments must be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal.

3. Level of profit.

One commenter recommended clarifying the term "level of profit." This commenter was not sure if this term meant the profit percentage or dollar amount.

Committee Response

The Committee agrees that clarification of the profit provision is needed. The revised rule requires the cost impact to include any profit, fee, or contract incentives associated with the increased/decreased costs. It states that the associated profit, fee, and contract incentives are based on the difference between the negotiated incentives, fee, and profit and the amounts that would have been negotiated had the cost impact been known at the time the contract was negotiated.

4. Use of forward pricing rates in computing cost impacts.

One commenter recommended the revised rule delete the requirement to use forward pricing rates to calculate cost impacts. The commenter stated that some contractors have agreements in place that permit use of actual cost data or some other technique for cost impact calculations.

Committee Response

The Committee agrees that, in some cases, forward pricing rates may not be the only way to calculate the cost impact. The revised rule deletes this requirement.

5. Requirement to adjust profit or fee.

Two commenters recommended the proposed rule be revised to state that a CFAO "may" make any "other" necessary adjustment to assure that the Government pays no more profit or fee than would have been paid had the cost accounting practice change or noncompliance not occurred. The proposed rule states that the CFAO "should" make any necessary adjustment.

Committee Response

The Committee recognizes that adjustment for profit or fee needs clarification. The revised rule specifically requires the cost impact to include any profit, fee, or contract incentives associated with the increased/decreased costs. It states that the associated profit, fee, and contract incentives are based on the difference between the negotiated incentives, fee, and profit and the amounts that would have been negotiated had the cost impact been known at the time the contract was negotiated.

6. Use of alternate methods.

The proposed rule does not permit use of an alternate method for resolving cost impacts if that method will result in an inappropriate increase in profit on contracts beyond the level negotiated. Two commenters stated that profit on a fixed-price contract is not an identifiable amount and should not be included in the discussion of when use of an alternate method would be unacceptable.

Committee Response

The Committee agrees that use of an alternate method does not require a separate consideration of profit because, in the revised rule, profit is included in the computation of the cost impact. This separate requirement has been deleted.

I. Submission of GDM and DCI Proposals

1. Subcontractor refusal to submit a GDM proposal.

One commenter recommended the proposed rule be revised to specify the process for handling instances when a subcontractor refuses to submit a GDM proposal. The commenter notes that the proposed rule states the CFAO is responsible for resolving the changes, but does not state if or how the CFAO withholds payments on the subcontracts.

Committee Response

The Committee agrees. The language at 30.607 has been revised to state that when a subcontractor refuses to submit a GDM or DCI proposal, remedies are made at the prime contractor level.

2. Contractor refusal to submit a GDM proposal.

One commenter stated that the proposed rule removes the remedy for contractor failure to submit a GDM proposal. This commenter recommended that this remedy be reinstated.

Committee Response

The Committee disagrees. The Committee does not believe the remedy has been removed. The proposed language at 30.605(i) states that if the contractor does not correct the noncompliance or submit the required cost impact proposals, the CFAO must either withhold monies and/or adjust contracts.

J. Miscellaneous

1. Mandatory changes.

One commenter recommended clarifying the proposed language at 30.603-1(a) that states "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." The commenter questioned whether this proposed language applied to award of a new contract, a change in company status from modified to full coverage, or both.

Committee Response

The Committee agrees the language should be clarified. The revised rule defines a "required change" at 30.001.

2. System or list for identifying CAS-covered contracts.

One commenter addressed this issue. The commenter recommended the proposed subpart 30.604 on processing changes include a requirement for the contractor to maintain a cost accounting system that identifies CAS-covered contracts.

Committee Response

The Committee does not believe it is necessary to include a requirement for contractors to maintain a system that identifies all CAS-covered contracts. The current CAS Administration clause (FAR 52.230-6) already requires contractors to identify all contracts containing the CAS clauses when submitting cost impact proposals. The Committee has retained this language for DCI proposals in the revised rule. However, such identification may or may not be necessary for GDM proposals. For example, the CFAO may request identification of CAS-covered contracts if the GDM is based on a sample of contracts, in order for the CFAO to determine if the sample is representative of the universe. Therefore, the Committee recommends this requirement apply to GDM proposals only on a case-by-case basis at the discretion of the CFAO.

3. DoD Working Group Paper 76-7.

Two commenters recommended the proposed language regarding required changes be amended to address situations where the cost impact of the change cannot be computed at the time of proposal preparation or contract negotiations. The commenters recommended adding language from DoD Working Group Paper 76-7, which requires procurement officials to make use of contract provisions to protect the Government's interest when the cost impact cannot be computed.

Committee Response

The Committee agrees that a revision is needed. However, the Committee does not agree with the recommended wording. The rule has been revised to state that when the impact of a required change can be reasonably predicted at the time of contract negotiations, the contractor must prepare all contract pricing proposals based on the changed cost accounting practice for the period of performance for which the practice will be used unless otherwise agreed to by the Contracting Officer. The Committee does not believe it is advisable or appropriate to require the procurement official to include an additional CAS-type protection clause in the contract. Additional language is not needed to address CFAO actions when the impact cannot be reasonably predicted because the CAS provisions already provide the necessary price adjustments to address such situations.

4. Contractor right to appeal.

Two commenters recommended the proposed rule reinstate the language that currently exists in 30.602-3(d). This language states that the ACO may make a unilateral adjustment "subject to contractor appeal, as provided in the clause at 52.233-1, Disputes." These commenters believe it is important to retain language in the rule that specifically addresses the contractor's right to appeal.

Committee Response

The Committee does not agree that the current language should be reinstated. The process for contractor appeal is included in FAR Part 33. When contracts are to be unilaterally adjusted, the revised rule requires the CFAO to issue a final decision in accordance with FAR 33.211. Since FAR Part 33 addresses the contractor appeal process, the Committee believes this reference is more appropriate than repeating the Part 33 language in Part 30.

K. Definitions

1. Definitions of key terms.

Three commenters recommended the proposed rule define the terms "required," "voluntary," "desirable," and "noncompliant."

Committee Response

The Committee agrees. Additional definitions are needed to reflect the language in the final rule issued by the CAS Board in June 2000. The Committee has added definitions of the terms "required" (which replaces "mandatory"), "unilateral" (which replaces "voluntary"), "desirable," and "noncompliance."

2. Types of noncompliances.

Two commenters recommended revising the definition of types of noncompliances in 30.605 and moving it from 30.605 to 30.001.

Committee Response

The Committee partially agrees. Based on input obtained from the public meetings, the Committee believes defining types of noncompliances will cause more confusion than benefit. The proposed language at 30.605(a) has been revised to eliminate the types of noncompliances and to add a definition of the term "noncompliance" at 30.001.

L. Settlement

1. Use of methods other than contract adjustments.

One commenter stated that, while it was clear in certain parts of the proposed rule that contract adjustments are not the only method for resolving cost impacts, there were also a number of instances where contract adjustments are indicated as the only resolution.

Committee Response

The Committee disagrees. The rule clearly permits use of a method other than contract adjustments. In addition, the commenter did not provide any references as to where the rule indicated contract adjustments were the only method of resolution, nor did any attendees at the public meetings express such a concern.

2. Adjustment of fixed price contracts for unilateral changes.

One commenter stated that the FAR Council may be exceeding its statutory authority by including a requirement to adjust fixed-price contracts for unilateral changes. The commenter cites the Senate Governmental Affairs Committee Report attending Pub. L. 100-679, the statute authorizing the new CAS Board. The report stated that it "fully anticipates the new Board will analyze the circumstances under which [reduced cost allocations to fixed-price contracts occur due to a contractor accounting change] may or may not give rise to possible fiscal damage to the government and make any changes in existing rules or interpretations deemed appropriate as a result of the analysis" [Sen. Rpt. No. 100-424 Office of Federal Procurement Policy Act Amendments of 1988, US Code Cong. & Admin. News, 100th Cong – Second Sess., Vol. 7, at pp 5687, 5703]. The commenter alleges that since the CAS Board has not performed such an analysis, there can be no rule adjusting fixed-price contracts for unilateral changes.

Committee Response

The Committee disagrees. Section 26(j) of Pub. L. 100-679 specifically provides that all cost accounting standards, waivers, exemptions, interpretations, modifications, rules and

regulations promulgated by the original board shall remain in effect unless and until amended, superseded, or rescinded by the new Board. Thus, the original Board's regulations providing for price adjustments for fixed-price contracts for unilateral changes remain in force today. The language in the report stated that the Senate committee "anticipated" that at some point the new Board would review the circumstances in which the regulation is applied to see if any "changes" are appropriate. This committee's "anticipation" is hardly substantive legislation defeating the validity of the regulation that the statute itself carries forward in full force and effect "unless and until amended." In addition, the authority to require price adjustments for unilateral changes has existed since 1970, first in Pub. L. 91-379 §§719(h)(1) and subsequently in Pub. L. 100-679. The CAS Board has always had statutory authority to require price adjustments for unilateral changes. The CAS Board has always required such price adjustments. This CAS requirement was expressly carried forward by Congress in Pub. L. 100-679. Thus, authority is not an issue. One could debate whether the FAR Council would have authority to originate such a requirement if the CAS Board had not done so. However, the CAS Board did so and the FAR rule simply implements this requirement in FAR Part 30.

3. Materiality and withholds.

Two commenters recommended the proposed language at 30.602 be revised to delete the reference to withholding amounts payable. The commenters stated that the concept is "if material, adjust contracts," not "if material, withhold monies."

Committee Response

The Committee agrees. The proposed language has been deleted.

4. Contracting officer attendance at negotiations.

Two commenters recommended the proposed rule eliminate the requirement for the CFAO to invite contracting officers to negotiations. Alternatively, these commenters recommend the contract impact threshold for inviting contracting officers be raised from \$100,000 to \$500,000. These commenters questioned the need to involve contracting officers in negotiations when the CFAO has been given "final" authority to administer CAS.

Committee Response

The Committee agrees that it is not necessary for the CFAO to invite affected contracting officers to negotiations. However, the Committee believes it is important for the CFAO to coordinate with affected contracting officers prior to making contract adjustments or implementing alternative methods. This gives affected contracting officers an opportunity to provide input to the CFAO. The Committee also believes \$100,000 is an appropriate threshold for requiring such coordination.

5. Alternate method precluded for all contracts if only one contract fails criteria.

Two commenters stated that the proposed language at 30.606(d)(2) inappropriately precludes the use of an alternate resolution method for all contracts even if only one contract did not meet the criteria.

Committee Response

The commenters are addressing the criteria for "offsetting" between contract types. The Committee recognizes that the concept of "offsetting" was confusing in the previously proposed rule and has eliminated this section.

6. Application of alternate method to past and future years.

Two commenters recommended the proposed language at 30.606(c)(3)(i) be revised to permit the application of indirect cost pool adjustments to future years when the Government participation rate can be reasonably predicted.

Committee Response

The Committee agrees that application of indirect cost pool adjustments should be permitted in future years provided the application is made to final indirect cost rates and is at the discretion of the CFAO. The proposed rule has been revised.

M. Retroactive Changes

Two commenters recommended the proposed language at 30.603-2(d) be clarified to state that the applicability date is only for computing the cost impact of the change. The commenters noted that the contractor establishes the effective date of the change. If the Government does not agree with the retroactivity, it may determine the change noncompliant during the period of retroactivity. However, the effective date established by the contractor should be used for calculating the cost impact.

Committee Response

The Committee believes that the implementation date of the change is the proper date to use for computing the cost impact. The proposed rule has been revised to state that any change implemented without proper notice may be determined to be noncompliant. However, the rule does not prohibit the contractor from implementing the change.

N. Editorial

1. "Proposal" versus "Analysis".

Two commenters recommended changing the word "proposal" to "analysis" for the terms "GDM Proposal," "DCI Proposal," and "Cost Impact Proposal."

Committee Response

The Committee disagrees. The Committee believes the term "proposal" is appropriate since the GDM and DCI represent submissions that will be analyzed and used as the basis for negotiations.

2. Repetition between 30.604(e) and 30.604(f).

Two commenters recommended deleting the proposed language that specifies the format for a DCI Proposal at 30.604(f) because the degree of specificity is already included in 30.604(e).

Committee Response

The Committee agrees that the formats for the GDM and DCI proposals were very similar under the previously proposed rule. The revised rule establishes a clear difference between the two types of proposals.

3. FAR clauses duplicate Part 30.

Two commenters recommended deleting proposed language from the FAR clauses that duplicate the proposed language in FAR Part 30. They state that the risk of stating a regulatory requirement twice is that it may not be stated exactly the same and, therefore, will be interpreted differently.

Committee Response

The Committee disagrees. The Committee recognizes that traditionally the contractor responsibilities are in the contract clause and the language in FAR Part 30 contains guidance to Government personnel. The major reasons for revising the current FAR language is to establish a process that will be consistently followed by Government personnel. The Committee believes it is important that the entire cost impact process be delineated in FAR Part 30. However, the Committee does not believe it is prudent to eliminate contractor obligations and responsibilities from the contract clauses. It is important that these obligations and responsibilities be included in the contract clause to prevent misunderstandings and ensure the rights and obligations of the parties to the contract(s). Further, to preclude any misunderstanding or dispute, identical wording is used for any overlapping requirements between FAR Part 30 and the contract clauses.

4. Timing of offsets and contract adjustments.

Two commenters recommended that the proposed rule be clarified to state that offsets occur before contract adjustments.

Committee Response

The Committee agrees that the application of "offsets" versus "contract adjustments" should be clarified. The revised rule requires the computation of the cost impact (including the action previously referred to as "offsets") prior to the resolution of that impact.

5. Adequacy and compliance reviews.

One commenter recommended the proposed language at 30.202-7 be revised. The commenter recommended the process permit combining the two steps (an adequacy determination followed by a compliance determination) into a single step (adequacy and compliance determination done concurrently).

Committee Response

The Committee disagrees. The initial disclosure statement submission will normally include a description of numerous cost accounting practices. It is usually more efficient to determine if the descriptions of these numerous cost accounting practices are adequate before attempting to determine their compliance with CAS. The Committee has seen no evidence to indicate the current process is not the most efficient method for evaluating initial disclosure statement submissions.

ADDITIONAL COMMITTEE RECOMMENDATIONS**FAR Case 99-025****1. Offsetting between noncompliances and cost accounting practice changes and offsetting between noncompliances.**

The proposed language at 30.606(a)(3)(iii) has been revised to specifically prohibit the CFAO from offsetting the cost impact of a noncompliance with the cost impact of an accounting change. In addition, the proposed language at 30.606(a)(3)(iv) has been revised to prohibit the CFAO from offsetting the cost impact of one noncompliance with the cost impact of another noncompliance. The Committee believes permitting such offsets would be contrary to the CAS statute because it may result in incorrect recoveries of interest.

2. Inclusion of closed contracts and fiscal years.

The proposed language at 30.605(h)(1) has been revised to require the contractor to include affected closed contracts and fiscal years in the cost impact calculation.

3. Contract number and agency.

Several attendees at the public meetings noted that including the contract number and agency in the GDM proposal may lengthen the process since additional time is necessary to match internal contractor numbers with actual contract numbers. However, other attendees recommended the proposed rule include a requirement to include the contract number and agency for individual contracts when a DCI proposal is required. The Committee believes there is merit to both recommendations. The revised language at 30.604 and 30.605 requires identification of CAS-covered contracts for DCI proposals, but only requires it for GDM proposals when requested by the CFAO. However, the revised language does require the cost impact in both the GDM and DCI to be grouped by executive agency.

4. Submittal of revised disclosure statement pages:

The contract clause at 52.230-6(a) has been revised to state that, when submitting a description of a cost accounting practice change, revised Disclosure Statement pages should be included, if applicable.

5. Period of retroactive changes

The proposed language at 30.603-2(d) has been revised to limit the date of a retroactive change to no earlier than the beginning of the current contractor fiscal year in which the request was made.

6. New Solicitation Clause

The revised rule includes a new solicitation clause (52.230-7), Proposal Disclosure—Cost Accounting Practice Changes. This clause will be used to indicate if the contract award will result in a required or unilateral cost accounting practice change. The new clause requires contractors to submit a description of the proposed change to the Contracting Officer and the CFAO. The new clause also requires contractors to prepare price proposals using the changed practice for the period of performance for which the practice will be used.

The current solicitation clause at 52.230-1 requires contractors to submit a description of a change in cost accounting practice when a contract award will result in a required change in cost accounting practice, but there is no similar provision for unilateral or desirable changes. In addition, there is no current requirement for the price proposal to be based on the changed practice.

The current clause requires an offeror to certify that the practices used in estimating costs in a proposal are consistent with its disclosed practices. Sometimes, however, a contractor may be required to change its cost accounting practice upon receipt of a specific award – either a new standard becomes applicable upon award or the contractor will need to change a practice to remain in compliance with CAS. However, the contractor will not change its practice if the award is unsuccessful.

The Committee believes that when a contract award will trigger a cost accounting practice change, the proposal should incorporate the new practice and disclosure of the practice should be made during the proposal process. The Committee believes this requirement should also apply to unilateral and desirable changes that will be made only upon contract award. Proposals that are not prepared in accordance with the cost accounting practices to be used during contract performance significantly inhibit the proposal evaluation process. Further, the negotiated contract price must be adjusted after contract award to comply with CAS rules and regulations. The Committee believes it is more efficient to base contract award on a proposal priced consistent with the cost accounting practices to be used during contract performance.

**Summary of Public Comments
FAR Case 99-025**

TAB C

		1	2	3	4	5	6	7	8	9
	<u>Notifications/Determinations</u>									
1	Earlier notification of changes by contractor			X						
2	Lack of notification should not preclude contractor implementation of accounting change									X
3	Initial finding of compliance/noncompliance			X						
4	CFAO evaluation of the GDM proposal					X	X			
5	CFAO notification of compliance or noncompliance					X	X			
6	CFAO withdrawal of initial finding					X	X			
7	Final determination					X	X			
8	Corrective action and cost impact proposals when disagreements exist					X	X			
H	<u>Computations</u>									
1	Computation of cost impact for voluntary changes	X				X	X			
2	Interest computation	X								
3	Level of profit			X						
4	Use of forward pricing rates in computing cost impacts				X					
5	Requirement to adjust profit or fee					X	X			
6	Use of alternate methods					X	X			
I	<u>Submission of GDM/DCI</u>									
1	Subcontractor refusal to submit a GDM proposal			X						
2	Contractor refusal to submit a GDM proposal							X		
J	<u>Miscellaneous</u>									
1	Mandatory changes			X						
2	System or list for identifying CAS-covered contracts							X		
3	DoD Working Group Paper 76-7					X	X			
4	Contractor right to appeal					X	X			

Summary of Public Comments
FAR Case 99-025

		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>
K	<u>Definitions</u>									
	1 Definitions of key terms				X	X	X			
	2 Types of noncompliances					X	X			
L	<u>Settlement</u>									
	1 Use of methods other than contract adjustments				X					
	2 Adjustment of fixed price contracts for unilateral changes									X
	3 Materiality and withholds					X	X			
	4 Contracting officer attendance at negotiations					X	X			
	5 Alternate method precluded for all contracts if only one contract fails criteria					X	X			
	6 Application of alternate method to past and future years					X	X			
M	<u>Retroactive Changes</u>					X	X			
N	<u>Editorial</u>									
	1 "Proposal" versus "Analysis"					X	X			
	2 Repetition between 30.604(e) and 30.604(f)					X	X			
	3 FAR clauses duplicate Part 30					X	X			
	4 Timing of offsets and contract adjustments					X	X			
	5 Adequacy and compliance reviews									X
	Reference Key:									
	1. Paul J. Madden									
	2. DoD/Navy									
	3. Michael W. Paulini									
	4. Boeing Company									
	5. AIA									
	6. NDIA									
	7. DOD/IG									
	8. Lockheed Martin									
	9. ABA									

COST ACCOUNTING STANDARDS ADMINISTRATION
DRAFT PROPOSED RULE
FAR CASE 99-025

The proposed Federal Acquisition Regulation rule published at 65 FR 20854, April 18, 2000, serves as the baseline.

PART 30-COST ACCOUNTING STANDARDS ADMINISTRATION

Sec.

30.000 Scope of part.

30.001 Definitions.

* * * * *

Subpart 30.6--CAS Administration

30.601 Responsibility.

30.602 Materiality.

30.603 Changes to disclosed or established cost accounting practices.

30.603-1 Required changes.

30.603-2 Unilateral and desirable changes.

30.604 Processing changes to disclosed or established cost accounting practices.

30.605 Processing noncompliances.

30.606 Resolving cost impacts.

30.607 Subcontract administration.

* * * * *

30.001 Definitions. As used in this part--

"Cognizant Federal agency official (CFAO)" means the contracting officer assigned by the cognizant Federal agency to administer the Cost Accounting Standards.

"Desirable change" means a compliant change to a contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is therefore not subject to the no increased cost prohibition provisions of CAS-covered contracts affected by the change.

"Fixed-price contracts" means fixed-price contracts defined at 16.202, 16.203, 16.205 and 16.207, and the fixed-price portion of time-and-materials contracts (Subpart 16.6).

"Flexibly-priced contracts" means fixed-price contracts defined at 16.204 and 16.206, contracts other than fixed-price (Subparts 16.3 through 16.5), and the cost-reimbursement portion of time-and-materials contracts (Subpart 16.6).

"Noncompliance" means a failure in estimating and/or accumulating costs to--

- (1) Comply with applicable CAS; or
- (2) Consistently follow disclosed or established cost accounting practices.

"Required change" means a change in cost accounting practice that a contractor is required to make in order to comply with applicable Standards, modifications, or interpretations thereto, that subsequently become applicable to existing CAS-covered contracts due to the receipt of another CAS-covered contract. It also includes a prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the contractor to remain in compliance.

"Unilateral change" means a change in cost accounting practice from one compliant practice to another compliant practice that a contractor with a CAS-covered contract(s) elects to make that has not been deemed desirable by the CFAO and for which the Government will pay no aggregate increased costs.

* * * * *

Subpart 30.2-CAS Program Requirements

* * *

30.201-3 Solicitation Provisions

(a) * * *

(b) * * *

(c) The contracting officer must insert the provision at FAR 52.230-7, Proposal Disclosure - Cost Accounting Practice Changes, in solicitations for proposed contracts subject to CAS as specified in 48 CFR 9903.201 (FAR Appendix).

* * *

30.202-6 Responsibilities.

(a) * * *

(b) The contracting officer must not award a CAS-covered contract until the 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 cognizant auditor is responsible for conducting reviews of Disclosure Statements for adequacy and compliance.

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

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. The CFAO also must--

(i) If the Disclosure Statement is adequate, notify the contractor in writing, with copies to the contracting officer (for a proposal that triggers submission of a Disclosure Statement) and the auditor. The notice of adequacy must state that--

(A) The disclosed practices are adequately described and the CFAO is currently not aware of any additional practices that should be disclosed;

(B) The notice is not a determination that all cost accounting practices were disclosed; and

(C) The contractor must not consider a disclosed practice, by virtue of such disclosure, an approved practice for estimating proposals or accumulating and reporting contract cost data.

(ii) If the Disclosure Statement is inadequate, notify the contractor of the inadequacies and request a revised Disclosure Statement.

(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 must make a determination of compliance or take action regarding a report of alleged noncompliance in accordance with 30.605(b).

30.202-8 Subcontractor Disclosure Statements.

(a) When the Government requires determinations of adequacy 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 higher-tier CFAO must not change the determination of the lower-tier CFAO.

* * * * *

FAR 30.6-CAS Administration

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 Determinations and Findings (see 1.7) for all CAS-covered contracts, 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 subject to CAS, the contracting officer making the award must request the CFAO to perform administration for CAS matters (see Subpart 42.2). For subcontract awards, the contractor awarding the subcontract must follow the procedures at 52.230-6(k).

30.602 Materiality.

(a) In determining materiality, the CFAO must use the criteria in 48 CFR 9903.305 (FAR Appendix).

(b) A CFAO determination of immateriality--

(1) May be made before or after a general dollar magnitude proposal has been submitted, depending on the particular facts and circumstances; and

(2) Must be based on adequate documentation.

(c) When the amount involved is immaterial, the CFAO must--

(1) Make no contract adjustments and conclude the cost impact process; and

(2) In the case of noncompliance issues, inform the contractor that--

(i) The noncompliance should be corrected; and

(ii) 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.

(d) When the amount involved is material, CFAOs must adjust contracts or use another suitable method (see 30.606) for required, unilateral, and desirable changes, and CAS noncompliances.

30.603 Changes to disclosed or established cost accounting practices.

30.603-1 Required changes.

(a) *General*. Offerors must state whether the award of a contract would require a change to an established cost accounting practice affecting existing contracts (see 52.230-1). The contracting officer must notify the CFAO if the offeror states that a change in cost accounting practice would be required. (b) *CFAO Responsibilities*. Prior to making an equitable adjustment under the required change provision of 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine that--

(1) The cost accounting practice change is required to comply with a CAS, or a modification or interpretation thereof, that subsequently became applicable to one or more contracts; or

(2) The former cost accounting practice was in compliance with applicable CAS and the change is necessary to remain in compliance.

(c) *Notice and proposal preparation*. (1) When the award of a contract would require a change to an established cost accounting practice, the clause at 52.230-7 requires the contractor to--

(i) Submit a description of the changed cost accounting practice to the contracting officer and the CFAO as pricing support for the proposal; and

(ii) Prepare the contract pricing proposal based on the changed cost accounting practice for the period of performance for which the practice will be used.

(2) When a change is required to remain in compliance (for reasons other than a contract award) or to comply with a new or modified standard, the clause at 52.230-6 requires the contractor to--

(i) Submit a description of the change to the CFAO not less than 60 days (or such other date as may be mutually agreed to) before implementation of the change;

(ii) Submit rationale to support any contractor assertion that the cost impact of the change is immaterial; and

(iii) Prepare all contract pricing proposals based on the changed cost accounting practice for the period of performance for which the practice will be used unless otherwise agreed to by the Contracting Officer.

(d) *Equitable adjustments for new or modified standards.*

(1) Required changes made to comply with new or modified standards may require equitable adjustments, but only to those contracts awarded before the effective date of the new or modified standard (see 52.230-2, 52.230-3, or 52.230-5).

(2) When a contractor elects to implement a required change to comply with a new or modified standard prior to the applicability date of the standard, the CFAO must administer the change as a unilateral change (see 30.603-2). Contractors must not receive an equitable adjustment for increased costs paid by the United States prior to the applicability date unless the CFAO determines that the unilateral change is desirable.

30.603-2 Unilateral and desirable changes.

(a) *Unilateral changes.* (1) The contractor may unilaterally change its disclosed or established cost accounting practices, but the Government must not pay any increased cost, in the aggregate, as a result of the unilateral change.

(2) Prior to making any contract price or cost adjustments under the unilateral change provision of 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine that--

(i) The contract price or cost adjustments will protect the United States from the payment of increased costs, in the aggregate; and

(ii) The net affect of the adjustments will not result in the recovery of more than the increased costs paid by the United States, in the aggregate.

(b) *Desirable changes.* (1) Prior to taking action under the desirable change provision of 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine the change is desirable and not detrimental to the interests of the Government.

(2) Until the CFAO has determined a change to a cost accounting practice is a desirable change, the change is a unilateral change.

(3) Some factors to consider in determining if a change is desirable include, but are not limited to, whether--

(i) The contractor must change the cost accounting practices it uses for Government contract costing purposes to remain in compliance with the provisions of Part 31;

(ii) The change in cost accounting practice is directly associated with the application of commercial business practices to affected CAS-covered contracts that will result in significant benefits to the Government;

(iii) The contractor is initiating management actions directly associated with the change that will result in cost savings for segments with CAS-covered contracts over a period for which forward pricing rates are developed or five

years, whichever is shorter, and the cost savings are reflected in the forward pricing rates; and

(iv) Funds are available if the determination would necessitate an upward adjustment of contract cost or price.

(c) *Notice and proposal preparation.* (1) When a contractor makes a unilateral change, the contractor must follow the procedures listed at 30.603-1(c)(2).

(2) If a contractor implements the change in cost accounting practice without submitting the notice as required in paragraph (c)(1) of this subsection, the CFAO may determine the change a failure to follow a cost accounting practice consistently and process it as a noncompliance in accordance with 30.605.

(d) *Retroactive changes.* (1) If a contractor requests that a unilateral change be retroactive, the contractor must submit supporting rationale.

(2) The CFAO must promptly evaluate the contractor's request and must, as soon as practical, notify the contractor in writing whether the request is or is not approved.

(3) The CFAO must not approve a date that is before the beginning of the contractor's fiscal year in which the request is made. (e) *Contractor accounting changes due to external restructuring activities.* The requirements for contract price and cost adjustments do not apply to compliant cost accounting practice changes that are directly associated with external restructuring activities that are subject to and meet the requirements of 10 U.S.C. 2325. However, the disclosure requirements in 30.603-2 must be followed.

30.604 Processing changes to disclosed or established cost accounting practices.

(a) *Scope.* This section applies to required, unilateral, and 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. The CFAO must--

(1) If the description of the change is both adequate and compliant, notify the contractor in writing and--

(i) For required or unilateral changes (except those requested to be determined desirable), request the contractor submit a general dollar magnitude (GDM) proposal by a specified date, unless the CFAO determines the cost impact is immaterial; or

(ii) For unilateral changes that the contractor requests to be determined desirable, inform the contractor that the request must include supporting rationale and--

(A) For any request based on the criteria in paragraph 30.603-2(b)(3)(iii), the data necessary to demonstrate the required cost savings; or

(B) For any request other than those based on the criteria in paragraph 30.603-2(b)(3)(iii), a GDM proposal and any other data necessary for the CFAO to determine if the change is desirable.

(2) If the description of the change is inadequate, request a revised description of the new cost accounting practice.

(3) If the disclosed practice is noncompliant, notify the contractor in writing that, if implemented, the CFAO will determine the cost accounting practice to be noncompliant and process it accordingly.

(c) Evaluating requests for desirable changes. (1) When a contractor requests a unilateral change be determined desirable, the CFAO must promptly evaluate the contractor's request and, as soon as practical, notify the contractor in writing whether the change is desirable or the request is denied.

(2) If the CFAO determines the change is desirable, the CFAO must negotiate any cost or price adjustments that may be needed to resolve the cost impact (see 30.606).

(3) If the request is denied, the change is a unilateral change and must be processed accordingly.

(d) General dollar magnitude 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 that were awarded based on the previous cost accounting practice; and

(2) Assists the CFAO in determining whether individual contract price or cost adjustments are required.

(e) General dollar magnitude proposal content. The GDM proposal--

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) May use one or more of the following methods to determine the increase/decrease in cost accumulations:

(i) A sample of contracts representative of the contract universe.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts.

(B) Flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease in cost accumulations.

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in cost accumulations by executive agency (see 2.101), including any impact the change may have on contract incentives, fee, and profit.

(ii) For unilateral changes, the increased/decreased costs paid by the United States.

(4) When requested by the CFAO, must identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(f) *General dollar magnitude proposal evaluation.* The CFAO, with the assistance of the auditor, must promptly evaluate the GDM proposal. If the cost impact is immaterial, the CFAO must notify the contractor in writing and conclude the cost impact process with no contract adjustments. Otherwise, the CFAO must--

(1) Negotiate and resolve the cost impact (see 30.606). If necessary, the CFAO may request that the contractor submit a revised GDM proposal by a specified date with specific additional data needed to resolve the cost impact (e.g., an expanded sample of contracts or a revised method of computing the increase/decrease in cost accumulations); or

(2) Request that the contractor submit a detailed cost impact (DCI) proposal by a specified date if the CFAO determines that the GDM proposal is not sufficient to resolve the cost impact.

(g) *Detailed cost impact proposal.* The DCI proposal--

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) Must show the increase/decrease in cost accumulations for each affected CAS-covered contract unless the CFAO and contractor agree to--

(i) Include only those affected CAS-covered contracts exceeding a specified amount; and

(ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts, using the results in paragraph (g)(2)(i) of this section;

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the requirements at paragraph (e)(3) of this section.

(4) Must identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(h) *Calculating cost impacts.* The cost impact calculation must--

(1) Include all affected CAS-covered contracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., open or closed).

(2) Combine the cost impact for all segments if the effect of a change results in costs flowing between those segments.

(3) Compute the increase/decrease in cost accumulations for affected CAS-covered contracts based on the difference between--

(i) The estimated cost to complete using the current practice; and

(ii) The estimated cost to complete using the changed practice.

(4) For unilateral changes--

(i) Determine the increased/decreased cost paid by the United States for fixed-price contracts as follows:

(A) When the amount in (h)(3)(i) exceeds the amount in (h)(3)(ii) of this section, the difference is increased cost paid.

(B) When the amount in (h)(3)(i) is less than the amount in (h)(3)(ii) of this section, the difference is decreased cost paid.

(ii) Determine the increased/decreased cost paid by the United States for flexibly-priced contracts as follows:

(A) When the amount in (h)(3)(i) exceeds the amount in (h)(3)(ii) of this section, the difference is decreased cost paid.

(B) When the amount in (h)(3)(i) is less than the amount in (h)(3)(ii) of this section, the difference is increased cost paid.

(iii) Calculate the increased/decreased cost paid by the United States in the aggregate by adding--

(A) The increased/decreased costs paid for fixed-price contracts;

(B) The increased/decreased costs paid for flexibly-priced contracts; and

(C) The total increase/decrease in contract incentives, fee, and profit associated with the increased/decreased costs paid. The associated increase/decrease is based on the difference between the negotiated incentives, fee, and profit and the amounts that would have been negotiated had the cost impact been known at the time the contract was negotiated.

(5) For equitable adjustments for required changes--

(i) Increased cost accumulations are the basis for increasing contract cost or price; and

(ii) Decreased cost accumulations are the basis for decreasing contract cost or price.

(i) *Remedies.* If the contractor does not submit the accounting change description or the proposal(s) required in paragraph (d) or (g) of this section within the specified time, or any extension granted by the CFAO, the CFAO must--

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

(2) Take the following action(s)--

(i) 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/or

(ii) Issue a final decision in accordance with 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.

30.605 Processing noncompliances.

(a) *General.* Prior to making any contract price or cost adjustments under the noncompliance provision of 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine that--

(1) The contract price or cost adjustments will protect the United States from the payment of increased costs, in the aggregate; and

(2) The net affect of the adjustments will not result in the recovery of more than the increased costs paid by the United States, in the aggregate.

(b) *Notice and determination.* (1) Within 15 days after receiving a report of alleged noncompliance from the auditor, the CFAO must--

(i) Notify the auditor that the CFAO disagrees with the alleged noncompliance; or

(ii) Issue a notice of potential noncompliance to the contractor and provide a copy to the auditor.

(2) The notice of potential noncompliance must--

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

(ii) Allow the contractor 60 days (or other mutually agreeable date) to--

(A) Agree or submit reasons why the contractor considers the existing practices to be in compliance; and

(B) Submit rationale to support any assertion that the cost impact of the noncompliance is immaterial.

(3) The CFAO must--

(i) If applicable, review the reasons why the contractor considers the existing practices to be compliant and/or the cost impact to be immaterial;

(ii) Make a determination of compliance or noncompliance; and

(iii) Notify the contractor and the auditor in writing of the determination of compliance or noncompliance, consistent with 1.704.

(4) If the CFAO makes a determination of noncompliance, the CFAO must follow the procedures in paragraphs (c) through (h) of this section, as appropriate, unless the CFAO also determines the cost impact is immaterial. If immaterial, the CFAO must--

(i) Inform the contractor in writing that--

(A) The noncompliance should be corrected; and

(B) 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.

(c) *Correcting Noncompliances.* (1) The clause at 52.230-6 requires the contractor to submit a description of any cost accounting practice change needed to correct a noncompliance within 60 days after the earlier of--

(i) Agreement with the CFAO that there is a noncompliance; or

(ii) Notification by the CFAO of a determination of noncompliance.

(2) The CFAO, with the assistance of the auditor, should review the proposed change concurrently for adequacy and compliance (see 30.202-7). The CFAO must--

(i) If the description of the change is both adequate and compliant--

(A) Notify the contractor in writing;

(B) Request that the contractor submit by a specified date a general dollar magnitude (GDM) proposal, unless the CFAO determines the cost impact is immaterial; and

(C) Follow the procedures at paragraph (b)(4) of this section if the CFAO determines the cost impact is immaterial.

(ii) If the description of the change is inadequate, request a revised description of the new cost accounting practice.

(iii) If the disclosed practice is noncompliant, notify the contractor in writing that, if implemented, the CFAO

will determine the cost accounting practice to be noncompliant and process it accordingly.

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

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) May use one or more of the following methods to determine the increase/decrease in contract price or cost accumulations:

(i) A sample of contracts that is representative of the contract universe.

(ii) When the noncompliance involves cost accumulating, the change in indirect rates multiplied by the total estimated base for only flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease.

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in contract price and/or cost accumulations by executive agency (see 2.101), including any impact the noncompliance may have on contract incentives, fee, and profit.

(ii) The increased/decreased costs paid by the United States.

(iii) The total overpayments made by the Government during the period of noncompliance. The total overpayments must be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal.

(4) When requested by the CFAO, must identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(e) *General dollar magnitude proposal evaluation.* The CFAO must promptly evaluate the GDM proposal. If the cost impact is immaterial, the CFAO must follow the requirements in paragraph (b)(4) of this section. Otherwise, the CFAO must--

(1) Negotiate and resolve the cost impact (see 30.606). If necessary, the CFAO may request the contractor submit a revised GDM proposal, by a specified date, with specific additional data needed to resolve the cost impact (e.g., an expanded sample of contracts or a revised method of computing the increase/decrease in contract price and/or cost accumulations); or

(2) Request that the contractor submit a DCI proposal by a specified date if the CFAO determines that the GDM proposal is not sufficient to resolve the cost impact.

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

- (1) Must calculate the cost impact in accordance with paragraph (h) of this section.
- (2) Must show the increase/decrease in contract price and/or cost accumulations for each affected CAS-covered contract unless the CFAO and contractor agree to--
 - (i) Include only those affected CAS-covered contracts having--
 - (A) Contract values exceeding a specified amount when the noncompliance involves estimating costs; and
 - (B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and
 - (ii) Estimate the total increase/decrease in contract price and/or cost accumulations for all affected CAS-covered contracts using the results in paragraph (f)(2)(i) of this section;
- (3) May be in any format acceptable to the CFAO but, as a minimum, must include the information in paragraph (d)(3) of this section.
- (4) Must identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.
 - (g) *Interest.* In accordance with the clauses at 52.230-2, 52.230-3, or 52.230-5, the CFAO must--
 - (1) Separately identify interest on any increased cost paid by the United States as a result of the noncompliance;
 - (2) Compute simple 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:
 - (i) If the quarterly amounts billed during the period of noncompliance were approximately the same, use the average interest rate and midpoint for the period of the noncompliance as the baseline for the computation of interest.
 - (ii) If the quarterly amounts billed during the period of noncompliance were not approximately the same, use an alternate method.
- (h) *Calculating cost impacts.* The cost impact calculation must--
 - (1) Include all affected CAS-covered contracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., open or closed); and
 - (2) Combine the cost impact for all segments if the effect of a noncompliance results in costs flowing between those segments.
 - (3) For noncompliances that involve estimating costs, compute the impact on contract price only for fixed-price contracts, based on the difference between--

- (i) The negotiated contract price; and
- (ii) What the negotiated price would have been had the contractor used a compliant practice.

(4) For noncompliances that involve accumulating costs, compute the impact on cost accumulations only for flexibly-priced contracts, based on the difference between--

- (i) The costs that were accumulated under the noncompliant practice; and
- (ii) The costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice).

(5) Determine the increased/decreased cost paid by the United States for fixed-price contracts as follows:

- (i) When the amount in (h)(3)(i) exceeds the amount in (h)(3)(ii), the difference is increased cost paid.

- (ii) When the amount in (h)(3)(i) is less than the amount in (h)(3)(ii), the difference is decreased cost paid.

(6) Determine the increased/decreased cost paid by the United States for flexibly-priced contracts as follows:

- (i) When the amount in (h)(4)(i) exceeds the amount in (h)(4)(ii), the difference is decreased cost paid.

- (ii) When the amount in (h)(4)(i) is less than the amount in (h)(4)(ii), the difference is increased cost paid.

(7) Calculate the increased/decreased cost paid by the United States in the aggregate by adding--

- (i) The increased/decreased cost paid for fixed-price contracts;

- (ii) The increased/decreased costs paid for flexibly-priced contracts; and

- (iii) The total increase/decrease in contract incentives, fee, and profit associated with the increased/decreased costs paid. The associated increase/decrease is based on the difference between the negotiated incentives, fee, and profit and the amounts that would have been negotiated had the cost impact been known at the time the contract was negotiated.

(i) *Remedies.* If the contractor does not correct the noncompliance or submit the proposals required in paragraphs (d) or (f) of this section within the specified time, or any extension granted by the CFAO, the CFAO must follow the procedures at 30.604(i).

30.606 Resolving cost impacts.

(a) *General.* (1) The CFAO must coordinate with affected contracting officers before negotiating and resolving the cost impact when the cost or price of any of their contracts may be increased or decreased by at least \$100,000. However, the CFAO

has the sole authority for negotiating and resolving the cost impact.

(2) 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.

(3) In resolving the cost impact, the CFAO--

(i) May combine the cost impacts of several changes in cost accounting practices within a segment or intermediate/home office only if the changes are implemented in the same fiscal year;

(ii) May combine the cost impacts of two or more segments when the changes do not result in costs flowing between those segments (e.g., the implementation of a common cost accounting practice for two or more segments);

(iii) Must not combine the cost impact of a change in cost accounting practice with the cost impact of a noncompliant practice; and

(iv) Must not combine the cost impact of one noncompliant practice with the cost impact of another noncompliant practice. (b) *Negotiations*. The CFAO must--

(1) Negotiate and resolve the cost impact on behalf of all Government agencies; and

(2) At the conclusion of negotiations, prepare a negotiation memorandum and send copies to the cognizant auditor and affected contracting officers.

(c) *Contract adjustments*. (1) The CFAO may adjust some or all contracts with a material cost impact, subject to the provisions in paragraph (c)(3) of this section.

(2) In selecting the contract or contracts to be adjusted, the CFAO should assure, to the maximum extent practical and subject to the provisions in paragraph (c)(3) of this section, that the adjustments reflect a pro-rata share of the cost impact based on the ratio of the cost impact of each executive agency to the total cost impact.

(3) For unilateral changes and noncompliances, the CFAO must--

(i) Not adjust the price upward for fixed-price contracts; and

(ii) If contract adjustments are made, preclude payment of aggregate increased costs by--

(A) Reducing the contract price on fixed-price contracts; and/or

(B) Disallowing costs on flexibly-priced contracts.

(4) When contract adjustments are made, the CFAO must--

(i) Execute the modifications if the CFAO and contractor agree on the amount of the cost impact and the adjustments (see 42.302(a)(11)(iv)); or

(ii) When the CFAO and contractor do not agree on the amount of the cost impact or the contract adjustments, issue a final decision in accordance with 33.211 and unilaterally adjust the contract(s).

(d) *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 for a contract(s) when application of the alternate method to that contract(s) would result in--

(i) An underrecovery of monies by the Government (e.g., due to cost overruns); or

(ii) 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) Apply such exclusion only to the determination of final indirect cost rates (42.705); and

(ii) Adjust the exclusion to reflect the Government participation rate for flexibly-priced 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 flexibly-priced contracts, the contractor must exclude \$200,000 from the indirect cost pool ($\$100,000/50\% = \$200,000$).

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 of the next higher-tier contractor. The higher-tier CFAO must not change the determination of the lower-tier CFAO. If the subcontractor refuses to submit a GDM or DCI proposal, remedies are made at the prime contractor level.

PART 52-SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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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)

The definitions at FAR 30.001 are incorporated by reference into this clause.

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 (h) and (j) through (m) of this clause:

(a) Submit to the Cognizant Federal Agency Official (CFAO) a description of any cost accounting practice change (including revisions to the Disclosure Statement, if applicable) and any assertion that the cost impact of the change is immaterial as outlined in paragraphs (a)(1) through (3). If a change in cost accounting practice is implemented without submitting the notice required by this paragraph, the CFAO may determine the change to be a failure to follow paragraph (a)(2) of the clause at FAR 52.230-2, Cost Accounting Standards; paragraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; or paragraph (a)(2) of the clause at FAR 52.230-5, Cost Accounting Standards--Educational Institution.

(1) When a description has been submitted for a change in cost accounting practice that is dependent on a contract award and that contract is subsequently awarded, notify the CFAO within 15 days after such award.

(2) For any change in cost accounting practice not covered by (a) (1) of this paragraph that is required in accordance with paragraphs (a)(3) and (a)(4)(i) of the clause at FAR 52.230-2, or paragraphs (a)(3), (a)(4)(i), or (a)(4)(iv) of the clause at FAR 52.230-5; submit a description of the change to the CFAO not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change.

(3) For any change in cost accounting practice proposed in accordance with paragraphs (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2 and FAR 52.230-5; or with paragraph (a)(3) of the clause at FAR 52.230-3; submit a description of the change not less than 60 days (or such other date as may be mutually

agreed to by the CFAO and the Contractor) before implementation of the change. If the change includes a proposed retroactive date, submit supporting rationale.

(4) 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 and FAR 52.230-5; or by paragraph (a)(4) at FAR 52.230-3--

(i) Within 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) after the date of agreement with the CFAO that there is a noncompliance; or

(ii) In the event of Contractor disagreement, within 60 days after the CFAO notifies the Contractor of the determination of noncompliance.

(b) When requested by the CFAO, submit on or before a date specified by the CFAO--

(1) A general dollar magnitude (GDM) proposal in accordance with paragraph (c) or (f) of this clause;

(2) A detailed cost impact (DCI) proposal in accordance with paragraph (d) or (g) of this clause;

(3) For any request for a desirable change that is based on the criteria in FAR 30.603-2(b)(3)(iii), the data necessary to demonstrate the required cost savings; and

(4) For any request for a desirable change that is based on criteria other than that in FAR 30.603-2(b)(3)(iii), a GDM proposal and any other data necessary for the CFAO to determine if the change is desirable. (c) For any change in cost accounting practice subject to paragraph (a)(1), (a)(2), or (a)(3) of this clause, the GDM proposal shall--

(1) Calculate the cost impact in accordance with paragraph (e) of this clause.

(2) Use one or more of the following methods to determine the increase/decrease in cost accumulations:

(i) A sample of contracts representative of the contract universe.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts.

(B) Flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease in cost accumulations.

(3) Be in a format acceptable to the CFAO but, as a minimum, include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in cost accumulations by executive agency (see FAR 2.101), including any

impact the change may have on contract incentives, fee, and profit.

(ii) For unilateral changes, the increased/decreased costs paid by the United States.

(4) When requested by the CFAO, shall identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(d) For any change in cost accounting practice subject to paragraph (a)(1), (a)(2), or (a)(3) of this clause, the DCI proposal shall--

(1) Calculate the cost impact in accordance with paragraph (e) of this clause;

(2) Show the increase/decrease in cost accumulations for each affected CAS-covered contract unless the CFAO and Contractor agree to--

(i) Include only those affected CAS-covered contracts having an estimate to complete exceeding a specified amount; and

(ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts, using the results in paragraph (d)(2)(i) of this clause; and

(3) Be in a format acceptable to the CFAO but, as a minimum, include the information in paragraph (c)(3) of this clause.

(4) Shall identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(e) For GDM and DCI proposals that are subject to the requirements of paragraphs (c) or (d) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall--

(i) Include all affected CAS-covered contracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., open or closed); and

(ii) Combine the cost impact for all segments if the effect of a change results in costs flowing between those segments.

(2) Compute the increase/decrease in cost accumulations for affected CAS-covered contracts based on the difference between--

(i) The estimated cost to complete using the current practice; and

(ii) The estimated cost to complete using the changed practice.

(3) For unilateral changes--

(i) Determine the increased/decreased cost paid by the United States for fixed-price contracts as follows:

(A) When the amount in (e)(2)(i) exceeds the amount in (e)(2)(ii) of this clause, the difference is increased cost paid.

(B) When the amount in (e)(2)(i) is less than the amount in (e)(2)(ii) of this clause, the difference is decreased cost paid.

(ii) Determine the increased/decreased cost paid by the United States for flexibly-priced contracts as follows:

(A) When the amount in (e)(2)(i) exceeds the amount in (e)(2)(ii) of this clause, the difference is decreased cost paid.

(B) When the amount in (e)(2)(i) is less than the amount in (e)(2)(ii) of this clause, the difference is increased cost paid.

(iii) Calculate the increased/decreased cost paid by the United States in the aggregate by adding--

(A) The increased/decreased cost paid for fixed-price contracts;

(B) The increased/decreased cost paid for flexibly-priced contracts; and

(C) The total increase/decrease in contract incentives, fee, and profit associated with the increased/decreased cost paid. The associated increase/decrease is based on the difference between the negotiated incentives, fee, and profit and the amounts that would have been negotiated had the cost impact been known at the time the contract was negotiated.

(4) For equitable adjustments for required changes--

(i) Increased cost accumulations are the basis for increasing contract cost or price; and

(ii) Decreased cost accumulations are the basis for decreasing contract cost or price.

(f) For any noncompliant cost accounting practice subject to paragraph (a)(4) of this clause, prepare the GDM proposal as follows--

(1) Calculate the cost impact in accordance with paragraph (h) of this clause.

(2) Use one or more of the following methods to determine the increase/decrease in contract price or cost accumulations:

(i) A sample of contracts that is representative of the contract universe.

(ii) When the noncompliance involves cost accumulating, the change in indirect rates multiplied by the total estimated base for only flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease.

(3) Be in a format acceptable to the CFAO but, as a minimum, include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in contract price and/or cost accumulations by executive agency (see FAR 2.101),

including any impact the noncompliance may have on contract incentives, fee, and profit.

(ii) The increased/decreased cost paid by the United States.

(iii) The total overpayments made by the Government during the period of noncompliance. The total overpayments must be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal.

(4) When requested by the CFAO, shall identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(g) For any noncompliant practice subject to paragraph (a)(4) of this clause, prepare the DCI proposal as follows--

(1) Calculate the cost impact in accordance with paragraph (h) of this clause.

(2) Show the increase/decrease in contract price and/or cost accumulations for each affected CAS-covered contract unless the CFAO and Contractor agree to--

(i) Include only those affected CAS-covered contracts having--

(A) Contract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase/decrease in contract price and/or cost accumulations for all affected CAS-covered contracts using the results in paragraph (g)(2)(i) of this clause;

(3) Be in a format acceptable to the CFAO but, as a minimum, include the information in paragraph (f)(3) of this clause.

(4) Shall identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(h) For GDM and DCI proposals that are subject to the requirements of paragraphs (f) or (g) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall--

(i) Include all affected CAS-covered contracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., open or closed); and

(ii) Combine the cost impact for all segments if the effect of a change results in costs flowing between those segments.

(2) For noncompliances that involve estimating costs, compute the change in contract price only for fixed-price contracts, based on the difference between--

- (i) The negotiated contract price; and
- (ii) What the negotiated price would have been had the contractor used a compliant practice.

(3) For noncompliances that involve accumulating costs, compute the change in cost accumulations only for flexibly-priced contracts, based on the difference between--

- (i) The costs that were accumulated under the noncompliant practice; and
- (ii) The costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice).

(4) Determine the increased/decreased cost paid by the United States for fixed-price contracts as follows:

- (i) When the amount in (h)(2)(i) exceeds the amount in (h)(2)(ii) of this clause, the difference is increased cost paid.

- (ii) When the amount in (h)(2)(i) is less than the amount in (h)(2)(ii) of this clause, the difference is decreased cost paid.

(5) Determine the increased/decreased cost paid by the United States for flexibly-priced contracts as follows:

- (i) When the amount in (h)(3)(i) exceeds the amount in (h)(3)(ii) of this clause, the difference is decreased cost paid.

- (ii) When the amount in (h)(3)(i) is less than the amount in (h)(3)(ii) of this clause, the difference is increased cost paid.

(6) Calculate the increased/decreased cost paid by the United States in the aggregate by adding--

- (i) The increased/decreased cost paid for fixed-price contracts;

- (ii) The increased/decreased cost paid for flexibly-priced contracts; and

- (iii) The total increase/decrease in contract incentives, fee, and profit associated with the increased/decreased cost paid. The associated increase/decrease is based on the difference between the negotiated incentives, fee, and profit and the amounts that would have been negotiated had the cost impact been known at the time the contract was negotiated.

- (i) If the Contractor does not submit the information required by paragraph (a) or (b) 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 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/or

(2) Issue a final decision in accordance with FAR 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.

(j) Agree to-

(1) Contract modifications to reflect adjustments required in accordance with paragraph (a)(4) or (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with paragraph (a)(3) or (a)(4) of the clause at FAR 52.230-3; and

(2) Repay the United States for any aggregate increased cost paid to the contractor.

(k) 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 CFAO:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(1) Notify the CFAO in writing of any adjustments required to subcontracts under this contract and agree to an adjustment 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 contract.

(m) 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)

52.230-7 Proposal Disclosure - Cost Accounting Practice Changes.

As prescribed in 30.201-3, insert the following clause:

PROPOSAL DISCLOSURE - COST ACCOUNTING PRACTICE CHANGES
(DATE)

The offeror shall indicate below whether the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable:

☐ Yes ☐ No

If the offeror checked "Yes" above, the offeror shall--

(1) Prepare the price proposal using the changed practice for the period of performance for which the practice will be used; and

(2) Submit a description of the change in cost accounting practice to the contracting officer and the CFAO as pricing support for the proposal.

COST ACCOUNTING STANDARDS ADMINISTRATION
DRAFT PROPOSED RULE
FAR CASE 99-025

The proposed Federal Acquisition Regulation rule published at 65 FR 20854, April 18, 2000, Federal Acquisition Regulation through FAC 97-15 serves as the baseline. Changes to the baseline are represented by underline for new language and ~~striketrough~~ for deleted language.

PART 30-COST ACCOUNTING STANDARDS ADMINISTRATION

Sec.

30.000 Scope of part.
30.001 Definitions.

* * * * *

Subpart 30.6--CAS Administration

30.601 Responsibility.
30.602 Materiality.
30.603 Changes to disclosed or established cost accounting practices.
30.603-1 ~~Required~~Mandatory changes~~required to comply with new or modified standards.~~
30.603-2 Unilateral and desirable~~Voluntary~~ changes.
30.604 Processing changes to disclosed or established cost accounting practices.
30.605 Processing~~Noncompliances~~ with CAS requirements.
30.606 Resolving cost impacts.
30.607 Subcontract administration.

* * * * *

30.001 Definitions. As used in this part--

"Cognizant Federal agency official (CFAO)~~7~~" ~~as used in this part,~~ means the contracting officer assigned by the cognizant Federal agency to administer the Cost Accounting Standards.

of CAS, Rev.
"Desirable change" means a compliant change to a contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is therefore not subject to the no increased cost prohibition provisions of CAS-covered contracts, affected by the change.

*Move to Part 2
Part 42.21.1*

and subcontracts

"Fixed-price contracts" means fixed-price contracts defined at 16.202, 16.203, 16.205 and 16.207, and the fixed-price portion of time-and-materials contracts (Subpart 16.6).

Rev. 2

"Flexibly-priced contracts" means fixed-price contracts defined at 16.204 and 16.206, contracts other than fixed-price (Subparts 16.3 through 16.5), and the cost-reimbursement portion of time-and-materials contracts (Subpart 16.6).

"Noncompliance" means a failure in estimating, and/or accumulating costs to-- or reporting

(1) Comply with applicable CAS; or

(2) Consistently follow disclosed or established cost accounting practices.

"Required change" means a change in cost accounting practice that a contractor is required to make in order to comply with applicable Standards, modifications, or interpretations thereto, that subsequently become applicable to existing CAS-covered contracts due to the receipt of another CAS-covered contract. It also includes a prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the contractor to remain in compliance.

"Unilateral change" means a change in cost accounting practice from one compliant practice to another compliant practice that a contractor with a CAS-covered contract(s) elects to make that has not been deemed desirable by the CFAO and for which the Government will pay no aggregate increased costs.

* * * * *

Subpart 30.2-CAS Program Requirements

* * *

30.201-3 Solicitation Provisions

(a) * * *

(b) * * *

(c) The contracting officer must insert the provision at FAR 52.230-7, Proposal Disclosure - Cost Accounting Practice Changes, in solicitations for proposed contracts subject to CAS as specified in 48 CFR 9903.201 (FAR Appendix).

* * *

30.202-6 Responsibilities.

(a) * * *

(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 cognizant auditor is responsible for conducting reviews of Disclosure Statements for adequacy and compliance.

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

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. The CFAO also must, 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.~~

~~(i)(ii) If the Disclosure Statement is adequate, notify the contractor in writing, with copies to the contracting officer (for a proposal that triggers submission of a Disclosure Statement) and the auditor, and contracting officer. The notice of adequacy must state that--~~

~~(A) The disclosed practices are adequately described and the CFAO is currently not aware of any additional practices that should be disclosed;~~

~~(B) The notice is not a determination that all cost accounting practices were disclosed; and~~

~~(C) The contractor must not consider a disclosed practice, by virtue of such disclosure, an approved practice for estimating pricing proposals or accumulating and reporting contract performance cost data.~~

(ii) If the Disclosure Statement is inadequate, notify the contractor of the inadequacies and request a revised Disclosure Statement.

(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 must make a determination of compliance or take action regarding a report of alleged noncompliance in accordance with 30.605(b).—

~~(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.~~

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 higher-tier CFAO(s) of the higher-tier subcontractor or contractor must not changereverse the determination of the lower-tier CFAO of the subcontractor.~~

* * * * *

FAR 30.6—CAS Administration

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 and findings (see 1.7) 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). For

subcontract awards, the contractor awarding the subcontract must follow the procedures at 52.230-6(k).

30.602 Materiality.

(a) In determining materiality, the CFAO must use the criteria in 48 CFR 9903.305 (FAR Appendix). 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 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.~~

---(b) A CFAO determination of immateriality--

(1) May be made before or after a general dollar magnitude proposal has been submitted, depending on the particular facts and circumstances; and

(2) Must be based on adequate documentation.

(c) When the amount involved is immaterial, the CFAO must--

(1) Make no contract adjustments and conclude the cost impact process; and

(2) In the case of noncompliance issues, inform the contractor that--

(i) The noncompliance should be corrected; and


(ii) 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.

(d) When the amount involved is material, CFAOs must adjust contracts or use another suitable method (see 30.606) for required, unilateral, and desirable changes, and CAS noncompliances.

30.603 Changes to disclosed or established cost accounting practices.

30.603-1 Required 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 an established cost accounting practices affecting existing


~~contracts and subcontracts (see 52.230-1). The contracting officer must notify the CFAO if the offeror states that a change in cost accounting practice would be required. 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~~

(b) CFAO Responsibilities. Prior to making an equitable adjustment under the required change provision of 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine that--

(1) The cost accounting practice change is required to comply with a CAS, or a modification or interpretation thereof, that subsequently became applicable to one or more contracts; or

(2) The former cost accounting practice was in compliance with applicable CAS and the change is necessary to remain in compliance.

(c) Notice and proposal preparation. (1) When the award of a contract would require a change to an established cost accounting practice, the clause at 52.230-7 requires the contractor to--

(i) Submit a description of the changed cost accounting practice to the contracting officer and the CFAO as pricing support for the proposal; and

(ii) Prepare the contract pricing proposal based on the changed cost accounting practice for the period of performance for which the practice will be used.

(2) When a change is required to remain in compliance (for reasons other than a contract award) or to comply with a new or modified standard, the clause at 52.230-6 requires the contractor to--

(i) Submit a description of the change to the CFAO not less than 60 days (or such other date as may be mutually agreed to) before implementation of the change;

(ii) Submit rationale to support any contractor assertion that the cost impact of the change is immaterial; and

(iii) Prepare all contract pricing proposals based on the changed cost accounting practice for the period of performance for which the practice will be used unless otherwise agreed to by the Contracting Officer. *add in 7"*

(d) Equitable adjustments for new or modified standards.

(1) ~~(ii)~~ Required changes made to comply with new or modified standards 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, 52.230-3, or 52.230-5).

(2) When a contractor elects to implement a required change to comply with a new or modified standard prior to the applicability date of the standard, the CFAO must administer the change as a unilateral change (see 30.603-2). Contractors must not receive an equitable adjustment for increased costs paid by the United States prior to the applicability date unless the CFAO determines that the unilateral change is desirable.

~~(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).~~

30.603-2 Unilateral and desirableVoluntary changes.

(a) Unilateral changesGeneral. (1) The contractor may unilaterallyvoluntarily change its disclosed or established cost accounting practices, but the Government must not pay any increased cost, in the aggregate, as a result of the unilateral change. ~~The Government may adjust the contract price for voluntary changes.~~

(2) Prior to making any contract price or cost adjustments under the unilateral change provision of 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine that--

(i) The contract price or cost adjustments will protect the United States from the payment of ~~However, the Government must not allow increased costs, in the aggregate;~~ and

(ii) The net affect of the adjustments will not result in the recovery of more than the increased costs paid by the United States, 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).~~

(b)(e) Desirable changes. (1) Prior to taking action under the desirable change provision of 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine the change is desirable and not detrimental to the interests of the Government. ~~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.~~

(2) Until the CFAO has determined a change to a cost accounting practice is a desirable change, the change is a unilateral change.

(3) Some factors to consider in determining if a change is desirable include, but are not limited to, whether--

(i) The contractor must change the cost accounting practices it uses [for Government contract costing purposes] to remain in compliance with the provisions of Part 31;

(ii) The change in cost accounting practice is directly associated with the application of commercial business practices to affected CAS-covered contracts that will result in significant benefits to the Government;

(iii) The contractor is initiating management actions directly associated with the change that will result in cost savings for segments with CAS-covered contracts over a period for which forward pricing rates are developed or five years, whichever is shorter, and the cost savings are reflected in the forward pricing rates; and

(iv) Funds are available if the determination would necessitate an upward adjustment of contract cost or price.

(c) Notice and proposal preparation. (1) When a contractor makes a unilateral change, the contractor must follow the procedures listed at 30.603-1(c)(2).

(2) If a contractor implements the change in cost accounting practice without submitting the notice as required in paragraph (c)(1) of this subsection, the CFAO may determine the change a failure to follow a cost accounting practice consistently and process it as a noncompliance in accordance with 30.605.

(d) Retroactive changes. ^{a policy} (1) If a contractor requests that a unilateral~~voluntary~~ change be retroactive, (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^{supporting}~~supporting rationale for the action.~~

(2) The CFAO must promptly evaluate the contractor's request and must, as soon as practical, notify the contractor in writing whether the request~~change~~ is or is not approved retroactive.

(3) The CFAO must not approve a date^{for the retroactive} that is before the beginning of the contractor's fiscal year in which the request is made.

(e) Contractor accounting changes due to external restructuring activities. The requirements for contract price

and cost adjustments do not apply to compliant cost accounting practice changes that are directly associated with external restructuring activities that are subject to and meet the requirements of 10 U.S.C. 2325. However, the disclosure requirements in 30.603-2 must be followed.

~~(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.~~

30.604 Processing changes to disclosed or established cost accounting practices.

(a) Scope. This section applies to required, unilateral, and desirable ~~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. ~~The If the CFAO must-~~

(1) If the description of the change is both adequate and compliant, notify the contractor in writing and--

(i) For required or unilateral changes (except those requested to be determined desirable), request the contractor submit a general dollar magnitude (GDM) proposal by a specified date, unless the CFAO determines the cost impact is immaterial; or

(ii) For unilateral changes that the contractor requests to be determined desirable, inform the contractor that the request must include supporting rationale and--

(A) For any request based on the criteria in paragraph 30.603-2(b)(3)(iii), the data necessary to demonstrate the required cost savings; or

(B) For any request other than those based on the criteria in paragraph 30.603-2(b)(3)(iii), a GDM proposal and any other data necessary for the CFAO to determine if the change is desirable.

(2) If the description of the change is inadequate, identifies any area of inadequacy, the CFAO must request a revised description of the new cost accounting practice.

(3) Determines that If the disclosed practice is noncompliant, the CFAO must notify the contractor in writing that, if implemented, the CFAO will handle the CFAO will determine the cost accounting practice to be noncompliant and process it accordingly 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 CDM 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) Evaluating requests for desirable changes. (1) When a contractor requests a unilateral change be determined desirable, the CFAO must promptly evaluate the contractor's request and, as soon as practical, notify the contractor in writing whether the change is desirable or the request is denied.

(2) If the CFAO determines the change is desirable, the CFAO must negotiate any cost or price adjustments that may be needed to resolve the cost impact (see 30.606).

(3) If the request is denied, the change is a unilateral change and must be processed accordingly.

(de) General dollar magnitude 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 cost accounting practice; and

(2) Assists the CFAO in determining whether individual contract or subcontract price or cost adjustments are required.

(ed) General dollar magnitude proposal content. The GDM proposal--

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) May use one or more of the following methods to determine the increase/decrease in cost accumulations:

(i) A sample of contracts representative of the contract universe.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts.

(B) Flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease in cost accumulations.

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the following data grouped by fixed-price and flexibly-priced contracts:

A repertoire

(i) The total increase/decrease in cost accumulations by executive agency (see 2.101), including any impact the change may have on contract incentives, fee, and profit.

(ii) For unilateral changes, the increased/decreased costs paid by the United States.

(4) When requested by the CFAO, must identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

~~The CDM proposal must~~

~~(1) Include a sufficient number of individual contract and/or subcontract cost impact estimates, by contract number and agency, to support the CDM 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.~~

(fe) CFAO evaluationGeneral dollar magnitude proposal evaluation. The CFAO, with the assistance of the auditor, must promptly evaluate the GDM proposal. If the cost impact is immaterial, the CFAO must notify the contractor in writing and conclude the cost impact process with no contract adjustments. Otherwise, ~~(1) Material, the CFAO must~~

(1i) Negotiate and resolve the cost impact (see 30.606)†. If necessary, the CFAO may

~~(ii) Request that the contractor submit, by a specified date, a revised GDM proposal by a specified date with specific additional individual contract data needed to resolve the cost impact (e.g., an expanded sample of contracts or a revised method of computing the increase/decrease in cost accumulationsecontracts with a dollar impact exceeding a specific dollar amount); or~~

~~(2iii) Request that the contractor submit a detailed cost-impact (DCI) proposal by a specified date if the CFAO determines that the GDM proposal is not 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;~~ (2) Immaterial, the CFAO must provide notification to the Contractor, and conclude the cost impact process with no contract adjustments.

(gf) Detailed cost-impact proposal. The DCI proposal must--

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) Must show the increase/decrease in cost accumulations for each affected CAS-covered contract unless the CFAO and contractor agree to--

(i) Include only those affected CAS-covered contracts exceeding a specified amount; and

(ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts, using the results in paragraph (g) (2) (i) of this section;

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the requirements at paragraph (e) (3) of this section.

(4) Must identify all ^{affected} contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5. ^{when required by the CFAO.}

~~(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; and~~

~~(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) Calculating cost impacts. The cost impact calculation must--

(1) Include all affected CAS-covered contracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., open or closed).

(2) Combine the cost impact for all segments if the effect of a change results in costs flowing between those segments.

(3) Compute the increase/decrease in cost accumulations for affected CAS-covered contracts based on the difference between--

(i) The estimated cost to complete using the current practice; and

(ii) The estimated cost to complete using the changed practice.

(4) For unilateral changes--

(i) Determine the increased/decreased cost paid by the United States for fixed-price contracts as follows:

(A) When the amount in (h) (3) (i) exceeds the amount in (h) (3) (ii) of this section, the difference is increased cost paid.

(B) When the amount in (h) (3) (i) is less than the amount in (h) (3) (ii) of this section, the difference is decreased cost paid.

(ii) Determine the increased/decreased cost paid by the United States for flexibly-priced contracts as follows:

(A) When the amount in (h) (3) (i) exceeds the amount in (h) (3) (ii) of this section, the difference is decreased cost paid.

(B) When the amount in (h) (3) (i) is less than the amount in (h) (3) (ii) of this section, the difference is increased cost paid.

(iii) Calculate the increased/decreased cost paid by the United States in the aggregate by adding--

(A) The increased/decreased costs paid for fixed-price contracts;

(B) The increased/decreased costs paid for flexibly-priced contracts; and

(C) The total increase/decrease in contract incentives, fee, and profit associated with the increased/decreased costs paid. The associated increase/decrease is based on the difference between the negotiated incentives, fee, and profit and the amounts that would have been negotiated had the cost impact been known at the time the contract was negotiated.

(5) For equitable adjustments for required changes--

(i) Increased cost accumulations are the basis for increasing contract cost or price; and

(ii) Decreased cost accumulations are the basis for decreasing contract cost or price.

(i) Remedies. If the contractor does not submit the accounting change description or the ~~required cost impact~~ proposal(s) required in paragraph (d) or (g) of this section within the specified time, or any extension granted by the CFAO, the CFAO must--

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

(2) ~~May~~ Take the following action(s) --

(i) 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/or

(ii) (3) Issue a final decision in accordance with 33.211 and May unilaterally adjust the contract(s) by the estimated amount of the cost impact.

30.605 Processing Noncompliances with CAS requirements.

(a) General. Prior to making any contract price or cost adjustments under the noncompliance provision of 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine that--

(1) The contract price or cost adjustments will protect the United States from the payment of increased costs, in the aggregate; and

(2) The net affect of the adjustments will not result in the recovery of more than the increased costs paid by the United States, in the aggregate.

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

(i) Notify the auditor that the CFAO disagrees with the alleged noncompliance; or

(ii) Issue a notice of potential noncompliance to the contractor and provide a copy to the auditor.

(2) The notice of potential noncompliance If the CFAO makes an initial finding of noncompliance, the CFAO must--

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

(ii) Allow the contractor 60 days (or other mutually agreeable date) to--

(A) Agree or to submit reasons why the contractor considers the existing practices to be in compliance; and

(B) Submit rationale to support any assertion that the cost impact of the noncompliance is immaterial.

(3) The CFAO must--

(i) If applicable, Rreview the reasons why the contractor considers the existing practices to be in compliancecompliant and/or the cost impact to be immaterial;

(ii) Make a determination of compliance or noncompliance, and

(iii) Notify the contractor and the auditor in writing of the determination of compliance or noncompliance, consistent with 1.704, ~~including a written explanation as to why the CFAO agrees or disagrees with the contractor's rationale; and~~

~~(iv)~~ (4) If the CFAO makes a determination of noncompliance, the CFAO must follow the procedures in paragraphs (c) through (h) of this section, as appropriate, unless the CFAO also determines the cost impact is immaterial. If immaterial, the CFAO must--

(i) Inform the contractor in writing that--

(A) The noncompliance should be corrected; and

(B) 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.

(c) Correcting Noncompliances. (1) The clause at 52.230-6 requires the contractor to~~must~~ submit a description of any cost accounting practice change needed to correct a noncompliance within 60 days after the earlier of--

(i) Agreement with the CFAO that there is a noncompliance; or

(ii) Notification by the CFAO of a determination of 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~~ The CFAO must--

~~(ii) (i) When the description of If 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--~~

(A) Notify the contractor in writing;

~~(1) (B) Request that the contractor submit, by a specified date, a general dollar magnitude (GDM) proposal, unless the CFAO determines the cost impact is immaterial; and~~

(C) Follow the procedures at paragraph (b) (4) of this section if the CFAO determines the cost impact is immaterial.

(ii) If the description of the change is inadequate, request a revised description of the new cost accounting practice.

(iii) If the disclosed practice is noncompliant, notify the contractor in writing that, if implemented, the CFAO will determine the cost accounting practice to be noncompliant and process it accordingly.

~~(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 proposal content. The GDM proposal--

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) May use one or more of the following methods to determine the increase/decrease in contract price or cost accumulations:

(i) A sample of contracts that is representative of the contract universe.

(ii) When the noncompliance involves cost accumulating, the change in indirect rates multiplied by the total estimated base for only flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease.

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in contract price and/or cost accumulations by executive agency (see 2.101), including any impact the noncompliance may have on contract incentives, fee, and profit.

(ii) The increased/decreased costs paid by the United States.

(iii) The total overpayments made by the Government during the period of noncompliance. The total overpayments must be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal.

(4) When requested by the CFAO, must identify all ^{affected} contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

~~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 General dollar magnitude proposal evaluation. The CFAO must promptly evaluate the GDM proposal. If the cost impact is immaterial, the CFAO must follow the requirements in paragraph (b) (4) of this section. Otherwise,

~~(1) Material, the CFAO must--~~

~~(1) (i) Negotiate and resolve the cost impact (see 30.606). If necessary, the CFAO may--~~

~~(ii) Request the contractor submit, by a specified date, a revised GDM proposal, by a specified date, with specific additional individual contract data needed to resolve the cost impact (e.g., an expanded sample of contracts~~

or a revised method of computing the increase/decrease in contract price and/or cost accumulations on contracts with a dollar impact exceeding a specific dollar amount); or

(2) (iii) Request that the contractor submit a DCI proposal by a specified date request a detailed cost impact (DCI) proposal if the CFAO determines that the GDM proposal is not 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 proposal. The DCI proposal must

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) Must show the increase/decrease in contract price and/or cost accumulations for each affected CAS-covered contract unless the CFAO and contractor agree to--

(i) Include only those affected CAS-covered contracts having--

(A) Contract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase/decrease in contract price and/or cost accumulations for all affected CAS-covered contracts using the results in paragraph (f) (2) (i) of this section;

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the information in paragraph (d) (3) of this section. *when requested by the contractor*

(4) Must identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(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) Interest. Contract adjustments. The CFAO must--

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

(2) In accordance with the clauses at 52.230-2, 52.230-3 Cost Accounting Standards, or 52.230-5, Cost Accounting Standards Educational Institution the CFAO must--

(1i) Include and separately identify, as part of the computation of the contract price adjustment(s), applicable interest on any increased cost paid by the United States contractor as a result of the noncompliance;

(2ii) Compute simple 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:

(iA) If the quarterly amounts billed during the period of noncompliance were approximately the same, costs were incurred and paid evenly over the fiscal years during which the noncompliance occurred, use the average interest rate and midpoint of midpoint for the period of in which the noncompliance began as the baseline for the computation of interest.

(iiB) If the quarterly amounts billed during the period of noncompliance were not approximately the same, costs were not incurred and paid evenly over the fiscal years during which the noncompliance occurred, use an alternate method.

(h) Calculating cost impacts. The cost impact calculation must--

(1) Include all affected CAS-covered contracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., open or closed); and

(2) Combine the cost impact for all segments if the effect of a noncompliance results in costs flowing between those segments.

(3) For noncompliances that involve estimating costs, compute the impact on contract price only for fixed-price contracts, based on the difference between--

(i) The negotiated contract price; and
(ii) What the negotiated price would have been had the contractor used a compliant practice. ~~or report~~

(4) For noncompliances that involve accumulating costs, compute the impact on cost accumulations only for flexibly-priced contracts, based on the difference between--

(i) The costs that were accumulated under the noncompliant practice; and
(ii) The costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice).

(5) Determine the increased/decreased cost paid by the United States for fixed-price contracts as follows:

(i) When the amount in (h) (3) (i) exceeds the amount in (h) (3) (ii), the difference is increased cost paid.

(ii) When the amount in (h) (3) (i) is less than the amount in (h) (3) (ii), the difference is decreased cost paid.

(6) Determine the increased/decreased cost paid by the United States for flexibly-priced contracts as follows:

(i) When the amount in (h) (4) (i) exceeds the amount in (h) (4) (ii), the difference is decreased cost paid.

(ii) When the amount in (h) (4) (i) is less than the amount in (h) (4) (ii), the difference is increased cost paid.

(7) Calculate the increased/decreased cost paid by the United States in the aggregate by adding--

(i) The increased/decreased cost paid for fixed-price contracts;

(ii) The increased/decreased costs paid for flexibly-priced contracts; and

(iii) The total increase/decrease in contract incentives, fee, and profit associated with the increased/decreased costs paid. The associated increase/decrease is based on the difference between the negotiated incentives, fee, and profit and the amounts that would have been negotiated had the cost impact been known at the time the contract was negotiated.

(i) Remedies. If the contractor does not correct the noncompliance or submit the required cost impact proposals required in paragraphs (d) or (f) of this section within the specified time, or any extension granted by the CFAO, the CFAO must follow the procedures at 30.604(i).

30.606 Resolving cost impacts.

(a) General. (1) The CFAO must coordinate with affected contracting officers before negotiating and resolving the cost impact when the cost or price of any of their contracts may be increased or decreased by at least \$100,000. However, the CFAO has the sole authority for negotiating and resolving the cost impact.

(2) ~~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.~~

(3) In resolving the cost impact, the CFAO--

(i) May combine the cost impacts of several changes in cost accounting practices within a segment or intermediate/home office only if the changes are implemented in the same fiscal year;

(ii) May combine the cost impacts of two or more segments when the changes do not result in costs flowing between those segments (e.g., the implementation of a common cost accounting practice for two or more segments);

(iii) Must not combine the cost impact of a change in cost accounting practice with the cost impact of a noncompliant practice; and

(iv) Must not combine the cost impact of one noncompliant practice with the cost impact of another noncompliant practice.

(b) Negotiations. The CFAO must--

(1) Negotiate and resolve the cost impact on behalf of all Government agencies; and

(2) At the conclusion of negotiations, prepare a negotiation memorandum and send copies to the cognizant auditor and affected contracting officers.

(c) Contract adjustments. (1) ~~(b) Adjusting Contracts.~~ The CFAO may adjust some or all contracts with a material cost impact, subject to the provisions in paragraph (c) (3) of this section.

(2) In selecting the contract or contracts to be adjusted, the CFAO should assure, to the maximum extent

practical and subject to the provisions in paragraph (c) (3) of this section, that the adjustments reflect a pro-rata share of the cost impact based on the ratio of the cost impact of each executive agency to the total cost impact.

(3) For unilateral changes and noncompliances, the CFAO must--

(i) Not adjust the price upward for fixed-price contracts; and

(ii) If contract adjustments are made, preclude payment of aggregate increased costs by--

(A) Reducing the contract price on fixed-price contracts; and/or

(B) Disallowing costs on flexibly-priced contracts.

(4) When contract adjustments are made, the CFAO must--

(i) Execute the modifications if the CFAO and contractor agree on the amount of the cost impact and the adjustments (see 42.302(a) (11) (iv)); or

(ii) When the CFAO and contractor do not agree on the amount of the cost impact or the contract adjustments, issue a final decision in accordance with 33.211 and unilaterally adjust the contract(s).

~~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.~~

(de) 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 for a contract(s) when application of the alternate method to that contract(s) would result in--

(i) An underrecovery of monies by the Government (e.g., due to cost overruns); or

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

(ii)-(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) Apply Make-such exclusion only for to the determination of final indirect cost rates (42.705) contractor fiscal years that have ended; and

(ii) Adjust the exclusion to reflect the Government participation rate for flexibly-priced 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 ~~flexibly-priced 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 contractor subcontractor~~, as appropriate. The CFAO(s) of higher-tier ~~CFAO subcontractors or contractors~~ must not ~~change~~ reverse the determination of the lower-tier CFAO of the subcontractor. If the subcontractor refuses to submit a GDM or DCI proposal, remedies are made at the prime contractor level.

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PART 52--SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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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)

The definitions at FAR 30.001 are incorporated by reference into this clause.

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 (h) and (j) through (m) of this clause:

(a) Submit to the Cognizant Federal Agency Official (CFAO) a description of any cost accounting practice change (including revisions to the Disclosure Statement, if applicable) and any assertion that the cost impact of the change is immaterial as outlined in paragraphs (a)(1) through (3). If a ~~contractor~~ implements any change in cost accounting practice is implemented without submitting the notice required by this paragraph, the CFAO may determine the change to be ~~will be~~ a failure to follow paragraph (a)(2) of the clause at FAR 52.230-2, Cost Accounting Standards; paragraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; or paragraph (a)(2) of the clause at FAR 52.230-5, Cost Accounting Standards--Educational Institution.

(1) When a description has been submitted for a change in cost accounting practice that is dependent on a contract award and that contract is subsequently awarded, notify the CFAO within 15 days after such award.

(2) For any change in cost accounting practices not covered by (a) (1) of this paragraph that is 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 to the CFAO not less than within 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change after award of a contract requiring this change.

(3) 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 subparagraph (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 by the CFAO and the Contractor) before implementation 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 supporting rationale supporting the proposed retroactive applicability date.

(43) 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 subparagraph (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 by the CFAO and the Contractor) after the date of agreement with the CFAO that there is a noncompliance with the initial finding of noncompliance; or

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

(b) When requested by the CFAO, submit on or before a date specified by the CFAO--

(1) aA general dollar magnitude (GDM) proposal en-or before the date specified by the CFAO, or other mutually agreed to date in accordance with paragraph (c) or (f) of this clause;--

(2) A detailed cost impact (DCI) proposal in accordance with paragraph (d) or (g) of this clause;

(3) For any request for a desirable change that is based on the criteria in FAR 30.603-2(b) (3) (iii), the data necessary to demonstrate the required cost savings; and

(4) For any request for a desirable change that is based on criteria other than that in FAR 30.603-2(b) (3) (iii), a GDM proposal and any other data necessary for the CFAO to determine if the change is desirable.

(c1) For any changes in cost accounting practice subject to paragraph (a) (1), ~~or~~ (a) (2), or (a) (3) of this clause, the GDM proposal shall--

(1) Calculate the cost impact in accordance with paragraph (e) of this clause.

(2) Use one or more of the following methods to determine the increase/decrease in cost accumulations:

(i) A sample of contracts representative of the contract universe.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts.

(B) Flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease in cost accumulations.

(3) Be in a format acceptable to the CFAO but, as a minimum, include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in cost accumulations by executive agency (see FAR 2.101), including any impact the change may have on contract incentives, fee, and profit.

(ii) For unilateral changes, the increased/decreased costs paid by the United States.

(4) When requested by the CFAO, shall identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

~~(i) Include a sufficient number of individual contract and/or subcontract cost impact estimates, by contract number and agency, to support the CDM 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.~~

(d) For any change in cost accounting practice subject to paragraph (a) (1), (a) (2), or (a) (3) of this clause, the DCI proposal shall--

(1) Calculate the cost impact in accordance with paragraph (e) of this clause;

(2) Show the increase/decrease in cost accumulations for each affected CAS-covered contract unless the CFAO and Contractor agree to--

(i) Include only those affected CAS-covered contracts having an estimate to complete exceeding a specified amount; and

(ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts, using the results in paragraph (d) (2) (i) of this clause; and

(3) Be in a format acceptable to the CFAO but, as a minimum, include the information in paragraph (c) (3) of this clause.

(4) *When requested* Shall identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(e) For GDM and DCI proposals that are subject to the requirements of paragraphs (c) or (d) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall--

(i) Include all affected CAS-covered contracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., open or closed); and

(ii) Combine the cost impact for all segments if the effect of a change results in costs flowing between those segments.

(2) Compute the increase/decrease in cost accumulations for affected CAS-covered contracts based on the difference between--

(i) The estimated cost to complete using the current practice; and

(ii) The estimated cost to complete using the changed practice.

(3) For unilateral changes--

(i) Determine the increased/decreased cost paid by the United States for fixed-price contracts as follows:

(A) When the amount in (e) (2) (i) exceeds the amount in (e) (2) (ii) of this clause, the difference is increased cost paid.

(B) When the amount in (e) (2) (i) is less than the amount in (e) (2) (ii) of this clause, the difference is decreased cost paid.

(ii) Determine the increased/decreased cost paid by the United States for flexibly-priced contracts as follows:

(A) When the amount in (e) (2) (i) exceeds the amount in (e) (2) (ii) of this clause, the difference is decreased cost paid.

(B) When the amount in (e) (2) (i) is less than the amount in (e) (2) (ii) of this clause, the difference is increased cost paid.

(iii) Calculate the increased/decreased cost paid by the United States in the aggregate by adding--

(A) The increased/decreased cost paid for fixed-price contracts;

(B) The increased/decreased cost paid for flexibly-priced contracts; and

(C) The total increase/decrease in contract incentives, fee, and profit associated with the increased/decreased cost paid. The associated increase/decrease is based on the difference between the negotiated incentives, fee, and profit and the amounts that would have been negotiated had the cost impact been known at the time the contract was negotiated.

(4) For equitable adjustments for required changes--

(i) Increased cost accumulations are the basis for increasing contract cost or price; and

(ii) Decreased cost accumulations are the basis for decreasing contract cost or price.

(f) (2) For any noncompliance changes cost accounting practice subject submitted pursuant to paragraph (a) (43) of this clause, prepare the GDM proposal shall as follows--

(1) Calculate the cost impact in accordance with paragraph (h) of this clause.

(2) Use one or more of the following methods to determine the increase/decrease in contract price or cost accumulations:

(i) A sample of contracts that is representative of the contract universe.

(ii) When the noncompliance involves cost accumulating, the change in indirect rates multiplied by the total estimated base for only flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease.

(3) Be in a format acceptable to the CFAO but, as a minimum, include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in contract price and/or cost accumulations by executive agency (see FAR 2.101),

including any impact the noncompliance may have on contract incentives, fee, and profit.

(ii) The increased/decreased cost paid by the United States.

(iii) The total overpayments made by the Government during the period of noncompliance. The total overpayments must be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal.

(4) When requested by the CFAO, shall identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(g) For any noncompliant practice subject to paragraph (a)(4) of this clause, prepare the DCI proposal as follows--

(1) Calculate the cost impact in accordance with paragraph (h) of this clause.

(2) Show the increase/decrease in contract price and/or cost accumulations for each affected CAS-covered contract unless the CFAO and Contractor agree to--

(i) Include only those affected CAS-covered contracts having--

(A) Contract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase/decrease in contract price and/or cost accumulations for all affected CAS-covered contracts using the results in paragraph (g)(2)(i) of this clause;

(3) Be in a format acceptable to the CFAO but, as a minimum, include the information in paragraph (f)(3) of this clause.

(4) Shall identify all contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(h) For GDM and DCI proposals that are subject to the requirements of paragraphs (f) or (g) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall--

(i) Include all affected CAS-covered contracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., open or closed); and

(ii) Combine the cost impact for all segments if the effect of a change results in costs flowing between those segments.

(2) For noncompliances that involve estimating costs, compute the change in contract price only for fixed-price contracts, based on the difference between--

(i) The negotiated contract price; and
(ii) What the negotiated price would have been had the contractor used a compliant practice.

(3) For noncompliances that involve accumulating costs, compute the change in cost accumulations only for flexibly-priced contracts, based on the difference between--

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

(ii) The costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice).

(4) Determine the increased/decreased cost paid by the United States for fixed-price contracts as follows:

(i) When the amount in (h) (2) (i) exceeds the amount in (h) (2) (ii) of this clause, the difference is increased cost paid.

(ii) When the amount in (h) (2) (i) is less than the amount in (h) (2) (ii) of this clause, the difference is decreased cost paid.

(5) Determine the increased/decreased cost paid by the United States for flexibly-priced contracts as follows:

(i) When the amount in (h) (3) (i) exceeds the amount in (h) (3) (ii) of this clause, the difference is decreased cost paid.

(ii) When the amount in (h) (3) (i) is less than the amount in (h) (3) (ii) of this clause, the difference is increased cost paid.

(6) Calculate the increased/decreased cost paid by the United States in the aggregate by adding--

(i) The increased/decreased cost paid for fixed-price contracts;

(ii) The increased/decreased cost paid for flexibly-priced contracts; and

(iii) The total increase/decrease in contract incentives, fee, and profit associated with the increased/decreased cost paid. The associated increase/decrease is based on the difference between the negotiated incentives, fee, and profit and the amounts that would have been negotiated had the cost impact been known at the time the contract was negotiated.

~~(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:~~

~~(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).~~

(id) If the Contractor does not submit the information required by paragraphs (a) or, (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/or

(2) Issue a final decision in accordance with FAR 33.211 and Unilaterally adjust the contract(s) by the estimated amount of the cost impact.

(je) Agree to—

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

(2) Repay the United States for any aggregate increased cost paid to the contractor.

(kf) 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 CFAO 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.

(lg) Notify the CFAO 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.~~

(mh) For subcontracts containing the clauses 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)

Put back
-3

52.230-7 Proposal Disclosure - Cost Accounting Practice Changes.

As prescribed in 30.201-3, insert the following clause:

PROPOSAL DISCLOSURE - COST ACCOUNTING PRACTICE CHANGES
(DATE)

~~1-25-94~~
The offeror shall indicate below whether the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable:

☐ Yes ☐ No

If the offeror checked "Yes" above, the offeror shall--
(1) Prepare the price proposal using the changed practice for the period of performance for which the practice will be used; and
(2) Submit a description of the change in cost accounting practice to the contracting officer and the CFAO as pricing support for the proposal.

Official Case Record

Date: May 31, 2001

FAR Case: 1999-025

Case Title: Cost Accounting Standards (CAS) Administration

Originator: O

Sponsor: D

Committee: CAS
Committee

Case Manager: Haberlin

FAR:
30 and 52.230-6/7

Executive Order :

Statutory Date:

Outside Interest (Circle): IG OFPP OMB DCAA GAO Industry Other _____

Coordination/Comments (Circle): DDP MPI CPA CPF DSPS FC GC AR _____

Action Scheduled Today:

Discuss a draft second proposed rule .

Attachments:

1. CMR dated May 4, 2001
2. E-mail memorandum dated May 25, 2001 (CPF)
3. E-mail memorandum dated May 25, 2001 (NASA)

OSD Position:

CPF- see attachment 2.

AR – no response.

Discussions/Actions Taken:

CAM Update:

Haberlin, Sandra, Ms, OSD-ATL

From: Covey, Carol, Ms, OSD-ATL
Sent: Friday, May 25, 2001 10:46 AM
To: Haberlin, Sandra, Ms, OSD-ATL
Cc: Capitano, David, Mr, OSD-ATL
Subject: FW: CAS Committee Report on FAR Case 99-025, Cost Accounting Standard s (CAS) Administration

farpart30cpfchanges.d

oc

Sandy--Here are our recommended changes -- they are not extensive. Carol

>-----Original Message-----

>From: Capitano, David, Mr, OSD-ATL
>Sent: Thursday, May 24, 2001 9:00 AM
>To: Covey, Carol, Ms, OSD-ATL
>Subject: RE: CAS Committee Report on FAR Case 99-025, Cost Accounting
>Standard s (CAS) Administration

>

>

>Carol:

>

> I have some recommended changes. While it is only a
>single issue, it effects the wording in several areas of the
>proposed rule. The revised language is on the attached document.

>

> Dave

>

>

>

>>>-----Original Message-----

>>>From: Haberlin, Sandra, Ms, OSD-ATL
>>>Sent: Friday, May 04, 2001 1:52 PM
>>>To: Covey, Carol, Ms, OSD-ATL; Sumpter, Leantha, SES, OSD-ATL
>>>Cc: Capitano, David, Mr, OSD-ATL
>>>Subject: FW: CAS Committee Report on FAR Case 99-025, Cost Accounting
>>>Standard s (CAS) Administration

>>>

>>>

>>>As indicated below, attached is a copy of the CAS Committee
>>>report re: FAR Case 1999-025. The DARC anticipates discussing
>>>the rule on May 31, 2001, and would appreciate any comments
>>>that you have by May 30, so we can include them in our
>>>discussion. Thanks, Sandy

>>>

>>>-----Original Message-----

>>>From: janes, peg [mailto:mjanes@hq.dcma.mil]
>>>Sent: Friday, May 04, 2001 10:38 AM
>>>To: 'Layser, Richard, Mr, OSD-ATL'; burleigh, anne; Barry Col OSD-ATL
>>>Wilson (E-mail); Bill Kley (E-mail); Corlyss 'Drinkard
>>(E-mail); Dave'
>>>'Beck (E-mail); David J. SAF/AQCP Powell (E-mail); gulden,
>glen; Ivana
>>>Sustersic (E-mail); faris, jeanmarie; drost, kate; russell, marolyn;
>>>Michael Maglio (E-mail); janes, peg; RDA Belton (E-mail); RDA Wright
>>>(E-mail); Roger D COL OTJAG Washington (E-mail); Tom 'O'Toole
>>>(E-mail);
>>>shelkin, ynette; Sandra Haberlin (E-mail)
>>>Cc: kobus, tricia

>>>Subject: CAS Committee Report on FAR Case 99-025, Cost Accounting
>>>Standard s (CAS) Administration
>>>
>>>
>>>
>>>Attached is the CAS Committee's May 3, 2001 report that
>>>addresses the public
>>>comments and comments that arose in public meetings on the
>>>proposed rule
>>>published April 18, 2000. Also attached is a CMR for the report's
>>>submission. As a matter of information, there was no written
>>>record kept of
>>>the public meetings and there were no written comments
>>>submitted as a result
>>>of any of the public meetings. We are currently scheduled to
>>>discuss this
>>>case on May 31, 2001. Ms. Tricia Kobus is available to attend
>>>a 10:30 AM
>>>time-certain. Sandy just needs to check on Mr. Dave Capitano's
>>>availability, when he returns from TDY on Monday, to
>>>establish the time
>>>certain for certain. Mr. Glenn Gulden will provide you with
>>>the signed copy
>>>of the Committee report at the meeting on May 16, if you meet
>>>then. If not,
>>>I will bring it to the meeting on May 31.
>>>
>>>Peg
>>>P.S. Sandy,
>>>Please discard the advance copy I sent you
>>>yesterday. Tricia has
>>>made some editorial changes to that version to avoid confusion
>>>and to black
>>>ink the changes in Tab E so that they print as dark as the
>>>rest of the text.
>>>
>>>Peg
>>>
>>>
>>>
>>
>

30.604 Processing changes to disclosed or established cost accounting practices.

(e) *General dollar magnitude proposal content.* The GDM proposal--

(1) Must calculate the cost impact in accordance with paragraph (h) of this section. NC

(2) May use one or more of the following methods to determine the increase/decrease in cost accumulations: NC

(i) A sample of contracts representative of the contract universe.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts.

(B) Flexibly-priced contracts. NC

(iii) Any other method that provides a reasonable approximation of the total increase/decrease in cost accumulations.

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the following data grouped by fixed-price and flexibly-priced contracts: NC

(i) The total increase/decrease in cost accumulations by executive agency (see 2.101), including any impact the change may have on contract incentives, fee, and profit.

(ii) For unilateral changes, the increased/decreased costs paid by the United States.

(4) When requested by the CFAO, must identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5. NC

(g) *Detailed cost impact proposal.* The DCI proposal--

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) Must show the increase/decrease in cost accumulations for each affected CAS-covered contract unless the CFAO and contractor agree to-- NC

(i) Include only those affected CAS-covered contracts exceeding a specified amount; and

(ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts, using the results in paragraph (g)(2)(i) of this section;

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the requirements at paragraph (e)(3) of this section. NC

(4) When requested by the CFAO, must identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

30.605 Processing noncompliances.

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

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) May use one or more of the following methods to determine the increase/decrease in contract price or cost accumulations:

(i) A sample of contracts that is representative of the contract universe.

(ii) When the noncompliance involves cost accumulating, the change in indirect rates multiplied by the total estimated base for only flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease.

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in contract price and/or cost accumulations by executive agency (see 2.101), including any impact the noncompliance may have on contract incentives, fee, and profit.

(ii) The increased/decreased costs paid by the United States.

(iii) The total overpayments made by the Government during the period of noncompliance. The total overpayments must be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal.

(4) When requested by the CFAO, must identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

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

(1) Must calculate the cost impact in accordance with paragraph (h) of this section.

(2) Must show the increase/decrease in contract price and/or cost accumulations for each affected

CAS-covered contract unless the CFAO and contractor agree to--

(i) Include only those affected CAS-covered contracts having--

(A) Contract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase/decrease in contract price and/or cost accumulations for all affected CAS-covered contracts using the results in paragraph (f)(2)(i) of this section; MC

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the information in paragraph (d)(3) of this section.

(4) When requested by the CFAO, must identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

PART 52--SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

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)

(c) For any change in cost accounting practice subject to paragraph (a)(1), (a)(2), or (a)(3) of this clause, the GDM proposal shall--

(1) Calculate the cost impact in accordance with paragraph (e) of this clause--;

(2) Use one or more of the following methods to determine the increase/decrease in cost accumulations:

(i) A sample of contracts representative of the contract universe.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts.

(B) Flexibly-priced contracts.

(iii) Any other method that provides a reasonable approximation of the total increase/decrease in cost accumulations--;

(3) Be in a format acceptable to the CFAO but, as a minimum, include the following data grouped by fixed-price and flexibly-priced contracts:

(i) The total increase/decrease in cost accumulations by executive agency (see FAR 2.101), including any impact the change may have on contract incentives, fee, and profit.

(ii) For unilateral changes, the increased/decreased costs paid by the United States--; and

(4) When requested by the CFAO, ~~shall~~ identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

(d) For any change in cost accounting practice subject to paragraph (a)(1), (a)(2), or (a)(3) of this clause, the DCI proposal shall--

(1) Calculate the cost impact in accordance with paragraph (e) of this clause;

(2) Show the increase/decrease in cost accumulations for each affected CAS-covered contract unless the CFAO and Contractor agree to--

(i) Include only those affected CAS-covered contracts having an estimate to complete exceeding a specified amount; and

(ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts, using the results in paragraph (d)(2)(i) of this clause; ~~and~~

(3) Be in a format acceptable to the CFAO but, as a minimum, include the information in paragraph (c)(3) of this clause--; and

(4) ~~Shall~~ When requested by the CFAO, identify all affected contracts containing the clauses at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5.

FOUR PAGES ORIGINATING WITH THE
NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION (NASA)

REFERRED TO NASA FOR REVIEW AND DIRECT
RESPONSE

(DUPLICATE FOUR PAGES THAT START ON PAGE 10).

Case Management Record

Discussion Handout

FAR Case 1999-025		Date May 4, 2001	
Title Cost Accounting Standards Administration			
Priority	Submitted By Janes		Originator Code DCMA
Case Manager Haberlin		Case References	
FAR Cites		DFARS Cites	
Cognizant Committees Cost Accounting Standards Committee			
Coordination			
Recommendation Discuss: <u>5/31/01</u>			
<p>Attached is the Cost Accounting Standards Committee's report addressing the public comments received on the proposed rule, as well as additional comments obtained by the Committee as a result of a series of public meetings held in September and October, 2000 for the purpose of discussing the proposed rule. The Committee also made changes to the proposed rule to incorporate changes made by the CAS Board's final rule on "Changes in Cost Accounting Practices" published June 14, 2000. Substantial changes have been made to the rule as originally proposed necessitating that the revised proposed rule be published as a proposed rule. All Committee members concur in the report.</p>			



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

SEP 5 2001

ACQUISITION AND
TECHNOLOGY

DP (DAR)

In reply refer to
FAR Case: 1999-025

MEMORANDUM FOR MR. ALBERT MATERA, CHAIRMAN, CIVILIAN AGENCY
ACQUISITION COUNCIL (CAAC)

SUBJECT: Cost Accounting Standards Administration

We have agreed to a draft second proposed rule (Atch 1) amending the 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.

We had published a proposed rule in the Federal Register on April 18, 2000 (65 FR 20854). After considering the written comments received in response to the rule, and the comments provided during public meetings, we are recommending publication of a second proposed rule because of the significant changes made. Differences between the two proposed rules are indicated by underlining.

If the CAAC agrees with the draft proposed rule, please forward it to the FAR Secretariat for processing up to the point of publication. We have attached a draft Federal Register notice (Atch 2). Our case manager is Sandra Haberlin, (703) 602-0289.

BARRY S. WILSON, Col, USAF
Director, Defense Acquisition
Regulations Council

Attachments:
As stated



COST ACCOUNTING STANDARDS ADMINISTRATION
DRAFT PROPOSED RULE
FAR CASE 1999-025

The Federal Acquisition Regulation through FAC 97-26 serves as the baseline. Changes to the baseline are represented by **[bold print in brackets]** for new language and ~~striketthrough~~ for deleted language. Changes made by the second proposed rule are indicated by underlining.

PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

Sec.

30.000 Scope of part.

[30.001 Definitions.]

* * * * *

Subpart 30.6—CAS Administration

30.601 Responsibility.

[30.602 Materiality.]

30.602**[3]** Changes to disclosed or established cost accounting practices.

30.602**[3]**-1 ~~Equitable adjustments for~~ **[Required Mandatory changes required to comply with]** ~~new or modified standards.~~

30.602 2 ~~Noncompliance with CAS requirements.~~

30.602**[3]**-3**[2]** Voluntary **[Unilateral and desirable]** changes.

[30.604 Processing changes to disclosed or established cost accounting practices.]

30.605 **[Processing]** ~~N[n]oncompliance[s] with CAS requirements.~~

[30.606 Resolving cost impacts.]

30.603**[7]** Subcontract administration.

* * * * *

[30.001 Definition[s]. [As used in this part—

"Affected CAS-covered contract or subcontract" means a contract or subcontract subject to Cost Accounting Standards (CAS) rules and regulations for which a contractor or subcontractor—

(1) Used one cost accounting practice to estimate costs and a changed cost accounting practice to accumulate and report costs under the contract or subcontract; or

(2) Used a noncompliant practice for purposes of estimating or accumulating and reporting costs under the contract or subcontract.

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

"Desirable change" means a compliant change to a contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is therefore not subject to the no increased cost prohibition provisions of CAS-covered contracts and subcontracts affected by the change.

"Fixed-price contracts and subcontracts" means-

(1) Fixed-price contracts and subcontracts described at 16.202, 16.203, 16.205 and 16.207;

(2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (Subpart 16.4);

(3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (Subpart 16.5); and

(4) The fixed-hourly rate portion of time-and-materials and labor-hours contracts and subcontracts (Subpart 16.6).

"Flexibly-priced contracts and subcontracts" means-

(1) Fixed-price contracts and subcontracts described at 16.204 and 16.206;

(2) Cost-reimbursement contracts and subcontracts (Subpart 16.3);

(3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (Subpart 16.4);

(4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (Subpart 16.5); and

(5) The materials portion of time-and-materials contracts and subcontracts (Subpart 16.6).

"Noncompliance" means a failure in estimating, accumulating, or reporting costs to-

(1) Comply with applicable CAS; or

(2) Consistently follow disclosed or established cost accounting practices.

"Required change" means-

(1) A change in cost accounting practice that a contractor is required to make in order to comply with a CAS, or a modification or interpretation thereof, that subsequently becomes applicable to an existing CAS-covered contract due to the receipt of another CAS-covered contract or subcontract; or

(2) A prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the contractor to remain in compliance.

"Unilateral change" means a change in cost accounting practice from one compliant practice to another compliant practice that a contractor with a CAS-covered contract(s) or subcontracts(s) elects to make that has not been deemed a desirable change by the CFAO and for which the Government will pay no aggregate increased costs.]

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Subpart 30.1-General

30.101 Cost Accounting Standards.

(a) * * * ~~Cost Accounting Standards (CAS)~~ * * *

Subpart 30.2-CAS Program Requirements

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30.201-3 Solicitation provisions.

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[(c) Insert the provision at FAR 52.230-7, Proposal Disclosure-Cost Accounting Practice Changes, in solicitations for contracts subject to CAS as specified in 48 CFR 9903.201 (FAR Appendix).]

* * * * *

30.202-6 Responsibilities.

(a) * * *

(b) The contracting officer **[must]** ~~shall~~ not award a CAS-covered contract until the ACO **[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~~ **[agency head, on a nondelegable basis, authorizes award without obtaining submission of the Disclosure Statement (see 48 CFR 9903.202-2)]**. In this event, **[the CFAO must make]** a determination of adequacy ~~shall be required~~ as soon as possible after the award.

(c) The ~~eognizant~~ auditor is responsible for * * *

(d) The ~~eognizant~~ ACO **[CFAO]** is responsible for **[issuing]** determinations of adequacy and compliance of the Disclosure Statement.

30.202-7 Determinations.

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

(i)] shall [C]onduct a review of the Disclosure Statement to ascertain whether it is current, accurate, and complete[;] and

[(ii)] shall [R]eport the results to the cognizant ACO [CFAO.], who shall

[(2) The CFAO must] determine whether or not it [if the Disclosure Statement] adequately describes the [contractor's] offerer's cost accounting practices. [Also, the CFAO must, and take one of the following actions:

(i) If the Disclosure Statement is] If the ACO [inadequate, request a revised Disclosure Statement and] identify]ies any areas of inadequacy, the ACO shall request a revised Disclosure Statement.[-

[(ii)] If the Disclosure Statement is adequate, the ACO shall notify the [contractor] offerer in writing, [and provide a copy] with copies to the cognizant auditor [with a copy to the contracting officer if the proposal triggers submission of a Disclosure Statement] and contracting officer. The notice of adequacy shall [must] state that[-

(A) The disclosed practices are adequately described and the CFAO currently is not aware of any additional practices that should be disclosed;

(B) The notice is not a determination that all cost accounting practices were disclosed; and

(C) Tthe contractor must not consider] a disclosed practice shall not, by virtue of such disclosure, be considered an approved practice for [estimating] pricing proposals or accumulating and reporting contract [and subcontract] performance cost data-[-; or

(ii) If the Disclosure Statement is inadequate, notify the contractor of the inadequacies and request a revised Disclosure Statement.]

[(3)] Generally, the ACO shall [the CFAO should] furnish the contractor notification of adequacy or inadequacy within 30 days after the [CFAO receives the] Disclosure Statement has been received by the ACO.

(b) Compliance determination. [1] After the notification of adequacy, the cognizant auditor shall [must-

(i) C]onduct a detailed compliance review to ascertain whether or not the disclosed practices comply with Part 31 and the CAS[;] and

[(ii)] shall [A]dvise the [CFAO] ACO of the results.

[(2)] The ACO shall [CFAO- must make a determination of compliance or take action regarding a report of alleged noncompliance in accordance with 30.605(b).]

(i) Must] take action regarding noncompliance with CAS under FAR 30.60[5]2 2.[-

~~(ii) May]~~ The ACO may require a revised Disclosure Statement and adjustment of the prime contract price or cost allowance. ~~], and~~

~~(iii) Must process a n]~~ Noncompliance with Part 31 shall be processed separately, in accordance with normal administrative practices.

30.202-8 Subcontractor Disclosure Statements.

(a) When the Government requires determinations of adequacy ~~or inadequacy~~ **[of subcontractor Disclosure Statements]**, the ACO **[CFAO for]** cognizant ~~of~~ the subcontractor shall **[must]** provide such **[this]** determination to the ACO **[CFAO for]** cognizant ~~of~~ the prime contractor or next higher~~[-]tier~~ subcontractor. The ACO ~~[-higher-tier CFAO(s)]~~ cognizant ~~of [the] higher[-]tier subcontractors or prime contractors~~ shall **[must]** not **[change]** reverse the determination of the ACO **[lower-tier CFAO]** cognizant ~~of the subcontractor~~.

* * * * *

FAR 30.6-CAS Administration

30.601 Responsibility.

(a) The cognizant **[Federal agency CFAO]** ACO shall **[must]** perform CAS administration for all contracts **[and subcontracts]** in a business unit notwithstanding retention ~~of~~ **[, even when the contracting officer retains]** other administration functions by the contracting officer. **[The CFAO must make all CAS-related required determinations and findings (see Subpart 1.7) 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 shall **[must]** request the **[CFAO]** cognizant ACO to perform administration for CAS matters (see Subpart 42.2). **[For subcontract awards, the contractor awarding the subcontract must follow the procedures at 52.230-6(1).]**

30.602 [Materiality] ~~Changes to disclosed or established cost accounting practices.~~

[(a) In determining materiality, the CFAO must use the criteria in 48 CFR 9903.305 (FAR Appendix). ~~[Agencies must adjust]~~ Adjustments to contracts ~~[(or use another suitable~~

method (see 30.606))] and withholding amounts payable for CAS noncompliances, new standards, or voluntary changes are required only if the [CFAO determines that the] amounts involved are material. [The CFAO must-

(a)] In determining materiality, the ACO shall use the criteria in 48 CFR 9903.305 (FAR Appendix B). [, and

(b)] The ACO may forego action to require that a cost impact proposal be submitted or to adjust contracts, [I]if the ACO determines that [CFAO determines that] the amount involved is immaterial.[, and

(1) Make no contract adjustments; and

(2)] However, i[In the case of noncompliance issues, the ACO shall inform the contractor that [if the noncompliance is not corrected,] (a) T[the Government reserves the right to make appropriate contract adjustments if, in the future, should the ACO determines that the cost impact has become material [in the future.] and

(b)] The contractor is not excused from the obligation to comply with the applicable Standards or rules and regulations involved.

[(b) A CFAO determination of materiality-

(1) May be made before or after a general dollar magnitude proposal has been submitted, depending on the particular facts and circumstances; and

(2) Must be based on adequate documentation.

(c) When the amount involved is immaterial, the CFAO must-

(1) Make no contract adjustments and conclude the cost impact process; and

(2) In the case of noncompliance issues, inform the contractor that-

(i) The noncompliance should be corrected; and

(ii) 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.

(d) When the amount involved is material, the CFAO must adjust the contract or use another suitable method (see 30.606) for required, unilateral, and desirable changes, and CAS noncompliances.]

[30.603 Changes to disclosed or established cost accounting practices.]

30.602[3]-1 Equitable adjustments for [Required Mandatory changes.] required to comply with] new or modified standards.

(a) New or modified standards [General]. (1) The provision at 52.230-1, Cost Accounting Standards Notices and Certification, requires o[O]fferors to [must] state whether or

not the award of [a] the contemplated contract would require a change to [an] established cost accounting practices affecting existing contracts and subcontracts [see 52.230-1]. The contracting officer shall [must notify the CFAO if the offeror states that a change in cost accounting practice would be required.] ~~ensure that the contractor's response to the notice is made known to the [CFAO] ACO.~~

~~(2) Contracts and subcontracts containing the clause at FAR 52.230-2, Cost Accounting Standards, or FAR 52.230-5, Cost Accounting Standards—Education Institution, may require equitable adjustments to comply with new or modified CAS. Such adjustments are limited to contracts and subcontracts awarded before the effective date of each new or modified standard. A new or modified standard[—~~

~~(i) Is] becomes applicable prospectively to these contracts and subcontracts [awarded before the effective date of the new or modified standard] when a new contract or subcontract containing the clause at FAR 52.230-2 or FAR 52.230-5 is awarded on or after the effective date of the new or modified standard. [; and~~

[(b) CFAO Responsibilities. Prior to making an equitable adjustment under the applicable paragraph(s) that address a required change at 52.230-2, Cost Accounting Standards, 52.230-3, Disclosure and Consistency of Cost Accounting Practices, or 52.230-5, Cost Accounting Standards—Educational Institution, the CFAO must determine that—

(1) The cost accounting practice change is required to comply with a CAS, or a modification or interpretation thereof, that subsequently became applicable to one or more contracts or subcontracts; or

(2) The former cost accounting practice was in compliance with applicable CAS and the change is necessary to remain in compliance.

(c) Notice and proposal preparation. (1) When the award of a contract would require a change to an established cost accounting practice, the provision at 52.230-7, Proposal Disclosure—Cost Accounting Practice Changes, requires the offeror to—

(i) Prepare the contract pricing proposal in response to the solicitation using the changed cost accounting practice for the period of performance for which the practice will be used; and

(ii) Submit a description of the changed cost accounting practice to the contracting officer and the CFAO as pricing support for the proposal.

(2) When a change is required to remain in compliance (for reasons other than a contract award) or to comply with a

new or modified standard, the clause at 52.230-6, Administration of Cost Accounting Standards, requires the contractor to-

(i) Submit a description of the change to the CFAO not less than 60 days (or other mutually agreeable date) before implementation of the change; and

(ii) Submit rationale to support any contractor assertion that the cost impact of the change is immaterial.

(d) Equitable adjustments for new or modified standards.

(1) ~~(ii)~~ Required changes made to comply with new or modified standards 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, 52.230-3, or 52.230-5).

(2) When a contractor elects to implement a required change to comply with a new or modified standard prior to the applicability date of the standard, the CFAO must administer the change as a unilateral change (see 30.603-2). Contractors must not receive an equitable adjustment that will result in increased costs in the aggregate paid by the Government prior to the applicability date unless the CFAO determines that the unilateral change is a desirable change.]

~~(3) Contracting Officers shall [should] encourage contractors to submit to the [CFAO] ACO 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 S[s]tandard has been promulgated by the CASB.~~

~~(b) Accounting changes. (1) The clause at FAR 52.230-6, Administration of Cost Accounting Standards, requires the [C]contractor[s must] to submit a description of any change in cost accounting practices 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)].~~

~~(2) The ACO, with the assistance of the auditor, shall review the proposed change concurrently for adequacy and compliance (see 30.202-7). If the description of the change meets both tests, the ACO shall notify the contractor and request submission of a cost impact proposal in accordance with FAR 30.602.~~

~~(c) Contract price adjustments. (1) The ACO shall promptly analyze the cost impact proposal with the assistance of the auditor, determine the impact, and negotiate the contract price adjustment on behalf of all Government agencies. The ACO shall invite contracting officers to participate in negotiations of adjustments when the price of any of their contracts may be increased or decreased by \$10,000 or more. At the conclusion of negotiations, the ACO shall~~

~~(i) Execute supplemental agreements to contracts of the ACO's own agency (and, if additional funds are required, request them from the appropriate contracting officer);~~

~~(ii) Prepare a negotiation memorandum and send copies to cognizant auditors and contracting officers of other agencies having prime contracts affected by the negotiation (those agencies shall execute supplemental agreements in the amounts negotiated); and~~

~~(iii) Furnish copies of the memorandum indicating the effect on costs to the ACO of the next higher tier subcontractor or prime contractor, as appropriate, if a subcontract is to be adjusted. This memorandum shall be the basis for negotiation between the subcontractor and the next higher tier subcontractor or prime contractor and for execution of a supplemental agreement to the subcontract.~~

~~(2) If the parties fail to agree on the cost or price adjustment, the ACO may make a unilateral adjustment, subject to contractor appeal as provided in the clause at 52.233-1, Disputes.~~

~~(d) Remedies for contractor failure to make required submissions. (1) If the contractor does not submit the accounting change description or the general dollar magnitude of the change or cost impact proposal (in the form and manner specified), the ACO, with the assistance of the auditor, shall estimate the general dollar magnitude of the cost impact on CAS-covered contracts and subcontracts. The ACO may then withhold an amount not to exceed 10 percent of each subsequent amount determined payable related to the contractor's CAS covered prime contracts, up to the estimated general dollar magnitude of the cost impact, until the required submission is furnished by the contractor.~~

~~(2) If the contractor has not submitted the cost impact proposal before the total withheld amount reaches the estimated general dollar magnitude and the ACO determines that an adjustment is required (see 30.602), the ACO shall request the contractor to agree to the cost or price adjustment. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, the ACO may make a unilateral adjustment, subject to contractor appeal as provided in the clause at 52.233-1, Disputes.~~

[30.603-2 Unilateral and desirable Voluntary changes.

(a) Unilateral changes General. (1) The contractor may unilaterally voluntarily change its disclosed or established cost accounting practices, but the Government must not pay any increased cost, in the aggregate, as a result of the unilateral change. The Government may adjust the contract price for voluntary changes.

(2) Prior to making any contract price or cost adjustments under the applicable paragraph(s) of the clause addressing a unilateral change at 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine that-

(i) The contract price or cost adjustments will protect the Government from the payment of] However, the Government must not allow increased costs, in the aggregate; and

(ii) The net affect of the adjustments will not result in the recovery of more than the increased costs paid by the Government, 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).

(eb) Desirable changes. (1) Prior to taking action under the applicable paragraph(s) addressing a desirable change at 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine the change is a desirable change and not detrimental to the interests of the Government. 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.

(2) Until the CFAO has determined a change to a cost accounting practice is a desirable change, the change is a unilateral change.

(3) Some factors to consider in determining if a change is a desirable change include, but are not limited to, whether-

(i) The contractor must change the cost accounting practices it uses for Government contract and subcontract costing purposes to remain in compliance with the provisions of Part 31;

(ii) The change in cost accounting practice is directly associated with the application of commercial business practices to affected CAS-covered contracts and subcontracts that will result in significant benefits to the Government;

(iii) The contractor is initiating management actions directly associated with the change that will result in cost savings for segments with CAS-covered contracts and subcontracts over a period for which forward pricing rates are developed or five years, whichever is shorter, and the cost savings are reflected in the forward pricing rates; and

(iv) Funds are available if the determination would necessitate an upward adjustment of contract cost or price.

(c) Notice and proposal preparation. (1) When a contractor makes a unilateral change, the clause at 52.230-6, Administration of Cost Accounting Standards, requires the contractor to-

(i) Submit a description of the change to the CFAO not less than 60 days (or other mutually agreeable date) before implementation of the change; and

(ii) Submit rationale to support any contractor assertion that the cost impact of the change is immaterial.

(2) If a contractor implements the change in cost accounting practice without submitting the notice as required in paragraph (c)(1) of this subsection, the CFAO may determine the change a failure to follow a cost accounting practice consistently and process it as a noncompliance in accordance with 30.605.

(d) Retroactive changes. (1) If a contractor requests that a unilateral voluntary change be retroactive, (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 supporting rationale for the action.

(2) The CFAO must promptly evaluate the contractor's request and must, as soon as practical, notify the contractor in writing whether the request change is or is not retroactive approved.

(3) The CFAO must not approve a date for the retroactive change that is before the beginning of the contractor's fiscal year in which the request is made.

(e) Contractor accounting changes due to external restructuring activities. The requirements for contract price and cost adjustments do not apply to compliant cost accounting practice changes that are directly associated with external restructuring activities that are subject to and meet the requirements of 10 U.S.C. 2325. However, the disclosure requirements in 30.603-2 must be followed.

~~-(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.~~

30.604 Processing changes to disclosed or established cost accounting practices.

(a) Scope. This section applies to required, unilateral,
and desirable 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. The If the CFAO must-

(1) If the description of the change is both adequate
and compliant, notify the contractor in writing and-

(i) For required or unilateral changes (except
those requested to be determined desirable changes), request the
contractor submit a general dollar magnitude (GDM) proposal by a
specified date, unless the CFAO determines the cost impact is
immaterial; or

(ii) For unilateral changes that the contractor
requests to be determined desirable changes, inform the
contractor that the request must include supporting rationale
and-

(A) For any request based on the criteria
in 30.603-2(b)(3)(iii), the data necessary to demonstrate the
required cost savings; or

(B) For any request other than those based
on the criteria in 30.603-2(b)(3)(iii), a GDM proposal and any
other data necessary for the CFAO to determine if the change is
a desirable change;

(21) If the description of the change is inadequate,
Identifies any area of inadequacy, the CFAO must request a
revised description of the new cost accounting practice; and

(32) Determines that If the disclosed practice is
noncompliant, the CFAO must notify the contractor in writing
that, if implemented, the CFAO will handle determine the cost
accounting practice to be noncompliant and process it
accordingly. 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) Evaluating requests for desirable changes. (1) When a contractor requests a unilateral change be determined a desirable change, the CFAO must promptly evaluate the contractor's request and, as soon as practical, notify the contractor in writing whether the change is a desirable change or the request is denied.

(2) If the CFAO determines the change is a desirable change, the CFAO must negotiate any cost or price adjustments that may be needed to resolve the cost impact (see 30.606).

(3) If the request is denied, the change is a unilateral change and must be processed accordingly.

(de) General dollar magnitude 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 cost accounting practice; and

(2) Assists the CFAO in determining whether individual contract ~~or subcontract~~ price or cost adjustments are required.

(ed) General dollar magnitude proposal content. The GDM proposal must-

(1) Must calculate the cost impact in accordance with paragraph (h) of this section. However, if the CFAO determines that a cost impact calculated in accordance with paragraph (h) of this section would result in an incorrect computation of the increased cost paid by the Government, the calculation must be modified to address the particular circumstances;

(2) May use one or more of the following methods to determine the increase or decrease in cost accumulations:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations;

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the following data:

(i) The total increase or decrease in cost accumulations by executive agency, including any impact the change may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(ii) For unilateral changes, the increased or decreased costs paid by the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts; and

(4) When requested by the CFAO, must identify all affected CAS-covered contracts and subcontracts.

(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.

(f) CFAO evaluation. General dollar magnitude proposal evaluation. The CFAO, with the assistance of the auditor, must promptly evaluate the GDM proposal. If the cost impact is immaterial, the CFAO must notify the contractor in writing and conclude the cost impact process with no contract adjustments. Otherwise, — (1) Material, the CFAO must—

(1i) Negotiate and resolve the cost impact (see 30.606)†. If necessary, the CFAO may ~~(ii) Request that the contractor submit, by a specified date, a revised GDM proposal by a specified date with specific additional individual contract data needed to resolve the cost impact (e.g., an expanded sample of affected CAS-covered contracts and subcontracts or a revised method of computing the increase or decrease in cost accumulations) contracts with a dollar impact exceeding a specific dollar amount); or~~

~~(2iii) Request that the contractor submit a detailed cost-impact (DCI) proposal by a specified date if the CFAO determines that the GDM proposal is not 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;~~

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

~~(gf) Detailed cost-impact proposal. The DCI proposal must-~~

~~(1) Must calculate the cost impact in accordance with paragraph (h) of this section. However, if the CFAO determines that a cost impact calculated in accordance with paragraph (h) of this section would result in an incorrect computation of the increased cost paid by the Government, the calculation must be modified to address the particular circumstances;~~

~~(2) Must show the increase or decrease in cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and contractor agree to-~~

~~(i) Include only those affected CAS-covered contracts and subcontracts exceeding a specified amount; and~~

~~(ii) Estimate the total increase or decrease in cost accumulations for all affected CAS-covered contracts and subcontracts, using the results in paragraph (g)(2)(i) of this section;~~

~~(3) May be in any format acceptable to the CFAO but, as a minimum, must include the requirements at paragraphs (e)(3)(i) and (ii) of this section; and~~

~~(4) When requested by the CFAO, must identify all affected CAS-covered contracts and subcontracts.~~

(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; and

(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) Calculating cost impacts. The cost impact calculation must-

(1) Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established);

(2) Combine the cost impact for all affected CAS-covered contracts and subcontracts for all segments if the effect of a change results in costs flowing between those segments;

(3) Compute the increase or decrease in cost accumulations for affected CAS-covered contracts and subcontracts based on the difference between—

(i) The estimated cost to complete using the current practice; and

(ii) The estimated cost to complete using the changed practice;

(4) For unilateral changes—

(i) Determine the increased or decreased cost paid by the Government for fixed-price contracts and subcontracts as follows:

(A) When the amount in (h)(3)(i) exceeds the amount in (h)(3)(ii) of this section, the difference is increased cost paid.

(B) When the amount in (h)(3)(i) is less than the amount in (h)(3)(ii) of this section, the difference is decreased cost paid;

(ii) Determine the increased or decreased cost paid by the Government for flexibly-priced contracts and subcontracts as follows:

(A) When the amount in (h)(3)(i) exceeds the amount in (h)(3)(ii) of this section, the difference is decreased cost paid.

(B) When the amount in (h)(3)(i) is less than the amount in (h)(3)(ii) of this section, the difference is increased cost paid; and

(iii) Calculate the increased or decreased cost paid by the Government in the aggregate by adding—

(A) The increased or decreased costs paid for fixed-price contracts and subcontracts;

(B) The increased or decreased costs paid for flexibly-priced contracts and subcontracts; and

(C) The total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased costs paid. The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated; and

(5) For equitable adjustments for required changes—

(i) Increased cost accumulations are the basis for increasing contract cost or price; and

(ii) Decreased cost accumulations are the basis for decreasing contract cost or price.

(ih) Remedies. If the contractor does not submit the accounting change description or the ~~required cost impact~~ proposals required in paragraph (d) or (g) of this section

within the specified time, or any extension granted by the CFAO, the CFAO must-

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

(2) Take one or both of the following actions-

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

(ii) Issue a final decision in accordance with 33.211 and May unilaterally adjust the contract(s) by the estimated amount of the cost impact.]

30.60[5]2-2 Processing ~~n~~Noncompliances with CAS requirements.

[(a) General. Prior to making any contract price or cost adjustments under the applicable paragraph(s) addressing noncompliance at 52.230-2, 52.230-3, or 52.230-5, the CFAO must determine that-

(1) The contract price or cost adjustments will protect the Government from the payment of increased costs, in the aggregate; and

(2) The net affect of the adjustments will not result in the recovery of more than the increased costs paid by the Government, in the aggregate.]

~~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.]~~

(a[b]) [Notice and d] ~~Determination of noncompliance.~~ (1) Within 15 days of the recei[ving]pt of a report of alleged noncompliance from the cognizant auditor, [T]the ACO shall [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].

(i) Notify the auditor that the CFAO disagrees with the alleged noncompliance; or

(ii) Issue a notice of potential noncompliance to the contractor and provide a copy to the auditor.

(2) [The notice of potential noncompliance] the CFAO makes] If an initial finding of noncompliance is made, the [CFAO must-

(i)] ACO shall ~~[I]immediately~~ [N]otify the contractor in writing of the exact nature of the noncompliance[;] and

[(ii) A]allow the contractor 60 days [or other mutually agreeable date) within which to[-

(A) A]agree or to submit reasons why the [contractor considers the] existing practices are considered to be in compliance-[, and

(B) Submit rationale to support any assertion that the cost impact of the noncompliance is immaterial.]

~~(3) -If the contractor agrees with the initial finding of noncompliance, the ACO shall review the contractor submissions required by paragraph (a) of the clause at FAR 52.230-6, Administration of Cost Accounting Standards.~~

~~([3]4) If the contractor disagrees with the initial noncompliance finding, [T]he ACO shall [CFAO must-~~

(i) If applicable, R]review the reasons why the contractor considers the existing practices to be in compliance[compliant or the cost impact to be immaterial;

(ii)] and [M]make a determination of compliance or noncompliance-[consistent with 1.704; and

(iii)] If the ACO [Notify the contractor and the auditor in writing of the determination of compliance or] determines that the contractor's practices are in noncompliance, [and the basis for the determination. including] a written explanation shall be provided as to why the [CFAO agrees or] ACO disagrees with the contractor's rationale. The ACO shall notify the contractor and the auditor in writing of the determination.[-, and

[(4iv)] If the [CFAO] ACO makes a determination of noncompliance, [the CFAO must follow] the procedures in [paragraphs] ([c]b) through ([h]d) [of this section], as appropriate, shall be followed. [, unless the CFAO also determines the cost impact is immaterial. If immaterial, the CFAO must-

(i) Inform the contractor in writing that-

(A) The noncompliance should be corrected;

and

(B) 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.]

([c]b) [Correcting Noncompliances] Accounting Changes.

(1) The clause at FAR 52.230-6, Administration of Cost Accounting Standards, requires t[~~T~~]he contractor [must] to submit a description of any cost accounting practice change needed to correct a noncompliance. [see 52.230-6 within 60 days after the earlier of-

(i) Agreement with the CFAO that there is a noncompliance; or

(ii) Notification by the CFAO of a determination of noncompliance.]

(2) The [CFAO-]

(i)] ACO [, w]ith the assistance of the auditor,] shall [should] review the proposed change concurrently for adequacy and compliance (see 30.202-7). [~~and The CFAO must-~~

(ii) When] If the description of the change [is both adequate and compliant-,] meets both tests, the ACO shall [must]

[A) N]otify the contractor [in writing;] and request submission of a The request must specify a date for submission of a . [when the cost impact is-

(A) Material, the CFAO must-

(B) Request that the contractor submit, by a specified date, a general dollar magnitude (GDM) proposal, unless the CFAO determines the cost impact is immaterial; and

(C) Follow the procedures at paragraph (b)(4) of this section if the CFAO determines the cost impact is immaterial.

(ii) If the description of the change is inadequate, request a revised description of the new cost accounting practice.

(iii) If the disclosed practice is noncompliant, notify the contractor in writing that, if implemented, the CFAO will determine the cost accounting practice to be noncompliant and process it accordingly.

(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 proposal content. The GDM proposal must-

(1) Must calculate the cost impact in accordance with paragraph (h) of this section. However, if the CFAO determines that a cost impact calculated in accordance with paragraph (h) of this section would result in an incorrect computation of the increased cost paid by the Government, the calculation must be modified to address the particular circumstances;

(2) May use one or more of the following methods to determine the increase or decrease in contract and subcontract price or cost accumulations:

(i) A representative sample of affected CAS-covered contracts and subcontracts affected by the noncompliance.

(ii) When the noncompliance involves cost accumulating, the change in indirect rates multiplied by the total estimated base for only flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease;

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the following data:

(i) The total increase or decrease in contract and subcontract price and cost accumulations by executive agency (see 2.101), including any impact the noncompliance may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

- (A) Fixed-price contracts and subcontracts;
- (B) Flexibly-priced contracts and

subcontracts.

(ii) The increased or decreased costs paid by the Government for each of the following groups:

- (A) Fixed-price contracts and subcontracts;
- (B) Flexibly-priced contracts and

subcontracts.

(iii) The total overpayments made by the Government during the period of noncompliance. The total overpayments must be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal; and

(4) When requested by the CFAO, must identify all affected CAS-covered contracts and subcontracts.

~~(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 General dollar magnitude proposal evaluation. The CFAO must promptly evaluate the GDM proposal. If the cost impact is [immaterial, the CFAO must follow the requirements in paragraph (b)(4) of this section. Otherwise, (1) Material, the CFAO must—

(1i) Negotiate and resolve the cost impact (see 30.606). If necessary, the CFAO may; (ii) Request the contractor submit, by a specified date, a revised GDM proposal by a specified date, with specific additional individual contract data needed to resolve the cost impact (e.g., an expanded sample of affected CAS-covered contracts and subcontracts or a revised method of computing the increase or decrease in contract and subcontract price and cost accumulations contracts with a dollar impact exceeding a specific dollar amount); or

(2iii) Request that the contractor submit a detailed cost-impact (DCI) proposal by a specified date if the CFAO determines that the GDM proposal is not 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 proposal. The DCI proposal must-

(1) Must calculate the cost impact in accordance with paragraph (h) of this section. However, if the CFAO determines that a cost impact calculated in accordance with paragraph (h) of this section would result in an incorrect computation of the increased cost paid by the Government, the calculation must be modified to address the particular circumstances;

(2) Must show the increase or decrease in price and cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and contractor agree to-

(i) Include only those affected CAS-covered contracts and subcontracts having-

(A) Contract and subcontract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase or decrease in price and cost accumulations for all affected CAS-covered contracts and subcontracts using the results in paragraph (f)(2)(i) of this section;

(3) May be in any format acceptable to the CFAO but, as a minimum, must include the information in paragraphs (d)(3)(i) and (ii) of this section; and

(4) When requested by the CFAO, must identify all affected CAS-covered contracts and subcontracts.]

~~(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).]~~

~~(e[g]) [Interest.] Contract price adjustments. (1) The ACO shall request that the contractor submit a cost impact proposal within the time specified in the clause at FAR 52.230-6, Administration of Cost Accounting Standards. [The CFAO must-~~

~~(1) Follow the procedures at 30.604(f), and~~

~~(2)] (2) Upon receipt of the cost impact proposal, the ACO shall then follow the procedures in 30.602 1(e)(1). In accordance with the clause at 52.230-2, Cost Accounting Standards, [52.230-3,] or 52.230-5, Cost Accounting Standards-Educational Institution, [the CFAO must-~~

~~(1i] the ACO shall [I]include and [S]separately identify, as part of the computation of the contract price adjustment(s), applicable interest on any increased cost paid [by the Government] to the contractor as a result of the noncompliance-;~~

~~(2ii) Compute simple i]Interest shall be computed from the date of overpayment to the time the adjustment is effected. [in accordance with 26 U.S.C. 6621(a)(2), as follows:~~

~~(iA)] If the [quarterly amounts billed during the period of noncompliance were approximately the same,] costs were incurred and paid evenly over the fiscal years during which the noncompliance occurred, then [use] the [average interest rate and] midpoint [for] of the period [of] in which the noncompliance began may be considered [as] the baseline for the computation of interest.~~

~~[(iiB) If the quarterly amounts billed during the period of noncompliance were not approximately the same, costs were not incurred and paid evenly over the fiscal years during which the noncompliance occurred, use a]An alternate equitable method[.] should be used if the costs were~~

~~not incurred and paid evenly over the fiscal years during which the noncompliance occurred. Interest under 52.230-2 should be computed pursuant to Public Law 100-679.~~

[(h) Calculating cost impacts. The cost impact calculation must-

(1) Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established);

(2) Combine the cost impact for all affected CAS-covered contracts and subcontracts for all segments if the effect of a change results in costs flowing between those segments;

(3) For noncompliances that involve estimating costs, compute the impact on contract and subcontract price only for fixed-price contracts and subcontracts, based on the difference between-

(i) The negotiated contract or subcontract price;
and

(ii) What the negotiated price would have been had the contractor used a compliant practice;

(4) For noncompliances that involve accumulating costs, compute the impact on cost accumulations only for flexibly-priced contracts and subcontracts, based on the difference between-

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

(ii) The costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice);

(5) Determine the increased or decreased cost paid by the Government for fixed-price contracts and subcontracts as follows:

(i) When the amount in (h)(3)(i) exceeds the amount in (h)(3)(ii), the difference is increased cost paid.

(ii) When the amount in (h)(3)(i) is less than the amount in (h)(3)(ii), the difference is decreased cost paid;

(6) Determine the increased or decreased cost paid by the Government for flexibly-priced contracts and subcontracts as follows:

(i) When the amount in (h)(4)(i) exceeds the amount in (h)(4)(ii), the difference is decreased cost paid.

(ii) When the amount in (h)(4)(i) is less than the amount in (h)(4)(ii), the difference is increased cost paid; and

(7) Calculate the increased or decreased cost paid by the Government in the aggregate by adding-

(i) The increased or decreased cost paid for fixed-price contracts and subcontracts;

(ii) The increased or decreased costs paid for flexibly-priced contracts and subcontracts; and

(iii) The total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased costs paid. The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts or subcontracts were negotiated.]

(h) Remedies. If the contractor does not correct the noncompliance or submit the required cost impact proposals required in paragraph (d) or (f) of this section within the specified time, or any extension granted by the CFAO, the CFAO must follow the procedures at 30.604(ih).]

~~(d) Remedies for contractor failure to make required submissions. (1) If the contractor does not submit the accounting change description or the general dollar magnitude of the change or cost impact proposal (in the form and manner specified), the ACO, with the assistance of the cognizant auditor, shall estimate the general dollar magnitude of the cost impact on CAS covered contracts and subcontracts. The ACO may then withhold an amount not to exceed 10 percent of each subsequent amount determined payable related to the contractor's CAS covered prime contracts, up to the estimated general dollar magnitude of the cost impact until the required submission is furnished by the contractor.~~

~~(2) If the contractor has not submitted the cost impact proposal before the total withheld amount reaches the estimated general dollar magnitude and the ACO determines that an adjustment is required (see 30.602), the ACO shall request the contractor to agree to the cost or price adjustment. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, the ACO may make a unilateral adjustment, subject to contractor appeal as provided in the clause at 52.233 1, Disputes.~~

~~(3) If the ACO determines that there is no material increase in costs as a result of the noncompliance, the ACO shall notify the contractor in writing that the contractor is in noncompliance, that corrective action should be taken, and that if such noncompliance subsequently results in materially increased costs to the Government, the provisions of the clause at 52.230 2, Cost Accounting Standards, 52.230 5, Cost Accounting Standards Educational Institution, and/or the clause at 52.230 3, Disclosure and Consistency of Cost Accounting Practices, will be enforced.~~

~~30.602-3 Voluntary Changes.~~

~~(a) General. (1) The contractor may voluntarily change its disclosed or established cost accounting practices.~~

~~—— (2) The contract price may be adjusted for voluntary changes. However, increased costs resulting from a voluntary change may be allowed only if the ACO determines that the change is desirable and not detrimental to the interest of the Government.~~

~~(b) Accounting changes. (1) The clause at FAR 52.230-6, Administration of Cost Accounting Standards, requires the contractor to notify the ACO 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.~~

~~(2) The ACO, with the assistance of the auditor, shall review the proposed change concurrently for adequacy and compliance (see 30.202-7). If the description of the change meets both tests, the ACO shall notify the contractor and request submission of a cost impact proposal in accordance with FAR 30.602.~~

~~(c) Contract price adjustments. (1) With the assistance of the auditor, the ACO shall promptly analyze the cost impact proposal to determine whether or not the proposed change will result in increased costs being paid by the Government. The ACO shall consider all of the contractor's affected CAS covered contracts and subcontracts, but any cost changes to higher tier subcontracts or contracts of other contractors over and above the cost of the subcontract adjustment shall not be considered.~~

~~(2) The ACO shall then follow the procedures in 30.602-1(c)(1).~~

~~(d) Remedies for contractor failure to make required admissions. (1) If the contractor does not submit the accounting change description or the general dollar magnitude of the change or cost impact proposal (in the form and manner specified), the ACO, with the assistance of the auditor, shall estimate the general dollar magnitude of the cost impact on CAS covered contracts and subcontracts. The ACO may then withhold an amount not to exceed 10 percent of each subsequent amount determined payable related to the contractor's CAS covered prime contracts, up to the estimated general dollar magnitude of the cost impact, until the required submission is furnished by the contractor.~~

~~(2) If the contractor has not submitted the cost impact proposal before the total withheld amount reaches the estimated general dollar magnitude and the ACO determines that an adjustment is required (see 30.602), the ACO shall request the contractor to agree to the cost or price adjustment. The contractor shall also be advised that in the event no agreement~~

~~on the cost or price adjustment is reached within 20 days, the ACO may make a unilateral adjustment, subject to contractor appeal as provided in the clause at 52.233-1, Disputes.~~

[30.606 Resolving cost impacts.

(a) General. (1) The CFAO must coordinate with the affected contracting officers before negotiating and resolving the cost impact when the cost or price of any of their contracts may be increased or decreased by at least \$100,000. However, the CFAO has the sole authority for negotiating and resolving the cost impact.

(~~1~~2) 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.~~

(3) In resolving the cost impact, the CFAO-

(i) May combine the cost impacts of several changes in cost accounting practices within a segment, intermediate office, or home office only if the changes are implemented in the same fiscal year;

(ii) May combine the cost impacts of two or more segments when the changes do not result in costs flowing between those segments (e.g., the implementation of a common cost accounting practice for two or more segments);

(iii) Must not combine the cost impact of a change in cost accounting practice with the cost impact of a noncompliant practice; and

(iv) Must not combine the cost impact of one noncompliant practice with the cost impact of another noncompliant practice.

(4) For desirable changes, the CFAO should consider the impact of associated management actions on contract costs in resolving the cost impact.

(b) Negotiations. The CFAO must-

(1) Negotiate and resolve the cost impact on behalf of all Government agencies; and

(2) At the conclusion of negotiations, prepare a negotiation memorandum and send copies to the auditor and affected contracting officers.

(cb) Contract adjustments Adjusting Contracts. (1) The CFAO may adjust some or all contracts with a material cost impact, subject to the provisions in paragraph (c)(3) of this section.

(2) In selecting the contract or contracts to be adjusted, the CFAO should assure, to the maximum extent practical and subject to the provisions in paragraph (c)(3) of this section, that the adjustments reflect a prorata share of the cost impact based on the ratio of the cost impact of each executive agency to the total cost impact.

(3) For unilateral changes and noncompliances, the CFAO must—

(i) Not adjust the price upward for fixed-price contracts; and

(ii) If contract adjustments are made, preclude payment of aggregate increased costs by taking one or both of the following actions—

(A) Reduce the contract price on fixed-price contracts.

(B) Disallow costs on flexibly-priced contracts.

(4) When contract adjustments are made, the CFAO must—

(i) Execute the bilateral modifications if the CFAO and contractor agree on the amount of the cost impact and the adjustments (see 42.302(a)(11)(iv)); or

(ii) When the CFAO and contractor do not agree on the amount of the cost impact or the contract adjustments, issue a final decision in accordance with 33.211 and unilaterally adjust the contract(s).

~~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.~~

(de) 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 for contracts when application of the alternate method to contracts would result in—

(i) An underrecovery of monies by the Government (e.g., due to cost overruns); or

~~(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) Apply Make such exclusion only to the determination of final indirect cost rates (42.705) for contractor fiscal years that have ended; and

(ii) Adjust the exclusion to reflect the Government participation rate for flexibly-priced cost-reimbursement contracts and subcontracts. For example, if there are increased costs to the Government of \$100,000, and the indirect cost pool where the adjustment is to be effected has a Government participation rate of 50 percent for flexibly-priced cost-reimbursement contracts and subcontracts, 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.]~~

30.60[7]3 Subcontract administration.

When a negotiated CAS price adjustment or a determination of noncompliance is required at the subcontract level, the [CFAO for] ACO cognizant of the subcontractor shall [must] make the determination and [furnish a copy of the negotiation memorandum or the determination] advise [to] the [CFAO for the contractor affected CFAO(s)] ACO cognizant of the prime contractor or [the] next higher[-]tier subcontractor[, as appropriate] of the decision. The [CFAO of the contractor or the next] CFAO(s)] ACO's cognizant of higher[-]tier subcontractors or prime contractors shall [must] not [change] reverse the determination of the [CFAO for the lower-tier] ACO cognizant of the subcontractor. [If the subcontractor refuses to submit a GDM or DCI proposal, remedies are made at the prime contractor level.]

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PART 52-SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

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 (NOV 1999[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[b]) through (g[ei]) [and (ek) through (hn)] of this clause:

[(a) Definitions. As used in this clause-

"Affected CAS-covered contract or subcontract" means a contract or subcontract subject to CAS rules and regulations for which a contractor or subcontractor-

(1) Used one cost accounting practice to estimate costs and a changed cost accounting practice to accumulate and report costs under the contract or subcontract; or

(2) Used a noncompliant practice for purposes of estimating or accumulating and reporting costs under the contract or subcontract.

"Cognizant Federal agency official (CFAO)" means the contracting officer assigned by the cognizant Federal agency to administer the CAS.

"Desirable change" means a compliant change to a contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is therefore not subject to the no increased cost prohibition provisions of CAS-covered contracts and subcontracts affected by the change.

"Fixed-price contracts and subcontracts" means-

(1) Fixed-price contracts and subcontracts described at FAR 16.202, 16.203, 16.205 and 16.207;

(2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (FAR Subpart 16.4);

(3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (FAR Subpart 16.5); and

(4) The fixed-hourly rate portion of time-and-materials and labor-hours contracts and subcontracts (FAR Subpart 16.6).

"Flexibly-priced contracts and subcontracts" means-

(1) Fixed-price contracts and subcontracts described at FAR 16.204 and 16.206;

(2) Cost-reimbursement contracts and subcontracts (FAR Subpart 16.3);

(3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (FAR Subpart 16.4);

(4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (FAR Subpart 16.5); and

(5) The materials portion of time-and-materials contracts and subcontracts (FAR Subpart 16.6).

"Noncompliance" means a failure in estimating, accumulating, or reporting costs to-

(1) Comply with applicable CAS; or

(2) Consistently follow disclosed or established cost accounting practices.

"Required change" means-

(1) A change in cost accounting practice that a contractor is required to make in order to comply with a CAS, or a modification or interpretation thereof, that subsequently becomes applicable to existing CAS-covered contracts or

subcontracts due to the receipt of another CAS-covered contract or subcontract; or

(2) A prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the contractor to remain in compliance.

"Unilateral change" means a change in cost accounting practice from one compliant practice to another compliant practice that a contractor with a CAS-covered contract(s) or subcontract(s) elects to make that has not been deemed a desirable change by the CFAO and for which the Government will pay no aggregate increased costs.]

(a)[b]) Submit to the Contracting Officer [(CFAO)] a description of any cost accounting practice change, the total potential impact of the change on contracts containing a CAS clause, and a general dollar magnitude of the change which identifies the potential shift of costs between CAS-covered contracts by contract type (i.e., firm fixed price, incentive, cost plus fixed fee, etc.) and other contractor business activity. As related to CAS covered contracts, the analysis should identify the potential impact on funds of the various Agencies/Departments (i.e., Department of Energy, National Aeronautics and Space Administration, Army, Navy, Air Force, other Department of Defense, other Government) as follows: [(including revisions to the Disclosure Statement, if applicable,) and any assertion that the cost impact of the change is immaterial as outlined in paragraphs (b)(1) through (3) of this clause. If a contractor implements any change in cost accounting practice is implemented without submitting the notice required by this paragraph, the CFAO may determine the change to will be a failure to follow paragraph (a)(2) of the clause at FAR 52.230-2, Cost Accounting Standards; paragraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; or paragraph (a)(2) of the clause at FAR 52.230-5, Cost Accounting Standards-Educational Institution.]

[(1) When a description has been submitted for a change in cost accounting practice that is dependent on a contract award and that contract is subsequently awarded, notify the CFAO within 15 days after such award.]

(1[2]) For any change in cost accounting practices [not covered by (b)(1) of this clause that is] required in accordance with subparagraph[s] (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, Cost Accounting Standards; or subparagraph[s] (a)(3)[,] and subdivisions (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 to the CFAO not less than] within 60 days (or such other date as may be mutually agreed to [by the CFAO and the Contractor]) [before implementation of the change] after award of a contract requiring this change.~~

~~(2[3]) For any change in cost accounting practices proposed in accordance with [paragraphs] subdivision (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 subparagraph (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 [by the CFAO and the Contractor]) before [implementation] 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 supporting rationale supporting the proposed retroactive applicability date.]~~

~~(3[4]) For any [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 subparagraph (a)(5) [of the clause] at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards Educational Institution; or by subparagraph (a)(4) [of the clause] 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 [by the CFAO and the Contractor]) after the date of agreement [with the CFAO that there is a noncompliance] with the initial finding of noncompliance, [;] or~~

~~(ii) In the event of Contractor disagreement with the initial finding of noncompliance, within 60 days [after] of the date [that the CFAO notifies] the Contractor is notified by the Contracting Officer of the determination of noncompliance.~~

~~(b[c]) After an ACO, or cognizant Federal agency official, determination of materiality, [When requested by the CFAO,] submit [on or before a date specified by the CFAO-]~~

~~[(1) a cost impact [A general dollar magnitude (GDM) proposal in accordance with paragraph (d) or (g) of this clause;] proposal in the form and manner [on or before the date] specified by the Contracting Officer within 60 days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to paragraph (a) of this clause. The cost impact proposal shall be in sufficient detail to permit evaluation, determination, and negotiation of the cost impact~~

~~upon each separate CAS covered contract and subcontract. [CFAO, or other mutually agreed to date.~~

(2) A detailed cost impact (DCI) proposal in accordance with paragraph (e) or (h) of this clause;

(3) For any request for a desirable change that is based on the criteria in FAR 30.603-2(b)(3)(iii), the data necessary to demonstrate the required cost savings; and

(4) For any request for a desirable change that is based on criteria other than that in FAR 30.603-2(b)(3)(iii), a GDM proposal and any other data necessary for the CFAO to determine if the change is a desirable change.

(1d) For any changes in cost accounting practice subject to paragraph (ab)(1), or (ab)(2), or (ab)(3) of this clause, the GDM proposal shall-

(1) Show the calculation of the cost impact in accordance with paragraph (f) of this clause. However, if the CFAO determines that a cost impact calculated in accordance with paragraph (f) of this clause would result in an incorrect computation of the increased cost paid by the Government, the calculation shall be modified to address the particular circumstances;

(2) Use one or more of the following methods to determine the increase or decrease in cost accumulations:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and

subcontracts .

(iii) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations;

(3) Use a format acceptable to the CFAO but, as a minimum, include the following data:

(i) The total increase or decrease in cost accumulations by executive agency (see FAR 2.101), including any impact the change may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and

subcontracts.

(ii) For unilateral changes, the increased or decreased costs paid by the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts; and

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(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.

(e) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the DCI proposal shall-

(1) Show the calculation of the cost impact in accordance with paragraph (f) of this clause. However, if the CFAO determines that a cost impact calculated in accordance with paragraph (f) of this clause would result in an incorrect computation of the increased cost paid by the Government, the calculation shall be modified to address the particular circumstances;

(2) Show the increase or decrease in cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to include-

(i) Only those affected CAS-covered contracts and subcontracts having an estimate to complete exceeding a specified amount; and

(ii) An estimate of the total increase or decrease in cost accumulations for all affected CAS-covered contracts and subcontracts, using the results in paragraph (f)(2) of this clause; and

(3) Use a format acceptable to the CFAO but, as a minimum, include the information in paragraph (d)(3) of this clause.

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(f) For GDM and DCI proposals that are subject to the requirements of paragraphs (d) or (e) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall-

(i) Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established); and

(ii) Combine the cost impact for all segments if the effect of a change results in costs flowing between those segments.

(2) Compute the increase or decrease in cost accumulations for affected CAS-covered contracts and subcontracts based on the difference between-

(i) The estimated cost to complete using the current practice; and

(ii) The estimated cost to complete using the changed practice.

(3) For unilateral changes-

(i) Determine the increased or decreased cost paid by the Government for fixed-price contracts and subcontracts as follows:

(A) When the amount in paragraph (f)(2)(i) exceeds the amount in paragraph (f)(2)(ii) of this clause, the difference is increased cost paid.

(B) When the amount in paragraph (f)(2)(i) is less than the amount in paragraph (f)(2)(ii) of this clause, the difference is decreased cost paid.

(ii) Determine the increased or decreased cost paid by the Government for flexibly-priced contracts and subcontracts as follows:

(A) When the amount in paragraph (f)(2)(i) exceeds the amount in paragraph (f)(2)(ii) of this clause, the difference is decreased cost paid.

(B) When the amount in paragraph (f)(2)(i) is less than the amount in paragraph (f)(2)(ii) of this clause, the difference is increased cost paid.

(iii) Calculate the increased or decreased cost paid by the Government in the aggregate by adding—

(A) The increased or decreased cost paid for fixed-price contracts and subcontracts;

(B) The increased or decreased cost paid for flexibly-priced contracts and subcontracts; and

(C) The total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased cost paid. The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contract or subcontract was negotiated.

(4) For equitable adjustments for required changes—

(i) Increased cost accumulations are the basis for increasing contract cost or price; and

(ii) Decreased cost accumulations are the basis for decreasing contract cost or price.

(g) For any noncompliant cost accounting practice subject to paragraph (b)(4) of this clause, prepare the GDM proposal as follows—

(1) Calculate the cost impact in accordance with paragraph (i) of this clause. However, if the CFAO determines that a cost impact calculated in accordance with paragraph (i) of this clause would result in an incorrect computation of the increased cost paid by the Government, the calculation shall be modified to address the particular circumstances.

(2) Use one or more of the following methods to determine the increase or decrease in contract and subcontract price or cost accumulations:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) When the noncompliance involves cost accumulating, the change in indirect rates multiplied by the total estimated base for only flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease.

(3) Use a format acceptable to the CFAO but, as a minimum, include the following data:

(i) The total increase or decrease in contract and subcontract price and cost accumulations by executive agency

(see FAR 2.10-1), including any impact the noncompliance may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

- (A) Fixed-price contracts and subcontracts.
- (B) Flexibly-priced contracts and

subcontracts.

(ii) The increased or decreased cost paid by the Government for each of the following groups:

- (A) Fixed-price contracts and subcontracts.
- (B) Flexibly-priced contracts and

subcontracts.

(iii) The total overpayments made by the Government during the period of noncompliance. The total overpayments must be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal.

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(h) For any noncompliant practice subject to paragraph (b)(4) of this clause, prepare the DCI proposal as follows:

(1) Calculate the cost impact in accordance with paragraph (i) of this clause. However, if the CFAO determines that a cost impact calculated in accordance with paragraph (i) of this clause would result in an incorrect computation of the increased cost paid by the Government, the calculation shall be modified to address the particular circumstances;

(2) Show the increase or decrease in price and cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to—

(i) Include only those affected CAS-covered contracts and subcontracts having—

(A) Contract and subcontract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase or decrease in price and cost accumulations for all affected CAS-covered contracts and subcontracts using the results in paragraph (h)(2)(i) of this clause.

(3) Use a format acceptable to the CFAO that, as a minimum, includes the information in paragraph (g)(3) of this clause.

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(i) For GDM and DCI proposals that are subject to the requirements of paragraph (g) or (h) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall-

(i) Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established).

(ii) Combine the cost impact for all segments if the effect of a change results in costs flowing between those segments.

(2) For noncompliances that involve estimating costs, compute the change in contract and subcontract price only for fixed-price contracts and subcontracts, based on the difference between-

(i) The negotiated contract or subcontract price; and

(ii) What the negotiated price would have been had the contractor used a compliant practice.

(3) For noncompliances that involve accumulating costs, compute the change in cost accumulations only for flexibly-priced contracts and subcontracts, based on the difference between-

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

(ii) The costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice).

(4) Determine the increased or decreased cost paid by the Government for fixed-price contracts and subcontracts as follows:

(i) When the amount in paragraph (i)(2)(i) exceeds the amount in paragraph (i)(2)(ii) of this clause, the difference is increased cost paid.

(ii) When the amount in paragraph (i)(2)(i) is less than the amount in paragraph (i)(2)(ii) of this clause, the difference is decreased cost paid.

(5) Determine the increased or decreased cost paid by the Government for flexibly-priced contracts and subcontracts as follows:

(i) When the amount in paragraph (i)(3)(i) exceeds the amount in paragraph (i)(3)(ii) of this clause, the difference is decreased cost paid.

(ii) When the amount in paragraph (i)(3)(i) is less than the amount in paragraph (i)(3)(ii) of this clause, the difference is increased cost paid.

(6) Calculate the increased or decreased cost paid by the Government in the aggregate by adding-

(i) The increased or decreased cost paid for fixed-price contracts and subcontracts;

(ii) The increased or decreased cost paid for flexibly-priced contracts and subcontracts; and

(iii) The total increase or decrease in contract and subcontracts incentives, fees, and profits associated with the increased or decreased cost paid. The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated.]

(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 CF AO can calculate and recover the proper interest amount; and~~

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

~~(1) Cost impact proposals submitted for changes in cost accounting practices required in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, Cost Accounting Standards; or subparagraph (a)(3) and subdivisions (a)(4)(i) or (a)(4)(iv) of the clause at FAR 52.230-5, Cost Accounting Standards Educational Institution; shall identify the applicable standard or cost principle and all contracts and subcontracts containing the clauses entitled Cost Accounting Standards or Cost Accounting Standards Educational Institution, which have an award date before the effective date of that standard or cost principle.~~

~~(2) Cost impact proposals submitted for any change in cost accounting practices proposed in accordance with subdivisions (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 subparagraph (a)(3) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; shall identify all contracts and subcontracts containing the clauses at FAR 52.230-2, Cost Accounting Standards, FAR 52.230-5, Cost Accounting Standards Educational Institution, and FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices.~~

~~(3) Cost impact proposals submitted for failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by subparagraph (a)(5) of the clauses at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards Educational Institution; or by subparagraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, shall identify the cost impact on each separate CAS covered contract from the date of failure to comply until the noncompliance is corrected.~~

~~[(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:~~
~~(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).~~

(e[aj]) If the [Contractor does not submit the information] submissions required by paragraphs (a[b])f, i and (b)[r or (c)] of this clause are not submitted within the specified time, or any extension granted by the Contracting Officer [CFAO, the CFAO may take one or both of the following actions:]

(1) ~~[Withhold]~~ an amount not to exceed 10 percent of each subsequent amount [payment] determined payable related to the Contractor's CAS-covered prime contracts, [(up to the estimated general dollar magnitude of the cost impact[i])], ~~may be withheld until such time as the [Contractor provides the]~~ required [information] submission has been provided in the form and manner specified by the Contracting Officer. [to the CFAO.

(2) Issue a final decision in accordance with FAR 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.]

(d[ek]) Agree to[-

(1)] appropriate [C]ontract and subcontract amendments [modifications] to reflect adjustments [required] established in accordance with subparagraphs (a)(4) [or] and (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with subparagraphs (a)(3) or (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause at FAR 52.230-3-; and

(2) Repay the Government for any aggregate increased cost paid to the Contractor.]

(e[fl]) 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 shall not be used);

(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 [CFAO] 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.

(f[gm]) Notify the [CFAO] 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 t] This notice is due within 30 days after **[the Contractor receives the]** proposed subcontract adjustments are received[;] and shall

(2) I] include a proposal for adjusting the higher[-] tier subcontract or the prime contract appropriately.

(g[hn]) For subcontracts containing the [clause or substance of the] clauses at FAR 52.230-2[, FAR 52.230-3,] or [FAR] 52.230-5, require the subcontractor to comply with all S[s] 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)

[52.230-7 Proposal Disclosure-Cost Accounting Practice Changes.

As prescribed in 30.201-3(c), insert the following provision:

PROPOSAL DISCLOSURE-COST ACCOUNTING PRACTICE CHANGES
(DATE)

The offeror shall check "Yes" below if the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable changes:

[] Yes [] No

If the offeror checks "Yes" above, the offeror shall-

(1) Prepare the pricing proposal in response to the solicitation using the changed practice for the period of performance for which the practice will be used; and

(2) Submit a description of the changed cost accounting practice to the contracting officer and the Cognizant Federal Agency Official as pricing support for the proposal.

(End of provision)]

PROPOSED FEDERAL REGISTER NOTICE

**DEPARTMENT OF DEFENSE
GENERAL SERVICES ADMINISTRATION
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 30 and 52
[FAR Case 1999-025]**

**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 with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the 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 on the proposed rule in writing to the FAR Secretariat at the address shown below on or before *(60 days after publication)* to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to:

General Services Administration
FAR Secretariat (MVR)
1800 F Street, NW, Room 4035
ATTN: Laurie Duarte
Washington, DC 20405

Address e-mail comments submitted via the Internet to:
farcase.1999-025@gsa.gov.

Please cite FAR Case 1999-025 in all correspondence related to this issue.

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) 501-3221.

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.

A proposed FAR rule was published in the Federal Register on April 18, 2000 (65 FR 20854). The rule delineated the entire cost-impact process the Government and the contractor must follow when a contractor makes a compliant change to a cost accounting practice or follows a noncompliant practice. Nine responders submitted public comments. Additional comments were provided by the public at a series of public meetings that were held on August 2, 2000, September 26, 2000, and October 17, 2000.

The Councils considered the written comments received in response to the proposed rule and the comments provided during the public meetings. As a result, the Councils are currently proposing a rule that differs significantly from the proposed rule that was published on April 18, 2000. The main differences between the two proposed FAR rules are listed below.

1. **CASB final rule.** This second proposed rule incorporates changes based on a CASB final rule, Changes in Cost Accounting Practices, that was published in the Federal Register on June 14, 2000 (65 FR 37469). These FAR changes include the addition of-

a. Definitions for required, unilateral, and desirable changes; and

b. CASB language excluding cost accounting practice changes related to external restructuring from contract price and cost adjustments;

2. **Offsets.** This second proposed rule eliminates the term "offset" to avoid potential confusion regarding the term but includes the effect of offsets in the cost impact calculation

process by separating the calculation of the cost impact from the resolution of the cost impact;

3. **Materiality.** This second proposed rule clarifies that the cognizant Federal agency official (CFAO) may make a materiality determination at any point in the cost impact process, including before requesting a general dollar magnitude (GDM) proposal.

4. **Desirable change.** This second proposed rule provides additional guidance regarding what constitutes a desirable change.

5. **Form and content of the GDM and detailed cost impact (DCI) proposals.** This second proposed rule revises the requirements regarding the form and content of both the GDM and DCI proposals to provide greater flexibility to apply practical solutions to the cost impact process and to reduce the administrative effort. This includes revising the requirements of the-

a. GDM proposal so that broad based data may be used as the basis for the GDM proposal; and

b. DCI proposal to provide flexibility for the CFAO to not require individual data on all contracts, but to project the cost impact on larger contracts to the remaining contract universe.

6. **Responsibilities and roles of the CFAO.** This second proposed rule requires the CFAO to execute contract modifications in lieu of the contracting officers at the agencies that awarded the contracts; and

7. **New solicitation provision.** This second proposed rule adds a provision that requires a contractor to indicate if the contract award will result in a cost accounting practice change and, if so, to prepare a pricing proposal using the changed practice.

This is not a significant regulatory action and, therefore, was not subject to 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 proposed rule is not expected 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). Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils invite comments from small businesses and other interested parties. The Councils will also consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested

parties must submit such comments separately and should cite FAR Case 1999-025 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) does not apply because the proposed changes to the FAR do not impose information collection requirements that require Office of Management and Budget approval under 44 U.S.C. 3501, et seq.

Part 30 Public Meeting, 8/5/03

NAME
Paul Mitchell
Edward Loeb
Frank Knapp
Mark McDevitt
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Northrop Grumman
UNITED DEFENSE
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UNITED DEFENSE
Beers 3 Cutler PLLC
DC in A
DCAA
NAVY

FAIR .art 30 Public Meeting, 01/5/03

NAME

Terry Albertson
Tricia Kobus
Ted Godlewski
Karen Maros
CHRIS ROCKNEY
MARK GOMORSKI
Rudy Schuhbauer
Mike Birroye

ORGANIZATION

Crowell & Moring
DCMA
DPAP/DARS
Howrey Smart
ERNST + YOUNG
AMC
Self
DeLoth & Toole

Contracts:		Costs After Change		Costs Before Change		Increase (Decrease) in Cost Accumulations		
A - Flexibly Priced		\$75.00		\$105.00		(\$30.00)		
B - Fixed Price		\$100.00		\$70.00		\$30.00		

Cost Allocation same as before.

Hybrid rock with Commercial - fine texture.

2003

PUBLIC MEETING
AUG 5, 2003
9:00 - 12:30

DAVE CARITANO
PRESENTATION

FAR Part 30 Ground Rules

1. Purpose is to facilitate the public comment process by providing the public with insight into the content and rationale of the proposed rule.
2. Meeting is not being held to achieve consensus, to debate the content of the rule, or to write the rule.

1

FAR Part 30

- 30.001, Definitions
- 30.201-3, Solicitation Provisions
- 30.202-6, Disclosure Statements: Responsibilities
- 30.202-7, Disclosure Statements: Determinations
- 30.202-8, Subcontract Disclosure Statements
- 30.601, CAS Administration: Responsibilities
- 30.602, Materiality
- 30.603, Changes to Disclosed or Established Cost Acct. Practices
- 30.604, Processing Changes
- 30.605, Processing Noncompliances
- 30.606, Resolving Cost Impacts
- 30.607, Subcontract Administration
- 52.230-6, Administration of CAS
- 52.230-7, Proposal Disclosure - Changes

2

30.001, Definitions

- Affected CAS-Covered Contract
- Cognizant Federal Agency Official
- Desirable Change
- Fixed-Price Contracts and Subcontracts
- Flexibly-Priced Contracts and Subcontracts
- Noncompliance
- Required Change
- Unilateral Change

3

30.201-3(c), Solicitation Provisions

- Requires inclusion of 52.230-7 in solicitations for contracts subject to CAS.

4

FAR 52.230-7 Proposal Disclosure

- Offeror must indicate whether the contract award will result in a *required or unilateral change in cost accounting practice*, including unilateral changes requested to be desirable, and if it will:
 - (1) Submit a description of the change in cost accounting practice to the contracting officer and the CFAO as pricing support for the proposal; and
 - (2) Prepare the price proposal using the changed practice for the period of performance for which the practice will be used.

5

30.202-6(b), Disclosure Statement Responsibilities

- Impracticality of DS submission:
 - Agency head (not Contracting Officer or CFAO) has authority to authorize contract award without DS
 - Nondelegable
 - Per CAS 9903.202-2

6

30.202-7, Disclosure Statements Adequacy Determinations

- If DS is adequate:
 - CFAO notifies contractor and auditor, and PCO (if proposal triggered DS submission).
 - Notification states that disclosed practices are adequately described.
 - The notice is not a determination that all cost accounting practices were disclosed.
 - Contractor shall not consider a disclosed practice to be an approved practice.

7

30.202-7, Disclosure Statements Adequacy Determinations

- If DS is not adequate:
 - Notify the contractor of the inadequacies; and
 - Request a revised Disclosure Statement.

8

30.202-7, Disclosure Statements Compliance

- After notification of adequacy, auditor conducts compliance review and advises CFAO of results.
- Action regarding a report of alleged noncompliance are processed in accordance with 30.605(b).

9

30.202-8, Subcontractor Disclosure Statements

- Proposed changes failed to make Federal Register Notice due to editorial error.
- ACO should be CFAO, for consistency with revised FAR 30.

10

30.601, CAS Administration Responsibilities

- CFAO performs CAS administration for all contracts (and subcontracts) in a business unit.
- CFAO makes all CAS-related required determinations and findings for all CAS-covered contracts and subcontracts.
- For subcontract awards, the contractor awarding the subcontract follows procedures at 52.230-6(l).

11

30.602, Materiality

- In determining materiality, CFAO uses criteria in 48 CFR 9903.305.
- A determination of materiality may be made before or after a general dollar magnitude proposal has been submitted.
- A determination of materiality must be based on adequate documentation.

12

30.602, Materiality

- **When the amount involved is immaterial:**
 - There are no contract adjustments;
 - Cost impact process is concluded.
- **For noncompliance issues, contractor is informed that:**
 - The noncompliance should be corrected; and
 - 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.

13

30.603, Changes to Disclosed or Established Cost Acct Practices

- **There should be no words between “30.603, Changes to disclosed or established cost accounting practices” and “30.603-1, Required changes”.**
- **This is an editorial error.**

14

30.603, Changes to Disclosed or Established Cost Acct Practices

-1: Required Changes

-2: Unilateral and Desirable Changes

15

30.603-1(a), Required Changes

- *Offerors must state whether or not the award of a contemplated contract would require a change to an established cost accounting practice affecting existing contracts and subcontracts.*

16

30.603-1(b), Required Changes

- Prior to making an equitable adjustment CFAO must determine that:
 - (1) The cost accounting practice change is required to comply with a CAS, or a modification or interpretation thereof, that subsequently became applicable to one or more contracts or subcontracts; or
 - (2) The former cost accounting practice was in compliance with applicable CAS and the change is necessary to remain in compliance.

17

30.603-1(c), Required Changes

- **When the award of a contract would require a change to an established cost accounting practice the offeror must:**
 - (i) Prepare the contract pricing proposal using the changed cost accounting practice for the period of performance for which the practice will be used; and
 - (ii) Submit a description of the changed cost accounting practice to the contracting officer and the CFAO as pricing support for the proposal.

18

30.603-1(c), Required Changes

- When a change is required to remain in compliance (for reasons other than a contract award) or to comply with a new or modified standard, the contractor must:
 - (i) Submit a description of the change to the CFAO; and
 - (ii) Submit rationale to support any contractor assertion that the cost impact of the change is immaterial.

19

30.603-1(d), Required Changes

- Required changes made to comply with new or modified standards may require equitable adjustments, but only to those contracts awarded before the effective date of the new or modified standard.
- Early implementation of a required change is administered as a unilateral change.

20

30.603-2(a), Unilateral Changes

- The contractor may unilaterally change its disclosed or established cost accounting practices.
- The Government shall not pay any increased cost, in the aggregate, as a result of the unilateral change.

21

30.603-2(a), Unilateral Changes

- Prior to making any contract price or cost adjustments the CFAO shall determine that—
 - (i) The contemplated contract price or cost adjustments will protect the Government from the payment of estimated increased costs, in the aggregate; and
 - (ii) The net effect of the contemplated adjustments will not result in the recovery of more than the increased costs paid by the Government, in the aggregate.

22

30.603-2(b), Desirable Changes

- Until the CFAO has determined a change to a cost accounting practice is a desirable change, the change is a unilateral change.

23

30.603-2(b), Desirable Changes

Some factors to consider in determining if a change is desirable include, but are not limited to, whether—

- (i) The contractor must change the cost accounting practice to remain in compliance with FAR Part 31;
- (ii) The contractor is initiating management actions directly associated with the change that will result in cost savings for segments with CAS-covered contracts and subcontracts over a period for which forward pricing rates are developed or five years, whichever is shorter, and the cost savings are reflected in the forward pricing rates; and
- (iii) Funds are available if the determination would necessitate an upward adjustment of contract cost or price.

24

30.603-2(c)

Notice and Proposal Preparation

- When a contractor makes a unilateral change, the contractor must:
 - (i) Submit a description of the change to the CFAO not less than 60 days (or other mutually agreeable date) before implementation of the change; and
 - (ii) Submit rationale to support any contractor assertion that the cost impact of the change is immaterial.
- If a contractor implements the change in cost accounting practice without submitting the notice, the CFAO may determine the change a failure to follow a cost accounting practice consistently and process it as a noncompliance.

25

30.603-2(d)

Retroactive Changes

- If a contractor requests that a unilateral change be retroactive, the contractor shall submit supporting rationale.
- The CFAO shall promptly evaluate the contractor's request and notify the contractor in writing whether the request is or is not approved.
- The CFAO shall not approve a date for the retroactive change that is before the beginning of the contractor's fiscal year in which the request is made.

26

30.603-2(e)

Contractor Accounting Changes Due to External Restructuring Activities

- For compliant cost accounting practice changes that are directly associated with external restructuring activities that are subject to and meet the requirements of 10 U.S.C. 2325:
 - (i) The requirements for contract price and cost adjustments do not apply; and
 - (ii) The disclosure requirements must be followed.

27

30.604, Processing Changes

- Scope
- Procedures
- Desirable Changes
- GDM Proposal
- DCI Proposal
- Calculating Cost Impacts
- Remedies

28

30.604(a), Processing Changes Scope

- Applies to:
 - Required changes
 - Unilateral changes
 - Desirable changes

29

30.604(b), Processing Changes Procedures

- The CFAO, with the assistance of the auditor, reviews the proposed change concurrently for adequacy and compliance.

30

30.604(b), Processing Changes Procedures

- If the description is both adequate and compliant—
 - (i) For required or unilateral changes (except those requested to be determined desirable changes), request a GDM proposal
 - (ii) For unilateral changes that the contractor requests to be determined desirable, the contractor must:
 - For any request based on the criteria in paragraph 30.603-2(b)(3)(ii), submit the data necessary to demonstrate the required cost savings;
 - For any other request, submit a GDM proposal and any other data necessary for the CFAO to determine if the change is desirable.

31

30.604(b), Processing Changes Procedures

- If the description is inadequate, request a revised description of the new cost accounting practice.
- If the disclosed practice is noncompliant, notify the contractor in writing that, if implemented, the CFAO will determine the cost accounting practice to be noncompliant and process it accordingly.

32

30.604(c), Evaluating Requests For Desirable Changes

- CFAO promptly evaluates the request and notifies the contractor in writing whether the change is a desirable change or the request is denied.
- If the CFAO determines the change is a desirable change, the CFAO negotiates any cost or price adjustments that may be needed to resolve the cost impact.
- If the request is denied, the change is a unilateral change and is processed accordingly.

33

30.604(d), GDM Proposal

- Provides information to the CFAO on the estimated overall impact of a change in cost accounting practice on affected CAS-covered contracts and subcontracts.
- Assists the CFAO in determining whether individual contract price or cost adjustments are required.

34

30.604(e), GDM Proposal Content

- The GDM Proposal must calculate the cost impact in accordance with 30.604(h).

35

30.604(e), GDM Proposal Content

GDM Proposal uses one or more of these methods:

- (1) A representative sample of affected CAS-covered contracts and subcontracts;
- (2) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly priced contracts and subcontracts.
- (3) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations for all affected fixed-price and flexibly priced contracts and subcontracts.

36

30.604(e), GDM Proposal Content

- May be in any format acceptable to the CFAO but must include the following data:
 - (i) The total increase or decrease in cost accumulations by executive agency, including any impact on incentives, fees, and profits, for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly priced contracts and subcontracts.
 - (ii) For unilateral changes, the increased or decreased costs paid by the Government for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly priced contracts and subcontracts.

37

30.604(e), GDM Proposal Content

- When requested by the CFAO, the GDM must identify all affected CAS-covered contracts and subcontracts.

38

30.604(f), GDM Proposal Evaluation

- The CFAO, with the assistance of the auditor, shall promptly evaluate the GDM proposal.
- If the cost impact is immaterial, CFAO notifies contractor in writing and concludes the cost impact process with no contract adjustments.
- Otherwise, the CFAO—
 - (1) Negotiates and resolves the cost impact; or
 - (2) If the GDM as submitted is not sufficient to negotiate and resolve the cost impact:
 - Requests a revised GDM proposal; or
 - Requests a DCI proposal.

39

30.604(g), DCI Proposal

- Calculates cost impact in accordance with 30.604(h).
- Shows estimated increase/decrease in cost accumulations for each affected CAS-covered contract and subcontract unless CFAO and contractor agree to:
 - (i) Include only affected CAS-covered contracts and subcontracts exceeding a specified amount; and
 - (ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts and subcontracts using results in (i).

40

30.604(g), DCI Proposal

- May be in any format acceptable to the CFAO but, as a minimum, must include the requirements at 30.604(e)(3).
- When requested by the CFAO, identify all affected contracts and subcontracts.

41

30.604(h) Calculating Cost Impacts

- Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal years in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established).
- Combine the cost impact for all affected CAS-covered contracts and subcontracts for all segments if the effect of a change results in costs flowing between those segments.

42

30.604(h) Calculating Cost Impacts

- Compute the increase or decrease in cost accumulations for affected CAS-covered contracts and subcontracts based on the difference between—
 - (i) The estimated cost to complete using the current practice (ETC current practice); and
 - (ii) The estimated cost to complete using the changed practice (ETC changed practice).

43

30.604(h)(4) Calculating Cost Impacts

- Cost impact for fixed price contracts for unilateral changes:
 - Increased costs =
ETC current practice > ETC changed practice
 - Decreased costs =
ETC current practice < ETC changed practice

44

30.604(h)(4) Calculating Cost Impacts

- Cost impact for flexibly priced contracts for unilateral changes:
- Decreased costs =
ETC current practice > ETC changed practice
- Increased costs =
ETC current practice < ETC changed practice

45

30.604(h)(4) Calculating Cost Impacts

- Incentives, Fees, and Profits:
 - Calculate the total increase or decrease in accordance with CFR 9903.306(c).
 - Based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated.

46

30.604(h)(4) Calculating Cost Impacts

- Compute increased/decreased costs in the aggregate by adding:
 - (1) Increased or decreased costs for fixed-price contracts and subcontracts;
 - (2) Increased or decreased costs for flexibly-priced contracts and subcontracts; and
 - (3) Increase or decrease in contract and subcontract incentives, fees, and profits.

47

30.604(h)(5) Calculating Cost Impacts

- Equitable adjustments for required changes:
 - The estimated increase or decrease in cost accumulations are the basis for increasing contract prices, including target prices and cost ceilings.

48

30.604(i), Remedies

Remedies. If the contractor does not submit the required accounting change description, or GDM or DCI proposal, the CFAO—

- (1) Estimates the cost impact; and
- (2) Takes one or both of the following actions:
 - Withholds 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;
 - Issues a final decision in accordance with FAR 33.211 and unilaterally adjusts the contract(s) by the estimated amount of the cost impact.

49

30.605 Processing Noncompliances

- General
- Notice and Determinations
- Correcting Noncompliances
- GDM Proposal
- DCI Proposal
- Interest
- Calculating Cost Impacts
- Remedies

50

30.605(a) Processing Noncompliances

Prior to making any contract price or cost adjustments, the CFAO shall determine that—

- (1) The contract price or cost adjustments will protect the Government from the payment of increased costs, in the aggregate and will not result in the recovery of more than the increased costs to the Government, in the aggregate.
- (2) The net effect of any invoice adjustments made to correct an estimating noncompliance or any interim and final voucher billing adjustments made to correct a cost accumulation noncompliance will not result in the recovery of more than the increased cost pay by the Government, in the aggregate.

51

30.605(b) Notice and Determination

- After receiving a CAS noncompliance report, CFAO must either
 - (1) Notify the auditor that the CFAO disagrees with the noncompliance; or
 - (2) Issue a notice of potential noncompliance to the contractor.

52

30.605(b) Notice and Determination

- The notice of potential noncompliance to the contractor must:
 - (1) Notify the contractor in writing of the exact nature of the noncompliance.
 - (2) Allow the contractor 60 days (or other mutually agreeable date) within which to:
 - Agree or submit reasons why the contractor considers the existing practices to be in compliance; and
 - Submit rationale to support any assertion that the cost impact of the noncompliance is immaterial.

53

30.605(b) Notice and Determination

- After receiving the contractor's response to the notice of noncompliance, CFAO must:
 - If applicable, review the reasons why the contractor considers the existing practices to be in compliance or the cost impact to be immaterial;
 - Make a determination of compliance or noncompliance.
 - If the CFAO determines that the contractor's practices are in noncompliance, a written explanation shall be provided as to why the CFAO disagrees with the contractor's rationale.

54

30.605(b) Notice and Determination

- If the CFAO makes a determination of noncompliance but determines that the cost impact is immaterial, the CFAO:
- Informs the contractor in writing that:
 - The noncompliance should be corrected; and
 - 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
- Concludes the cost impact process with no contract adjustments.

55

30.605(b) Notice and Determination

- If the CFAO makes a determination of noncompliance and does not determine that the cost impact is immaterial, the CFAO follows the procedures at 30.605(c) through (h).

56

30.605(c) Correcting Noncompliances

- The contractor is required to submit a description of any cost accounting practice change needed to correct a noncompliance within 60 days after the earlier of—
 - (i) Agreement with the CFAO that there is a noncompliance; or
 - (ii) Notification by the CFAO of a determination of noncompliance.

57

30.605(c) Correcting Noncompliances

- When the contractor submits a description of a cost accounting practice change needed to correct a noncompliance, the CFAO, with the assistance of the auditor, reviews the proposed change concurrently for adequacy and compliance.

58

30.605(c) Correcting Noncompliances

- When the description of the change is both adequate and compliant, the CFAO:
 - (1) Notifies the contractor in writing.
 - (2) Requests that the contractor submit a GDM proposal, unless the CFAO determines the cost impact is immaterial.
 - (3) If the CFAO determines the cost impact is immaterial, the CFAO follows the procedures at paragraph 30.605(b)(4).

59

30.605(c) Correcting Noncompliances

- When the description of the change is not adequate, the CFAO requests a revised description of the new cost accounting practice.
- If the disclosed practice is noncompliant, the CFAO notifies the contractor in writing that, if implemented, the CFAO will determine the cost accounting practice to be noncompliant and process it accordingly.

60

30.605(d) GDM Proposal Content

- Calculates the cost impact in accordance with 30.605(h).

61

30.605(d) GDM Proposal Content

- Uses one or more of the following methods to determine the increase or decrease in cost accumulations:
 - (i) A representative sample of affected CAS-covered contracts and subcontracts.
 - (ii) When the noncompliance involves cost accumulation:
 - (A) For purposes of computing increased costs in the aggregate, the change in indirect rates multiplied by the applicable base for flexibly-priced contracts and subcontracts.
 - (B) For purposes of determining interest, the change in indirect rates multiplied by the applicable base for flexibly priced and fixed-price contracts and subcontracts.
 - (iii) Any other method that provides a reasonable approximation of the total increase or decrease in contract and subcontract prices and cost accumulations.⁶²

30.605(d) GDM Proposal Content

- Format acceptable to the CFAO but must include:
 - (1) Total increase or decrease in prices and cost accumulations, by executive agency, including any impact on incentives, fees, and profits, for:
 - (A) Fixed-price contracts and subcontracts;
 - (B) Flexibly priced contracts and subcontracts.
 - (2) Increased or decreased costs to the Govt. for:
 - (A) Fixed-price contracts and subcontracts;
 - (B) Flexibly priced contracts and subcontracts.
 - (3) Total overpayments and underpayments made by the Govt. during the period of noncompliance.
 - (4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

63

30.605(e) GDM Proposal Evaluation

- The CFAO promptly evaluates the GDM proposal.
- If the cost impact is immaterial, CFAO follows procedures at 30.605(b)(4).
- Otherwise, the CFAO—
 - (1) Negotiates and resolves the cost impact; or
 - (2) If the GDM as submitted is not sufficient to negotiate and resolve the cost impact:
 - Requests a revised GDM proposal; or
 - Requests a DCI proposal.

64

30.605(f) DCI Proposal

- Calculates cost impact in accordance with 30.605(h).
- Shows estimated increase/decrease in cost accumulations for each affected CAS-covered contract and subcontract unless CFAO and contractor agree to:
 - (i) Include only affected CAS-covered contracts and subcontracts exceeding a specified amount; and
 - (ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts and subcontracts using results in (i).

65

30.605(f) DCI Proposal

- May be in any format acceptable to the CFAO but, as a minimum, must include the requirements at 30.605(f)(2)(i).
- When requested by the CFAO, identify all affected contracts and subcontracts.

66

30.605(g), Interest

- The CFAO must separately identify interest.
- Simple interest from date of overpayment to the time the adjustment is effected in accordance with 26 U.S.C. 6621(a)(2).
- If quarterly amounts billed during the period of noncompliance were approximately the same, use the average interest rate and midpoint for of the period as the baseline for the interest computation.
- If quarterly amounts billed during the period of noncompliance were not approximately the same, use an alternate method.

67

30.605(h) Calculating Cost Impacts

- Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal years in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established).
- Combine the cost impact for all affected CAS-covered contracts and subcontracts for all segments if the effect of a change results in costs flowing between those segments.

68

30.605(h), Noncompliances Cost Estimating

- Compute the increase or decrease for affected CAS-covered contracts and subcontracts based on the difference between—
 - (i) The negotiated contract or subcontract price (negotiated price); and
 - (ii) What the negotiated price would have been had the contractor used a compliant practice (compliant price).

69

30.605(h), Noncompliances Cost Estimating

- Increased and decreased costs to the Government includes only fixed-price contracts and is computed as follows:
 - Increased costs =
Negotiated price > Compliant price
 - Decreased costs =
Negotiated price < Compliant price

70

30.605(h), Noncompliances Cost Accumulating

- Compute the increase or decrease for affected CAS-covered contracts and subcontracts based on the difference between—
 - (i) Costs that were accumulated under the noncompliant practice (Noncompliant); and
 - (ii) The costs that would have been accumulated using a compliant practice (Compliant).

71

30.605(h), Noncompliances Cost Accumulating

- Increased and decreased costs to the Government include only flexibly priced contracts and is computed as follows:
 - Increased costs =
Noncompliant > Compliant
 - Decreased costs =
Noncompliant < Compliant

72

30.605(h), Noncompliances

- Incentives, Fees, and Profits:
 - Calculate the total increase or decrease in accordance with CFR 9903.306(c).
 - Based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the contractor used a compliant practice.

73

30.605(h), Noncompliances Cost Estimating

- Compute increased/decreased costs in the aggregate by adding:
 - (1) Increased or decreased costs for fixed-price contracts and subcontracts;
 - (2) Increase or decrease in contract and subcontract incentives, fees, and profits.

74

30.605(h), Noncompliances Cost Accumulating

- Compute increased/decreased costs in the aggregate by adding:
 - (1) Increased or decreased costs for flexibly priced contracts and subcontracts;
 - (2) Increase or decrease in contract and subcontract incentives, fees, and profits.

75

30.605(i), Remedies

- Remedies. If the contractor does not correct the noncompliance or submit the proposal submit the required accounting change description, or GDM or DCI proposal, the CFAO—
 - (1) Estimates the cost impact; and
 - (2) Takes one or both of the following actions:
 - Withholds 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;
 - Issues a final decision in accordance with 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.

76

30.606, Resolving Cost Impacts

- The CFAO shall coordinate with the affected contracting officers before negotiating and resolving the cost impact when the estimated cost impact on any of their contracts is at least \$100,000.
- The CFAO has the sole authority for negotiating and resolving the cost impact.

77

30.606, Resolving Cost Impacts

- 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.

78

30.606, Resolving Cost Impacts

- May combine the cost impacts of:
 - Several changes within a segment, intermediate office, or home office only if the changes are implemented in the same fiscal year.
 - Two or more segments.

79

30.606, Resolving Cost Impacts

- Shall not combine the cost impact:
 - Of a change with the cost impact of a noncompliant practice.
 - Of one noncompliant practice with the cost impact of another noncompliant practice.
 - Attributable to different categories of compliant changes.

80

30.606, Resolving Cost Impacts

- **For desirable changes, the CFAO should consider the impact of associated management actions on contract costs in resolving the cost impact.**

81

30.606, Resolving Cost Impacts

- Negotiations. The CFAO:
 - (1) Negotiates and resolves the cost impact on behalf of all Government agencies; and
 - (2) At the conclusion of negotiations, prepares a negotiation memorandum and send copies to the auditor and affected contracting officers.

82

30.606, Resolving Cost Impacts

- Contract adjustments.
 - (1) The CFAO may adjust some or all contracts with a material cost impact, subject to the provisions at 30.606(c)(2) through (c)(6).
 - (2) To the maximum extent practical and subject to the provisions in 30.606(c)(3) through (c)(6), the adjustments should reflect a pro rata share of the cost impact based on the ratio of the cost impact of each executive agency to the total cost impact.

83

30.606, Resolving Cost Impacts

- For unilateral changes and noncompliances:
 - (i) To the maximum extent practical, do not adjust the price upward for fixed-price contracts.
 - (ii) Preclude payment of aggregate increased costs by doing one or both of the following:
 - (A) Reduce the contract price on fixed-price contracts.
 - (B) Disallow costs on flexibly-priced contracts.

84

30.606, Resolving Cost Impacts

- For noncompliances that involve estimating:
 - (i) To the extent practical, do not adjust the price upward for fixed-price contracts.
 - (ii) Preclude payment of aggregate increased costs by reducing the contract price on fixed-price contracts.
 - (iii) Correct the noncompliance.
 - (iv) Adjust any invoices that were paid based on noncompliant contract prices to reflect the adjusted contract prices, after any contract price adjustments are made to resolve the noncompliance.

85

30.606, Resolving Cost Impacts

- For noncompliances that involve cost accumulating :
 - (1) Correct noncompliant contract cost accumulations in the cost accounting records to reflect compliant contract cost accumulations and adjust interim payment requests; or
 - (2) Adjust contract prices. In adjusting contract prices:
 - (A) Preclude payment of aggregate increased costs by disallowing costs on flexibly priced contracts;
 - (B) Correct contract cost accumulations to reflect the contract price adjustments; and
 - (C) Adjust interim payment requests to reflect the contract price adjustments.

86

30.606, Resolving Cost Impacts

- When contract adjustments are made:
 - (i) When the CFAO and contractor agree on the amount of the cost impact and the adjustments, the CFAO executes the bilateral modifications.
 - (ii) When the CFAO and contractor do not agree on the amount of the cost impact or the adjustments, the CFAO issues a final decision in accordance with FAR 33.211 and unilaterally adjusts the contract(s).

87

30.606, Resolving Cost Impacts Alternative Methods

- The CFAO may use an alternate method instead of adjusting contracts provided:
 - The Government will not pay more, in the aggregate, than would be paid if the CFAO did not use the alternate method; and
 - The contracting parties agree on the use of that alternate method;
- Alternate method is not used if result would be:
 - An underrecovery of monies by the Government; or
 - Distortions of incentive provisions and relationships between target costs, ceiling costs, and actual costs for incentive type contracts.

88

30.606, Resolving Cost Impacts Use of An Alternative Method

- When using an alternate method that excludes the costs from an indirect cost pool, the CFAO must—
 - (i) Apply such exclusion only to the determination of final indirect cost rates; and
 - (ii) Adjust the exclusion to reflect the Government participation rate for flexibly priced contracts and subcontracts.
 - If there are aggregate increased costs to the Government of \$100,000, and the indirect cost pool has a Government participation rate of 50 percent for flexibly priced contracts and subcontracts, the contractor shall exclude \$200,000 from the indirect cost pool ($\$100,000/50\% = \$200,000$).

89

30.607, Subcontract Administration

- When a negotiated CAS price adjustment or a determination of noncompliance is required at the subcontract level, the CFAO cognizant of the subcontractor:
 - Makes the determination.
 - Informs the CFAO cognizant of the prime contractor or the next higher tier subcontractor of the decision.
- The CFAO of the prime contractor or the next higher-tier subcontractor cannot change the determination.
- If the subcontractor refuses to submit a GDM or DCI proposal, remedies are made at the prime contractor level.

90

52.230-6, Administration of Cost Accounting Standards

- Definitions
- Proposal Submission
- Changes (GDM Proposal, DCI Proposal, Calculating Cost Impacts)
- Noncompliances (GDM Proposal, DCI Proposal, Calculating Cost Impacts)
- Failure to Submit
- Contract Adjustments
- Subcontracts

91

52.230-6(a), Definitions

- Affected CAS-Covered Contract
- Cognizant Federal Agency Official
- Desirable Change
- Fixed-Price Contracts and Subcontracts
- Flexibly Priced Contracts and Subcontracts
- Noncompliance
- Required Change
- Unilateral Change

92

52.230-6(b), Proposal Submission

- When the change is dependent on a contract award and that contract is subsequently awarded, notify the CFAO within 15 days after such award.
- For any other required or unilateral changes, submit a description of the change not less than 60 days before implementation.
- For noncompliances, submit a description of the change necessary to correct the noncompliance:
 - Within 60 days of the date of agreement if the contractor agrees with the noncompliance; or
 - Within 60 days of the determination of noncompliance, if the contractor disagrees with the noncompliance.

93

52.230-6(c), Proposal Submission

- When requested by the CFAO, submit a GDM proposal in accordance with paragraph (d) or (g) of the clause.
- When requested by the CFAO, submit a DCI proposal in accordance with paragraph (e) or (h) of the clause.
- For any request for a desirable change that is based on the criteria in FAR 30.603-2(b)(3)(ii), submit the data necessary to demonstrate the required cost savings.
- For any request for a desirable change that is based on criteria other than that in FAR 30.603-2(b)(3)(ii), submit a GDM proposal and any other data necessary for the CFAO to determine if the change is a desirable change.

94

52.230-6(d), GDM Proposal Changes

- The GDM Proposal must calculate the cost impact in accordance with paragraph (f) of the clause.

95

52.230-6(d), GDM Proposal Changes

- Use one or more of these methods:
 - (1) A representative sample of affected CAS-covered contracts and subcontracts;
 - (2) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly priced contracts and subcontracts.
 - (3) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations for all affected fixed-price and flexibly priced contracts and subcontracts.

96

52.230-6(d), GDM Proposal Changes

- May be in any format acceptable to the CFAO but must include the following data:
 - (i) The total increase or decrease in cost accumulations by executive agency, including any impact on incentives, fees, and profits, for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly priced contracts and subcontracts.
 - (ii) For unilateral changes, the increased or decreased costs paid by the Government for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly priced contracts and subcontracts.

97

52.230-6(d), GDM Proposal Changes

- When requested by the CFAO, the GDM must identify all affected CAS-covered contracts and subcontracts.

98

52.230-6(e), DCI Proposal Changes

- Calculate cost impact in accordance with paragraph (f) of the clause.
- Show estimated increase/decrease in cost accumulations for each affected CAS-covered contract and subcontract unless CFAO and contractor agree to:
 - (i) Include only affected CAS-covered contracts and subcontracts exceeding a specified amount; and
 - (ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts and subcontracts using results in (i).

99

52.230-6(e), DCI Proposal Changes

- May be in any format acceptable to the CFAO but, as a minimum, must include the requirements at paragraph (d)(3) of the clause.
- When requested by the CFAO, identify all affected contracts and subcontracts.

100

52.230-6(f)
Calculating Cost Impact - Changes

- Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal years in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established).

101

52.230-6(f)
Calculating Cost Impact - Changes

- Compute the increase or decrease in cost accumulations for affected CAS-covered contracts and subcontracts based on the difference between—
 - (i) The estimated cost to complete using the current practice (ETC Current); and
 - (ii) The estimated cost to complete using the changed practice (ETC Changed).

102

52.230-6(f)
Calculating Cost Impact - Changes

- Cost impact for fixed price contracts for unilateral changes:
- Increased costs =
ETC current practice > ETC changed practice
- Decreased costs =
ETC current practice < ETC changed practice

103

52.230-6(f)
Calculating Cost Impact - Changes

- **Incentives, Fees, and Profits:**
 - Calculate the total increase or decrease in accordance with CFR 9903.306(c).
 - Based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated.

104

52.230-6(f) Calculating Cost Impact - Changes

- Compute increased/decreased costs in the aggregate by adding:
 - (1) Increased or decreased costs for fixed-price contracts and subcontracts;
 - (2) Increased or decreased costs for flexibly priced contracts and subcontracts; and
 - (3) Increase or decrease in contract and subcontract incentives, fees, and profits.

105

52.230-6(f) Calculating Cost Impact - Changes

- Equitable adjustments for required changes:
 - The estimated increase or decrease in cost accumulations are the basis for increasing contract prices, including target prices and cost ceilings.

106

52.230-6(g), GDM Proposal Noncompliances

- Calculate the cost impact in accordance with paragraph (i) of the clause.

107

52.230-6(g), GDM Proposal Noncompliances

- Use one or more of the following methods to determine the increase or decrease in cost accumulations:
 - (i) A representative sample of affected CAS-covered contracts and subcontracts.
 - (ii) When the noncompliance involves cost accumulation:
 - (A) For purposes of computing increased costs in the aggregate, the change in indirect rates multiplied by the applicable base for flexibly-priced contracts and subcontracts.
 - (B) For purposes of determining interest, the change in indirect rates multiplied by the applicable base for flexibly priced and fixed-price contracts and subcontracts.
 - (iii) Any other method that provides a reasonable approximation of the total increase or decrease in contract and subcontract prices and cost accumulations.¹⁰⁸

52.230-6(g), GDM Proposal Noncompliances

- Format acceptable to the CFAO but must include:
 - (1) Total increase or decrease in prices and cost accumulations, by executive agency, including any impact on incentives, fees, and profits, for:
 - (A) Fixed-price contracts and subcontracts;
 - (B) Flexibly priced contracts and subcontracts.
 - (2) Increased or decreased costs to the Govt. for:
 - (A) Fixed-price contracts and subcontracts;
 - (B) Flexibly priced contracts and subcontracts.
 - (3) Total overpayments and underpayments made by the Govt. during the period of noncompliance.
 - (4) When requested by the CFAO, all affected CAS-covered contracts and subcontracts.

109

52.230-6(h), DCI Proposal Noncompliances

- Calculate cost impact in accordance with paragraph (i) of the clause.
- Show estimated increase/decrease in cost accumulations for each affected CAS-covered contract and subcontract unless CFAO and contractor agree to:
 - (i) Include only affected CAS-covered contracts and subcontracts exceeding a specified amount; and
 - (ii) Estimate the total increase/decrease in cost accumulations for all affected CAS-covered contracts and subcontracts using results in (i).

110

52.230-6(h), DCI Proposal Noncompliances

- May be in any format acceptable to the CFAO but, as a minimum, must include the requirements at 30.605(f)(2)(i).
- When requested by the CFAO, identify all affected contracts and subcontracts.

111

52.230-6(i) Calculating Cost Impact -Noncompliances

- Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal years in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established).

112

52.230-6(i), Calculating Cost Impact Noncompliances - Cost Estimating

- Compute the increase or decrease for affected CAS-covered contracts and subcontracts based on the difference between—
 - (i) The negotiated contract or subcontract price (negotiated price); and
 - (ii) What the negotiated price would have been had the contractor used a compliant practice (compliant price).

113

52.230-6(i), Calculating Cost Impact Noncompliances - Cost Estimating

- Increased and decreased costs to the Government includes only fixed-price contracts and is computed as follows:
 - Increased costs =
Negotiated price > Compliant price
 - Decreased costs =
Negotiated price < Compliant price

114

52.230-6(i), Calculating Cost Impact Noncompliances - Cost Accumulating

- Compute the increase or decrease for affected CAS-covered contracts and subcontracts based on the difference between—
 - (i) Costs that were accumulated under the noncompliant practice (Noncompliant); and
 - (ii) The costs that would have been accumulated using a compliant practice (Compliant).

115

52.230-6(i), Calculating Cost Impact Noncompliances - Cost Accumulating

- Increased and decreased costs to the Government include only flexibly priced contracts and is computed as follows:
 - Increased costs =
Noncompliant > Compliant
 - Decreased costs =
Noncompliant < Compliant

116

52.230-6(i), Calculating Cost Impact Noncompliances

- Incentives, Fees, and Profits:
 - Calculate the total increase or decrease in accordance with CFR 9903.306(c).
 - Based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the contractor used a compliant practice.

117

52.230-6(i), Calculating Cost Impact Noncompliances - Cost Estimating

- Compute increased/decreased costs in the aggregate by adding:
 - (1) Increased or decreased costs for fixed-price contracts and subcontracts;
 - (2) Increase or decrease in contract and subcontract incentives, fees, and profits.

118

52.230-6(i), Calculating Cost Impact Noncompliances - Cost Accumulating

- Compute increased/decreased costs in the aggregate by adding:
 - (1) Increased or decreased costs for flexibly priced contracts and subcontracts;
 - (2) Increase or decrease in contract and subcontract incentives, fees, and profits.

119

52.230-6(j), Failure to Submit

- If the contractor does not submit the required proposal or correct the noncompliance the CFAO—
 - (1) Estimates the cost impact; and
 - (2) Takes one or both of the following actions:
 - Withholds 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;
 - Issues a final decision in accordance with 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.

120

52.230-6(k), Contract Adjustments

- Agree to make appropriate contract and subcontract modifications to reflect required adjustments; and
- Repay the Government for any aggregate increased cost paid to the contractor.

121

52.230-6(l), Subcontracts

- For all subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, or 52.230-5—
 - (1) Include the substance of this clause in all negotiated subcontracts;
 - (2) Within 30 days after award of the subcontract, submit the following information to the CFAO:
 - (i) Subcontractor's name and subcontract number.
 - (ii) Dollar amount and date of award.
 - (iii) Name of Contractor making the award.

122

52.230-6(m), Subcontracts

- The prime contractor or higher-tier contractor must notify the CFAO in writing of any adjustments required to subcontracts under this contract and agree to an adjustment to this contract price or estimated cost and fee.
- For subcontracts containing FAR 52.230-2, 52.230-3, or 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.

123

Godlewski, Thaddeus, Mr, OSD-ATL

From: Capitano, David, Mr, OSD-ATL
Sent: Tuesday, June 10, 2003 2:43 PM
To: Godlewski, Thaddeus, Mr, OSD-ATL; (b)(2),(b)(6)
Cc: Cipicchio, Domenico, Mr, OSD-ATL; Poussard, Ronald, Mr, OSD-ATL
Subject: FAR Part 30 - Public Meeting

I was able to schedule the public meeting. The details for the Federal Register Notice are as follows:

DATES: The meeting will be held on August 5, 2003, from 9:00 a.m. to 5:00 p.m., local time.

ADDRESSES: The meeting will be held in Room C-43, Crystal Mall 3, 1931 Jefferson Davis Highway, Arlington, VA 22202.

Dave

6/10/2003

Case Management Record

Discussion Handout

FAR Case 1999-025		Date Dec. 11, 2002	
Title Cost Accounting Standards Administration			
Priority 2		Submitted By Godlewski	
		Origination Code O	
Case Manager Godlewski		Case References	
FAR Cites 30.001, 30.202-6, 30.202-7, 30.202-8(a), 30.6, 52.230-6		DFARS Cites	
Cognizant Committees FAR 31 Ad Hoc Committee			
Coordination			
Recommendation Review draft proposed rule. Discuss on Dec. 18, 2002			
<p>This is a case to revise FAR Part 30, Cost Accounting Standards Administration, to add a 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.</p> <p>This second proposed rule (Attachment 1) includes changes resulting from discussions between DARC/CAAC staffs and OFPP. The main differences between the first proposed rule that was published on April 18, 2000 and this second proposed rule are summarized in paragraph A, Supplementary Information - Background portion of the proposed <u>Federal Register</u> Notice (Attachment 2).</p> <p>The Administrator, OFPP (Angela Styles) and DCAA staff agree with the changes. The chairman of the FAR 31 Ad Hoc Committee will provide background regarding the proposed changes.</p> <p><i>DARC approved proposed rule -</i></p>			

**COST ACCOUNTING STANDARDS ADMINISTRATION
DRAFT PROPOSED RULE
FAR CASE 1999-025**

The second proposed rule, as approved by the DARC and CAAC, serves as the baseline. OFPP changes to the baseline are represented by **[bold print in brackets]** for new language and ~~strikethrough~~ for deleted language.

PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

Sec.

30.000 Scope of part.

30.001 Definitions.

* * * * *

Subpart 30.6—CAS Administration

30.601 Responsibility.

30.602 Materiality.

30.603 Changes to disclosed or established cost accounting practices.

30.603-1 Required changes

30.603-2 Unilateral and desirable changes.

30.604 Processing changes to disclosed or established cost accounting practices.

30.605 Processing noncompliances.

30.606 Resolving cost impacts.

30.607 Subcontract administration.

* * * * *

30.001 Definitions. As used in this part—

"Affected CAS-covered contract or subcontract" means a contract or subcontract subject to Cost Accounting Standards (CAS) rules and regulations for which a contractor or subcontractor—

(1) Used one cost accounting practice to estimate costs and a changed cost accounting practice to accumulate and report costs under the contract or subcontract; or

(2) Used a noncompliant practice for purposes of estimating or accumulating and reporting costs under the contract or subcontract.

"Cognizant Federal agency official (CFAO)" means the contracting officer assigned by the cognizant Federal agency to administer CAS.

11/19/02

12-13-02

"Desirable change" means a **[unilateral]** ~~compliant~~ change to a contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is therefore not subject to the no increased cost prohibition provisions of CAS-covered contracts and subcontracts affected by the change.

"Fixed-price contracts and subcontracts" means—

(1) Fixed-price contracts and subcontracts described at 16.202, 16.203, ~~16.205~~ and 16.207;

(2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (Subpart 16.4);

(3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (Subpart 16.5); and

(4) The fixed-hourly rate portion of time-and-materials and labor-hours contracts and subcontracts (Subpart 16.6).

"Flexibly-priced contracts and subcontracts" means—

(1) Fixed-price contracts and subcontracts described at 16.204[, **16.205**] and 16.206;

(2) Cost-reimbursement contracts and subcontracts (Subpart 16.3);

(3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (Subpart 16.4);

(4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (Subpart 16.5); and

(5) The materials portion of time-and-materials contracts and subcontracts (Subpart 16.6).

"Noncompliance" means a failure in estimating, accumulating, or reporting costs to—

(1) Comply with applicable CAS; or

(2) Consistently follow disclosed or established cost accounting practices.

"Required change" means—

(1) A change in cost accounting practice that a contractor is required to make in order to comply with a CAS, or a modification or interpretation thereof, that subsequently becomes applicable to an existing CAS-covered contract due to the receipt of another CAS-covered contract or subcontract; or

(2) A prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the contractor to remain in compliance.

"Unilateral change" means a change in cost accounting practice from one compliant practice to another compliant practice that a contractor with a CAS-covered contract(s) or subcontracts(s) elects to make that has not been deemed a

desirable change by the CFAO and for which the Government will pay no aggregate increased costs.

* * * * *

Subpart 30.1-General

30.101 Cost Accounting Standards.

(a) * * * CAS * * *

Subpart 30.2-CAS Program Requirements

* * * * *

30.201-3 Solicitation provisions.

* * * * *

(c) Insert the provision at FAR 52.230-7, Proposal Disclosure-Cost Accounting Practice Changes, in solicitations for contracts subject to CAS as specified in 48 CFR 9903.201 (FAR Appendix).

* * * * *

30.202-6 Responsibilities.

(a) * * *

(b) The contracting officer **[shall]** ~~must~~ not award a CAS-covered contract until the cognizant Federal agency official (CFAO) has made a written determination that a required Disclosure Statement is adequate unless, in order to protect the Government's interest, the agency head, on a nondelegable basis, authorizes award without obtaining submission of the **[required]** Disclosure Statement (see 48 CFR 9903.202-2). In this event, the CFAO **[shall]** ~~must~~ make a determination of adequacy as soon as possible after the award.

(c) The auditor is responsible for * * *

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

30.202-7 Determinations.

(a) *Adequacy determination.* (1) As prescribed by 48 CFR 9903.202-6 (FAR Appendix), the **[cognizant]** auditor **[shall]** ~~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 **[shall]** ~~must~~ determine if the Disclosure Statement adequately describes the contractor's cost accounting practices. Also, the CFAO **[shall]** ~~must~~

(i) If the Disclosure Statement is adequate, notify the contractor in writing, and provide a copy to the

auditor with a copy to the contracting officer if the proposal triggers submission of a Disclosure Statement. The notice of adequacy **[shall]** ~~must~~ state that—

(A) The disclosed practices are adequately described and the CFAO currently is not aware of any additional practices that should be disclosed;

(B) The notice is not a determination that all cost accounting practices were disclosed; and

(C) The contractor **[shall]** ~~must~~ not consider a disclosed practice, by virtue of such disclosure, an approved practice for estimating proposals or accumulating and reporting contract and subcontract cost data; or

(ii) If the Disclosure Statement is inadequate, notify the contractor of the inadequacies and request a revised Disclosure Statement.

(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 **[shall]** ~~must~~—

(i) Conduct a detailed compliance review to ascertain whether or not the disclosed practices comply with **[CAS and] Part 31[, as applicable]** ~~and the CAS~~; and

(ii) Advise the CFAO of the results.

(2) The CFAO **[shall]** ~~must~~ make a determination of compliance or take action regarding a report of alleged noncompliance in accordance with 30.605(b).

30.202-8 Subcontractor Disclosure Statements.

(a) When the Government requires determinations of adequacy of subcontractor Disclosure Statements, the CFAO for the subcontractor **[shall]** ~~must~~ provide this determination to the CFAO for the contractor or next higher-tier subcontractor. The higher-tier CFAO **[shall]** ~~must~~ not change the determination of the lower-tier CFAO.

* * * * *

FAR 30.6—CAS Administration

30.601 Responsibility.

(a) The CFAO **[shall]** ~~must~~ perform CAS administration for all contracts and subcontracts in a business unit, even when the contracting officer retains other administration functions. The CFAO **[shall]** ~~must~~ make all CAS-related determinations and findings (see Subpart 1.7) 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 subject to CAS, the contracting officer making the award **[shall]** ~~must~~ request the CFAO to perform administration for CAS matters (see Subpart 42.2). For subcontract awards, the contractor awarding the subcontract **[shall]** ~~must~~ follow the procedures at 52.230-6(1).

30.602 Materiality.

(a) In determining materiality, the CFAO **[shall]** ~~must~~ use the criteria in 48 CFR 9903.305 (FAR Appendix).

(b) A CFAO determination of materiality—

(1) May be made before or after a general dollar magnitude proposal has been submitted, depending on the particular facts and circumstances; and

(2) **[Shall]** ~~must~~ be based on adequate documentation.

(c) When the amount involved is immaterial, the CFAO **[shall]** ~~must~~ —

(1) Make no contract adjustments and conclude the cost impact process; and

(2) In the case of noncompliance issues, inform the contractor that—

(i) The noncompliance should be corrected; and

(ii) 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.

(d) **[For required, unilateral, and desirable changes, and CAS noncompliances,]** ~~W~~**[w]**hen the amount involved is material, the CFAO **[shall]** ~~must~~ adjust the contract or use another suitable method (see 30.606) ~~for required, unilateral, and desirable changes, and CAS noncompliances.~~

30.603 Changes to disclosed or established cost accounting practices.

30.603-1 Required changes.

(a) *General.* Offerors **[shall]** ~~must~~ state whether or not the award of a contract would require a change to an established cost accounting practice affecting existing contracts and subcontracts (see 52.230-1). The contracting officer **[shall]** ~~must~~ notify the CFAO if the offeror states that a change in cost accounting practice would be required.

(b) *CFAO Responsibilities.* Prior to making an equitable adjustment under the applicable paragraph(s) that address a required change at 52.230-2, Cost Accounting Standards, 52.230-3, Disclosure and Consistency of Cost Accounting Practices, or 52.230-5, Cost Accounting Standards-Educational Institution, the CFAO **[shall]** ~~must~~ determine that-

(1) The cost accounting practice change is required to comply with a CAS, or a modification or interpretation thereof, that subsequently became applicable to one or more contracts or subcontracts; or

(2) The former cost accounting practice was in compliance with applicable CAS and the **[planned]** change is necessary **[for the contractor]** to remain in compliance.

(c) *Notice and proposal preparation.* (1) When the award of a contract would require a change to an established cost accounting practice, the provision at 52.230-7, Proposal Disclosure-Cost Accounting Practice Changes, requires the offeror to-

(i) Prepare the contract pricing proposal in response to the solicitation using the changed cost accounting practice for the period of performance for which the practice will be used; and

(ii) Submit a description of the changed cost accounting practice to the contracting officer and the CFAO as pricing support for the proposal.

(2) When a change is required to remain in compliance (for reasons other than a contract award) or to comply with a new or modified standard, the clause at 52.230-6, Administration of Cost Accounting Standards, requires the contractor to-

(i) Submit a description of the change to the CFAO not less than 60 days (or other mutually agreeable date) before implementation of the change; and

(ii) Submit rationale to support any contractor assertion that the cost impact of the change is immaterial.

(d) *Equitable adjustments for new or modified standards.*

(1) Required changes made to comply with new or modified standards may require equitable adjustments, but only to those contracts awarded before the effective date of the new or modified standard (see 52.230-2, 52.230-3, or 52.230-5).

(2) When a contractor elects to implement a required change to comply with a new or modified standard prior to the applicability date of the standard, the CFAO **[shall]** ~~must~~ administer the change as a unilateral change (see 30.603-2). Contractors **[shall]** ~~must~~ not receive an equitable adjustment that will result in increased costs in the aggregate paid by the Government prior to the applicability date unless the CFAO determines that the unilateral change is a desirable change.

30.603-2 Unilateral and desirable changes.

(a) *Unilateral changes.* (1) The contractor may unilaterally change its disclosed or established cost accounting practices, but the Government **[shall]** ~~must~~ not pay any increased cost, in the aggregate, as a result of the unilateral change.

(2) Prior to making any contract price or cost adjustments under the applicable paragraph(s) of the clause addressing a unilateral change at 52.230-2, 52.230-3, or 52.230-5, the CFAO **[shall]** ~~must~~ determine that—

(i) The **[contemplated]** contract price or cost adjustments will protect the Government from the payment of **[the estimated]** increased costs, in the aggregate; and

(ii) The net affect of the **[contemplated]** adjustments will not result in the recovery of more than the increased costs paid **[to]** ~~by~~ the Government, in the aggregate.

(b) *Desirable changes.* (1) Prior to taking action under the applicable paragraph(s) addressing a desirable change at 52.230-2, 52.230-3, or 52.230-5, the CFAO **[shall]** ~~must~~ determine the change is a desirable change and not detrimental to the interests of the Government.

(2) Until the CFAO has determined a change to a cost accounting practice is a desirable change, the change is a unilateral change.

(3) Some factors to consider in determining if a change is a desirable change include, but are not limited to, whether—

(i) The contractor must change the cost accounting practices it uses for Government contract and subcontract costing purposes to remain in compliance with the provisions of Part 31;

~~(ii) The change in cost accounting practice is directly associated with the application of commercial business practices to affected CAS covered contracts and subcontracts that will result in significant benefits to the Government;~~

[(ii)] ~~(iii)~~ The contractor is initiating management actions directly associated with the change that will result in cost savings for segments with CAS-covered contracts and subcontracts over a period for which forward pricing rates are developed or five years, whichever is shorter, and the cost savings are reflected in the forward pricing rates; and

[(iii)] ~~(iv)~~ Funds are available if the determination would necessitate an upward adjustment of contract cost or price.

(c) *Notice and proposal preparation.* (1) When a contractor makes a unilateral change, the clause at 52.230-6, Administration of Cost Accounting Standards, requires the contractor to—

(i) Submit a description of the change to the CFAO not less than 60 days (or other mutually agreeable date) before implementation of the change; and

(ii) Submit rationale to support any contractor assertion that the cost impact of the change is immaterial.

(2) If a contractor implements the change in cost accounting practice without submitting the notice as required in paragraph (c)(1) of this subsection, the CFAO may determine the change a failure to follow a cost accounting practice consistently and process it as a noncompliance in accordance with 30.605.

(d) *Retroactive changes.* (1) If a contractor requests that a unilateral change be retroactive, the contractor **[shall]** ~~must~~ submit supporting rationale.

(2) The CFAO **[shall]** ~~must~~ promptly evaluate the contractor's request and **[shall]** ~~must~~, as soon as practical, notify the contractor in writing whether the request is or is not approved.

(3) The CFAO **[shall]** ~~must~~ not approve a date for the retroactive change that is before the beginning of the contractor's fiscal year in which the request is made.

(e) *Contractor accounting changes due to external restructuring activities.* The requirements for contract price and cost adjustments do not apply to compliant cost accounting practice changes that are directly associated with external restructuring activities that are subject to and meet the requirements of 10 U.S.C. 2325. However, the disclosure requirements in 30.603-2 **[shall]** ~~must~~ be followed.

30.604 Processing changes to disclosed or established cost accounting practices.

(a) *Scope.* This section applies to required, unilateral, and 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. The CFAO **[shall]** ~~must~~ -

(1) If the description of the change is both adequate and compliant, notify the contractor in writing and-

(i) For required or unilateral changes (except those requested to be determined desirable changes), request the contractor submit a general dollar magnitude (GDM) proposal by a specified date, unless the CFAO determines the cost impact is immaterial; or

(ii) For unilateral changes that the contractor requests to be determined desirable changes, inform the

contractor that the request must include supporting rationale and-

(A) For any request based on the criteria in 30.603-2(b)(3)(iii), the data necessary to demonstrate the required cost savings; or

(B) For any request other than those based on the criteria in 30.603-2(b)(3)(iii), a GDM proposal and any other data necessary for the CFAO to determine if the change is a desirable change;

(2) If the description of the change is inadequate, request a revised description of the new cost accounting practice; and

(3) If the disclosed practice is noncompliant, notify the contractor in writing that, if implemented, the CFAO will determine the cost accounting practice to be noncompliant and process it accordingly.

(c) *Evaluating requests for desirable changes.* (1) When a contractor requests a unilateral change be determined a desirable change, the CFAO **[shall]** ~~must~~ promptly evaluate the contractor's request and, as soon as practical, notify the contractor in writing whether the change is a desirable change or the request is denied.

(2) If the CFAO determines the change is a desirable change, the CFAO **[shall]** ~~must~~ negotiate any cost or price adjustments that may be needed to resolve the cost impact (see 30.606).

(3) If the request is denied, the change is a unilateral change and **[shall]** ~~must~~ be processed accordingly.

(d) *General dollar magnitude 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 cost accounting practice; and

(2) Assists the CFAO in determining whether individual contract price or cost adjustments are required.

(e) *General dollar magnitude proposal content.* The GDM proposal-

(1) **[Shall]** ~~must~~ calculate the cost impact in accordance with paragraph (h) of this section.

(2) May use one or more of the following methods to determine the increase or decrease in cost accumulations:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations **[for all affected fixed-price and flexibly-priced contracts and subcontracts];**

(3) May be in any format acceptable to the CFAO but, as a minimum, **[shall]** ~~must~~ include the following data:

(i) The **[estimated]** ~~total~~ increase or decrease in cost accumulations by executive agency, including any impact the change may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(ii) For unilateral changes, the **[estimated]** increased or decreased costs **[to]** ~~paid by~~ the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts; and

(4) When requested by the CFAO, **[shall]** ~~must~~ identify all affected CAS-covered contracts and subcontracts.

(f) *General dollar magnitude proposal evaluation.* The CFAO, with the assistance of the auditor, **[shall]** ~~must~~ promptly evaluate the GDM proposal. If the cost impact is immaterial, the CFAO **[shall]** ~~must~~ notify the contractor in writing and conclude the cost impact process with no contract adjustments. Otherwise, the CFAO **[shall]** ~~must~~—

(1) Negotiate and resolve the cost impact (see 30.606). If necessary, the CFAO may request that the contractor submit a revised GDM proposal by a specified date with specific additional data needed to resolve the cost impact (e.g., an expanded sample of affected CAS-covered contracts and subcontracts or a revised method of computing the increase or decrease in cost accumulations); or

(2) Request that the contractor submit a detailed cost-impact (DCI) proposal by a specified date if the CFAO determines that the GDM proposal is not sufficient to resolve the cost impact.

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

(1) **[Shall]** ~~must~~ calculate the cost impact in accordance with paragraph (h) of this section;

(2) **[Shall]** ~~must~~ show the **[estimated]** increase or decrease in cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and contractor agree to—

(i) Include only those affected CAS-covered contracts and subcontracts exceeding a specified amount; and
(ii) Estimate the total increase or decrease in cost accumulations for all affected CAS-covered contracts and subcontracts, using the results in paragraph (g)(2)(i) of this section;

(3) May be in any format acceptable to the CFAO but, as a minimum, **[shall]** ~~must~~ include the requirements at paragraphs (e)(3)(i) and (ii) of this section; and

(4) When requested by the CFAO, **[shall]** ~~must~~ identify all affected CAS-covered contracts and subcontracts.

(h) *Calculating cost impacts.* The cost impact calculation **[shall]** ~~must~~

(1) Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year~~[(s)]~~ in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established);

(2) Combine the cost impact for all affected CAS-covered contracts and subcontracts for all segments if the effect of a change results in costs flowing between those segments;

(3) Compute the increase or decrease in cost accumulations for affected CAS-covered contracts and subcontracts based on the difference between—

(i) The estimated cost to complete using the current practice; and

(ii) The estimated cost to complete using the changed practice;

(4) For unilateral changes—

(i) Determine the increased or decreased cost **[to]** ~~paid by~~ the Government for fixed-price contracts and subcontracts as follows:

(A) When the amount in (h)(3)(i) exceeds the amount in (h)(3)(ii) of this section, the difference is increased cost **[to the Government]** ~~paid~~.

(B) When the amount in (h)(3)(i) is less than the amount in (h)(3)(ii) of this section, the difference is decreased cost **[to the Government]** ~~paid~~;

(ii) Determine the increased or decreased cost paid by the Government for flexibly-priced contracts and subcontracts as follows:

(A) When the amount in (h)(3)(i) exceeds the amount in (h)(3)(ii) of this section, the difference is decreased cost **[to the Government]** ~~paid~~;

(B) When the amount in (h)(3)(i) is less than the amount in (h)(3)(ii) of this section, the difference is increased cost **[to the Government]** ~~paid~~; and

[(iii) Calculate the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased cost to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated.]

[(iv)] ~~(iii)~~ Calculate the increased or decreased cost [to] ~~paid by~~ the Government in the aggregate by adding--

(A) The increased or decreased costs [to the Government] ~~paid~~ for fixed-price contracts and subcontracts;

(B) The increased or decreased costs [to the Government] ~~paid~~ for flexibly-priced contracts and subcontracts; and

(C) The total increase or decrease in contract and subcontract incentives, fees, and profits **[computed in (h)(4)(iii) of this section;]** ~~associated with the increased or decreased costs paid. The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated; and~~

(5) For equitable adjustments for required changes--

(i) **[Estimated] \pm [i]ncreased cost accumulations** are the basis for increasing contract ~~cost or~~ price[s, including target prices and cost ceilings]; and

(ii) **[Estimated] \pm [d]ecreased cost accumulations** are the basis for decreasing contract ~~cost or~~ price[s, including target prices and cost ceilings].

(i) Remedies. If the contractor does not submit the accounting change description or the proposals required in paragraph (d) or (g) of this section within the specified time, or any extension granted by the CFAO, the CFAO **[shall] must** ~~must~~

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

(2) Take one or both of the following actions--

(i) Withhold an amount not to exceed 10 percent of each subsequent payment related to the contractor's affected CAS-covered contracts (up to the estimated general dollar magnitude of the cost impact), until the contractor furnishes the required information.

(ii) Issue a final decision in accordance with 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.

30.605 Processing noncompliances.

(a) *General.* Prior to making any contract price or cost adjustments under the applicable paragraph(s) addressing noncompliance at 52.230-2, 52.230-3, or 52.230-5, the CFAO **[shall]** ~~must~~ determine that—

(1) The **[contemplated]** contract price or cost adjustments will protect the Government from the payment of increased costs, in the aggregate; and

(2) The net affect of the **[contemplated contract price or cost]** adjustments will not result in the recovery of more than the increased costs **[to]** ~~paid by~~ the Government, in the aggregate.

[(3) The net effect of any invoice adjustments made to correct an estimating noncompliance will not result in the recovery of more than the increased cost paid by the Government, in the aggregate.]

(4) The net effect of any interim and final voucher billing adjustments made to correct a cost accumulation noncompliance will not result in the recovery of more than the increased cost paid by the Government, in the aggregate.]

(b) *Notice and determination.* (1) Within 15 days of receiving a report of alleged noncompliance from the auditor, the CFAO **[shall]** ~~must~~—

(i) Notify the auditor that the CFAO disagrees with the alleged noncompliance; or

(ii) Issue a notice of potential noncompliance to the contractor and provide a copy to the auditor.

(2) The notice of potential noncompliance **[shall]** ~~must~~—

(i)] Notify the contractor in writing of the exact nature of the noncompliance; and

[(ii) Allow the contractor 60 days or other mutually agreeable date) to—

(A) Agree or submit reasons why the contractor considers the existing practices to be in compliance; and

(B) Submit rationale to support any assertion that the cost impact of the noncompliance is immaterial.

(3) The CFAO **[shall]** ~~must~~—

(i) If applicable, review the reasons why the contractor considers the existing practices to be compliant or the cost impact to be immaterial;

(ii) Make a determination of compliance or noncompliance consistent with 1.704; and

(iii)] Notify the contractor and the auditor in writing of the determination of compliance or noncompliance, and the basis for the determination.

(4) If the CFAO makes a determination of noncompliance, the CFAO **[shall]** ~~must~~ follow the procedures in paragraphs (c) through (h) of this section, as appropriate, unless the CFAO also determines the cost impact is immaterial. If immaterial, the CFAO **[shall]** ~~must~~

(i) Inform the contractor in writing that-

(A) The noncompliance should be corrected;

and

(B) 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.

(c) *Correcting Noncompliances.*

(1) The clause at 52.230-6 requires the contractor to submit a description of any cost accounting practice change needed to correct a noncompliance within 60 days after the earlier of-

(i) Agreement with the CFAO that there is a noncompliance; or

(ii) Notification by the CFAO of a determination of noncompliance.

(2) The CFAO, with the assistance of the auditor, should review the proposed change **[to correct the noncompliance]** concurrently for adequacy and compliance (see 30.202-7). The CFAO **[shall]** ~~must~~

(i) When the description of the change is both adequate and compliant-

[A] Notify the contractor in writing;

[B] Request that the contractor submit by a specified date a general dollar magnitude (GDM) proposal, unless the CFAO determines the cost impact is immaterial; and

[C] Follow the procedures at paragraph (b)(4) of this section if the CFAO determines the cost impact is immaterial.

(ii) If the description of the change is inadequate, request a revised description of the new cost accounting practice.

(iii) If the disclosed practice is noncompliant, notify the contractor in writing that, if implemented, the CFAO will determine the cost accounting practice to be noncompliant and process it accordingly.

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

(1) **[shall]** ~~must~~ calculate the cost impact in accordance with paragraph (h) of this section.

(2) May use one or more of the following methods to determine the increase or decrease in contract and subcontract price[s] or cost accumulations[, as applicable]:

(i) A representative sample of affected CAS-covered contracts and subcontracts affected by the noncompliance.

(ii) When the noncompliance involves cost ~~[accumulation:] accumulating,~~

[(A) For purposes of computing increased cost in the aggregate,] the change in indirect rates multiplied by the **[applicable]** ~~total-estimated~~ base for ~~only~~ flexibly-priced contracts and subcontracts.

[(B) For purposes of determining interest, the change in indirect costs multiplied by the applicable base for flexibly-priced and fixed-price contracts and subcontracts.]

(iii) Any other method that provides a reasonable approximation of the total increase or decrease **[in contract and subcontract prices and cost accumulations];**

(3) May be in any format acceptable to the CFAO but, as a minimum, **[shall]** ~~must~~ include the following data:

(i) The total increase or decrease in contract and subcontract price[s] and cost accumulations[, as applicable,] by executive agency, including any impact the noncompliance may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts;

(B) Flexibly-priced contracts and subcontracts.

(ii) The increased or decreased costs **[to]** ~~paid by~~ the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts;

(B) Flexibly-priced contracts and subcontracts.

(iii) The total overpayments **[and underpayments]** made by the Government during the period of noncompliance. The total overpayments **[and underpayments shall]** ~~must~~ be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal; and

(4) When requested by the CFAO, **[shall]** ~~must~~ identify all affected CAS-covered contracts and subcontracts.

(e) *General dollar magnitude proposal evaluation.* The CFAO **[shall]** ~~must~~ promptly evaluate the GDM proposal. If the cost impact is immaterial, the CFAO **[shall]** ~~must~~ follow the requirements in paragraph (b)(4) of this section. Otherwise, the CFAO **[shall]** ~~must~~

(1) Negotiate and resolve the cost impact (see 30.606). If necessary, the CFAO may request the contractor submit a revised GDM proposal by a specified date, with specific

additional data needed to resolve the cost impact (e.g., an expanded sample of affected CAS-covered contracts and subcontracts or a revised method of computing the increase or decrease in contract and subcontract price and cost accumulations); or

(2) Request that the contractor submit a detailed cost-impact (DCI) proposal by a specified date if the CFAO determines that the GDM proposal is not sufficient to resolve the cost impact.

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

(1) **[Shall]** ~~Must~~ calculate the cost impact in accordance with paragraph (h) of this section.

(2) **[Shall]** ~~Must~~ show the increase or decrease in price and cost accumulations[, **as applicable**] for each affected CAS-covered contract and subcontract unless the CFAO and contractor agree to-

(i) Include only those affected CAS-covered contracts and subcontracts having-

(A) Contract and subcontract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase or decrease in price and cost accumulations for all affected CAS-covered contracts and subcontracts using the results in paragraph (f)(2)(i) of this section;

(3) May be in any format acceptable to the CFAO but, as a minimum, **[shall]** ~~must~~ include the information in paragraphs (d)(3)(i) and (ii) of this section; and

(4) When requested by the CFAO, **[shall]** ~~must~~ identify all affected CAS-covered contracts and subcontracts.

(g) *Interest.* ~~In accordance with the clause at 52.230-2, 52.230-3, or 52.230-5, t~~**[T]he CFAO [shall] must**

(1) Separately identify interest on any increased cost paid[, **in the aggregate,**] ~~by the Government as a result of the noncompliance;~~

(2) Compute simple 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:

(i) If the quarterly amounts billed during the period of noncompliance were approximately the same, use the average interest rate and midpoint for the period of the noncompliance as the baseline for the computation of interest.

(ii) If the quarterly amounts billed during the period of noncompliance were not approximately the same, use an alternate method **[that computes simple interest from the date of overpayment to the time the adjustment is effected]**.

(h) *Calculating cost impacts.* The cost impact calculation ~~[shall] must-~~

(1) Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established);

(2) Combine the cost impact for all affected CAS-covered contracts and subcontracts for all segments if the effect of a change results in costs flowing between those segments;

(3) For noncompliances that involve estimating costs, compute the impact on contract and subcontract price ~~only~~ for ~~[flexibly-priced and]~~ fixed-price contracts and subcontracts ~~[(the computation for the flexibly-priced contracts is used only for purposes of determining any necessary adjustments to fee and incentives)]~~, based on the difference between-

(i) The negotiated contract or subcontract price;
and

(ii) What the negotiated price would have been had the contractor used a compliant practice;

(4) For noncompliances that involve accumulating costs, compute the impact on cost accumulations ~~only~~ for flexibly-priced ~~[and fixed-price]~~ contracts and subcontracts ~~[(the computation for the fixed-price contracts is used only for purposes of determining interest on costs paid)]~~, based on the difference between-

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

(ii) The costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice);

(5) **[For purposes of determining increased costs in the aggregate, for noncompliances that involve estimating costs,]** ~~D[d]~~etermine the increased or decreased cost ~~[to] paid by~~ the Government for fixed-price contracts and subcontracts as follows:

(i) When the amount in (h)(3)(i) exceeds the amount in (h)(3)(ii), the difference is increased cost **[to the Government]** ~~paid~~.

(ii) When the amount in (h)(3)(i) is less than the amount in (h)(3)(ii), the difference is decreased cost **[to the Government]** ~~paid~~;

(6) **[For purposes of determining increased costs in the aggregate, for noncompliances that involve cost accumulation,]** ~~D[d]~~etermine the increased or decreased cost ~~[to] paid by~~ the

Government for flexibly-priced contracts and subcontracts as follows:

(i) When the amount in (h)(4)(i) exceeds the amount in (h)(4)(ii), the difference is ~~de~~**[in]**creased cost **[to the Government]** paid.

(ii) When the amount in (h)(4)(i) is less than the amount in (h)(4)(ii), the difference is ~~in~~**[de]**creased cost **[to the Government]** paid; and

(7) **[Calculate the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased cost to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the contractor used a compliant practice;**

(8) **For noncompliances that involve estimating costs,** ~~E~~**[c]**alculate the increased or decreased cost **[to]** paid by the Government, in the aggregate, by adding-

(i) The increased or decreased cost**[s to the Government]** paid for fixed-price contracts and subcontracts;

~~(ii) The increased or decreased costs paid for flexibly priced contracts and subcontracts; and~~

~~(iii) The total increase or decrease in contract and subcontract incentives, fees, and profits **[computed in (h)(7) of this section; and]** associated with the increased or decreased costs paid. The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts or subcontracts were negotiated.~~

[(9) For noncompliances that involve accumulating costs, calculate the increased or decreased cost to the Government, in the aggregate, by adding-

(i) The increased or decreased costs to the Government for flexibly-priced contracts and subcontracts, and

(ii) The total increase or decrease in contract and subcontract incentives, fees, and profits computed in (h)(7) of this section.]

(i) *Remedies.* If the contractor does not correct the noncompliance or submit the proposal required in paragraph (d) or (f) of this section within the specified time, or any extension granted by the CFAO, the CFAO **[shall]** ~~must~~ follow the procedures at 30.604(i).

30.606 Resolving cost impacts.

(a) *General.* (1) The CFAO **[shall]** ~~must~~ coordinate with the affected contracting officers before negotiating and

resolving the cost impact when the **[estimated cost impact on]** ~~cost or price of~~ any of their contracts **[is]** ~~may be increased or decreased by~~ at least \$100,000. However, the CFAO has the sole authority for negotiating and resolving the cost impact.

(2) 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.

(3) In resolving the cost impact, the CFAO—

(i) May combine the cost impacts of several changes in cost accounting practices within a segment, intermediate office, or home office only if the changes are implemented in the same fiscal year;

(ii) May combine the cost impacts of two or more segments **[(e.g., a change that effects the flow of costs)]** ~~when the changes do not result in costs flowing between these segments~~ **[or]** ~~(e.g., the implementation of a common cost accounting practice for two or more segments);~~

(iii) **[Shall]** ~~must~~ not combine the cost impact of a change in cost accounting practice with the cost impact of a noncompliant practice; ~~and~~

(iv) **[Shall]** ~~must~~ not combine the cost impact of one noncompliant practice with the cost impact of another noncompliant practice~~;~~ ~~and]~~

[(v) Shall not combine the cost impacts attributable to different categories of compliant changes, i.e., required, unilateral, or desirable changes.]

(4) For desirable changes, the CFAO should consider the **[estimated cost]** impact of associated management actions on contract costs in resolving the cost impact.

(b) *Negotiations.* The CFAO **[shall]** ~~must~~—

(1) Negotiate and resolve the cost impact on behalf of all Government agencies; and

(2) At the conclusion of negotiations, prepare a negotiation memorandum and send copies to the auditor and affected contracting officers.

(c) *Contract adjustments.* (1) The CFAO may adjust some or all contracts with a material cost impact, subject to the provisions in paragraph~~s~~ (c)(~~2~~3) **[through (c)(6)]** of this section.

(2) In selecting the contract or contracts to be adjusted, the CFAO should assure, to the maximum extent practical and subject to the provisions in paragraph~~s~~ (c)(3) **[through (c)(6)]** of this section, that the adjustments reflect a prorata share of the cost impact based on the ratio of the cost impact of each executive agency to the total cost impact.

(3) For unilateral changes ~~and noncompliances~~, the CFAO **[shall]** ~~must~~—

(i) [To the maximum extent practical, N[n]ot adjust the price upward for fixed-price contracts; and

(ii) If contract adjustments are made, preclude payment of aggregate increased costs by taking one or both of the following actions—

(A) Reduce the contract price on fixed-price contracts.

(B) Disallow costs on flexibly-priced contracts—[; and]

[(iii) The CFAO may, in consultation with the affected Contracting Officers, increase or decrease individual contract prices, including cost ceilings or target costs on flexibly-priced contracts. In such cases, the CFAO shall limit any upward contract price adjustments on affected contracts to the amount of downward price adjustments to other affected contracts, i.e., the aggregate value of all contracts affected by a unilateral change shall not be increased (9903.201-6(b)).

(4) For noncompliances that involve estimating costs, the CFAO -

(i) Shall, to the maximum extent practical, not adjust the price upward for fixed-price contracts;

(ii) Shall, if contract adjustments are made, preclude payment of aggregate increased costs by reducing the contract price on fixed-price contracts.

(iii) The CFAO may, in consultation with the affected Contracting Officers, increase or decrease individual contract prices, including cost ceilings or target costs on flexibly-priced contracts. In such cases, the CFAO shall limit any upward contract price adjustments to affected contracts to the amount of downward price adjustments to other affected contracts, i.e., the aggregate value of all contracts affected by a noncompliance that involves estimating costs shall not be increased (9903.201-6(d)).

(iv) Shall require the contractor to correct the noncompliance, i.e., ensure that compliant cost accounting practices will now be utilized to estimate proposed contract costs.

(v) Shall require the contractor to adjust any invoices that were paid based on noncompliant contract prices to reflect the adjusted contract prices, after any contract price adjustments are made to resolve the noncompliance.

(5) For noncompliances that involve cost accumulation, the CFAO-

(i) Shall require the contractor to:

(A) Correct noncompliant contract cost accumulations in the contractor's cost accounting records for affected contracts to reflect compliant contract cost accumulations; and

(B) Adjust interim payment requests (public vouchers and/or progress payments) and final vouchers to reflect the difference between the costs paid using the noncompliant practice and the costs that should have been paid using the compliant practice; or

(ii) Shall adjust contract prices. In adjusting contract prices, the CFAO shall preclude payment of aggregate increased costs by disallowing costs on flexibly-priced contracts.

(A) The CFAO may, in consultation with the affected Contracting Officers, increase or decrease individual contract prices, including cost ceilings or target costs on flexibly-priced contracts. In such cases, the CFAO shall limit any upward contract price adjustments to affected contracts to the amount of downward price adjustments to other affected contracts, i.e., the aggregate value of all contracts affected by a noncompliance that involves cost accumulation shall not be increased (9903.201-6(d)).

(B) Shall require the contractor to:

(1) Correct contract cost accumulations in the contractor's cost accounting records to reflect the contract price adjustments; and

(2) Adjust interim payment requests (public vouchers and/or progress payments) and final vouchers to reflect the contract price adjustments.]

([6]4) When contract adjustments are made, the CFAO **[shall]** ~~must~~

(i) Execute the bilateral modifications if the CFAO and contractor agree on the amount of the cost impact and the adjustments (see 42.302(a)(11)(iv)); or

(ii) When the CFAO and contractor do not agree on the amount of the cost impact or the contract adjustments, issue a final decision in accordance with 33.211 and unilaterally adjust the contract(s).

(d) *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 **[and the contracting parties agree on the use of that alternate method]**;

(2) The CFAO may not use an alternate method for contracts when application of the alternate method to contracts would result in-

(i) An underrecovery of monies by the Government (e.g., due to cost overruns); or

(ii) 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 **[shall]** ~~must~~

(i) Apply such exclusion only to the determination of final indirect cost rates (42.705); and

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

30.607 Subcontract administration.

When a negotiated CAS price adjustment or a determination of noncompliance is required at the subcontract level, the CFAO for the subcontractor **[shall]** ~~must~~ furnish a copy of the negotiation memorandum or the determination to the CFAO for the contractor of the next higher-tier subcontractor. The CFAO of the contractor or the next higher-tier subcontractor **[shall]** ~~must~~ not change the determination of the CFAO for the lower-tier subcontractor. If the subcontractor refuses to submit a GDM or DCI proposal, remedies are made at the prime contractor level.

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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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 (b) through (i) and (k) through (n) of this clause:

(a) Definitions. As used in this clause—

“Affected CAS-covered contract or subcontract” means a contract or subcontract subject to CAS rules and regulations for which a contractor or subcontractor—

(1) Used one cost accounting practice to estimate costs and a changed cost accounting practice to accumulate and report costs under the contract or subcontract; or

(2) Used a noncompliant practice for purposes of estimating or accumulating and reporting costs under the contract or subcontract.

"Cognizant Federal agency official (CFAO)" means the contracting officer assigned by the cognizant Federal agency to administer the CAS.

"Desirable change" means a compliant change to a contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is therefore not subject to the no increased cost prohibition provisions of CAS-covered contracts and subcontracts affected by the change.

"Fixed-price contracts and subcontracts" means—

(1) Fixed-price contracts and subcontracts described at FAR 16.202, 16.203, ~~16.205~~ and 16.207;

(2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (FAR Subpart 16.4);

(3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (FAR Subpart 16.5); and

(4) The fixed-hourly rate portion of time-and-materials and labor-hours contracts and subcontracts (FAR Subpart 16.6).

"Flexibly-priced contracts and subcontracts" means—

(1) Fixed-price contracts and subcontracts described at FAR 16.204[, **16.205**] and 16.206;

(2) Cost-reimbursement contracts and subcontracts (FAR Subpart 16.3);

(3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (FAR Subpart 16.4);

(4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (FAR Subpart 16.5); and

(5) The materials portion of time-and-materials contracts and subcontracts (FAR Subpart 16.6).

"Noncompliance" means a failure in estimating, accumulating, or reporting costs to—

(1) Comply with applicable CAS; or

(2) Consistently follow disclosed or established cost accounting practices.

"Required change" means—

(1) A change in cost accounting practice that a contractor is required to make in order to comply with a CAS, or a modification or interpretation thereof, that subsequently becomes applicable to existing CAS-covered contracts or

subcontracts due to the receipt of another CAS-covered contract or subcontract; or

(2) A prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the contractor to remain in compliance.

"Unilateral change" means a change in cost accounting practice from one compliant practice to another compliant practice that a contractor with a CAS-covered contract(s) or subcontract(s) elects to make that has not been deemed a desirable change by the CFAO and for which the Government will pay no aggregate increased costs.

(b) Submit to the CFAO a description of any cost accounting practice change (including revisions to the Disclosure Statement, if applicable) and any assertion that the cost impact of the change is immaterial as outlined in paragraphs (b)(1) through (3) of this clause. If a change in cost accounting practice is implemented without submitting the notice required by this paragraph, the CFAO may determine the change to be a failure to follow paragraph (a)(2) of the clause at FAR 52.230-2, Cost Accounting Standards; paragraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; or paragraph (a)(2) of the clause at FAR 52.230-5, Cost Accounting Standards-Educational Institution.

(1) When a description has been submitted for a change in cost accounting practice that is dependent on a contract award and that contract is subsequently awarded, notify the CFAO within 15 days after such award.

(2) For any change in cost accounting practice not covered by (b)(1) of this clause that is required in accordance with paragraphs (a)(3) and (a)(4)(i) of the clause at FAR 52.230-2; or paragraphs (a)(3), (a)(4)(i), or (a)(4)(iv) of the clause at FAR 52.230-5, submit a description of the change to the CFAO not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change.

(3) 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 and FAR 52.230-5; or with paragraph (a)(3) of the clause at FAR 52.230-3, submit a description of the change not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change. If the change includes a proposed retroactive date, submit supporting rationale.

(4) 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) of the

clause at FAR 52.230-2 and FAR 52.230-5; or by paragraph (a)(4) of the clause at FAR 52.230-3)-

(i) Within 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) after the date of agreement with the CFAO that there is a noncompliance; or

(ii) In the event of Contractor disagreement, within 60 days after the CFAO notifies the Contractor of the determination of noncompliance.

(c) When requested by the CFAO, submit on or before a date specified by the CFAO-

(1) A general dollar magnitude (GDM) proposal in accordance with paragraph (d) or (g) of this clause;

(2) A detailed cost impact (DCI) proposal in accordance with paragraph (e) or (h) of this clause;

(3) For any request for a desirable change that is based on the criteria in FAR 30.603-2(b)(3)(iii), the data necessary to demonstrate the required cost savings; and

(4) For any request for a desirable change that is based on criteria other than that in FAR 30.603-2(b)(3)(iii), a GDM proposal and any other data necessary for the CFAO to determine if the change is a desirable change.

(d) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the GDM proposal shall-

(1) Show the calculation of the cost impact in accordance with paragraph (f) of this clause;

(2) Use one or more of the following methods to determine the increase or decrease in cost accumulations:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations **[for all affected fixed-price and flexibly-priced contracts and subcontracts]**;

(3) Use a format acceptable to the CFAO but, as a minimum, include the following data:

(i) The **[estimated]** ~~total~~ increase or decrease in cost accumulations by executive agency, including any impact the change may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(ii) For unilateral changes, the increased or decreased costs ~~[to] paid by~~ the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts; and

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(e) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the DCI proposal shall—

(1) Show the calculation of the cost impact in accordance with paragraph (f) of this clause;

(2) Show the **[estimated]** increase or decrease in cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to include—

(i) Only those affected CAS-covered contracts and subcontracts having an estimate to complete exceeding a specified amount; and

(ii) An estimate of the total increase or decrease in cost accumulations for all affected CAS-covered contracts and subcontracts, using the results in paragraph (e)(2)(i) of this clause; and

(3) Use a format acceptable to the CFAO but, as a minimum, include the information in paragraph (d)(3) of this clause.

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(f) For GDM and DCI proposals that are subject to the requirements of paragraphs (d) or (e) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall—

~~(i) Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established); and~~

~~(ii) Combine the cost impact for all segments if the effect of a change results in costs flowing between those segments.~~

(2) Compute the increase or decrease in cost accumulations for affected CAS-covered contracts and subcontracts based on the difference between—

(i) The estimated cost to complete using the current practice; and

(ii) The estimated cost to complete using the changed practice.

(3) For unilateral changes—

(i) Determine the increased or decreased cost **[to]** ~~paid by~~ the Government for fixed-price contracts and subcontracts as follows:

(A) When the amount in paragraph (f)(2)(i) exceeds the amount in paragraph (f)(2)(ii) of this clause, the difference is increased cost **[to the Government]** ~~paid~~.

(B) When the amount in paragraph (f)(2)(i) is less than the amount in paragraph (f)(2)(ii) of this clause, the difference is decreased cost **[to the Government]** ~~paid~~.

(ii) Determine the increased or decreased cost **[to]** ~~paid by~~ the Government for flexibly-priced contracts and subcontracts as follows:

(A) When the amount in paragraph (f)(2)(i) exceeds the amount in paragraph (f)(2)(ii) of this clause, the difference is decreased cost **[to the Government]** ~~paid~~.

(B) When the amount in paragraph (f)(2)(i) is less than the amount in paragraph (f)(2)(ii) of this clause, the difference is increased cost **[to the Government]** ~~paid~~.

(iii) **[Calculate the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased cost to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated; and**

(iv)] Calculate the increased or decreased cost **[to]** ~~paid by~~ the Government in the aggregate by adding—

(A) The increased or decreased cost **[to the Government]** ~~paid~~ for fixed-price contracts and subcontracts;

(B) The increased or decreased cost **[to the Government]** ~~paid~~ for flexibly-priced contracts and subcontracts; and

(C) The total increase or decrease in contract and subcontract incentives, fees, and profits **[computed in (f)(3)(iii) of this clause]** ~~associated with the increased or decreased cost paid. The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contract or subcontract was negotiated.~~

(4) For equitable adjustments for required changes—

(i) ~~[Estimated]~~ ~~±[i]~~ increased cost accumulations are the basis for increasing contract ~~cost or~~ price[s, including target prices and cost ceilings]; and

(ii) ~~[Estimated]~~ ~~±[d]~~ decreased cost accumulations are the basis for decreasing contract ~~cost or~~ price[s, including target prices and cost ceilings].

(g) For any noncompliant cost accounting practice subject to paragraph (b)(4) of this clause, prepare the GDM proposal as follows—

(1) Calculate the cost impact in accordance with paragraph (i) of this clause.

(2) Use one or more of the following methods to determine the increase or decrease in contract and subcontract price[s] or cost accumulations[, as applicable]:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) When the noncompliance involves cost [accumulation] ~~accumulating,~~

[(A) For purposes of computing increased costs in the aggregate,] the change in indirect rates multiplied by the [applicable] ~~total-estimated~~ base for only flexibly-priced contracts and subcontracts.

[(B) For purposes of determining interest, the change in indirect costs multiplied by the applicable base for flexibly-priced and fixed-price contracts and subcontracts.]

(iii) Any other method that provides a reasonable approximation of the total increase or decrease.

(3) Use a format acceptable to the CFAO but, as a minimum, include the following data:

(i) The total increase or decrease in contract and subcontract price and cost accumulations[, as applicable,] by executive agency, including any impact the noncompliance may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(ii) The increased or decreased cost [to] paid by the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(iii) The total overpayments [and underpayments] made by the Government during the period of noncompliance. The total overpayments [and underpayments shall] ~~must~~ be broken down by quarter unless each of the quarterly amounts billed during the period of noncompliance were approximately equal.

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(h) For any noncompliant practice subject to paragraph (b)(4) of this clause, prepare the DCI proposal as follows:

(1) Calculate the cost impact in accordance with paragraph (i) of this clause.

(2) Show the increase or decrease in price and cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to—

(i) Include only those affected CAS-covered contracts and subcontracts having—

(A) Contract and subcontract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase or decrease in price and cost accumulations for all affected CAS-covered contracts and subcontracts using the results in paragraph (h)(2)(i) of this clause.

(3) Use a format acceptable to the CFAO that, as a minimum, includes the information in paragraph (g)(3) of this clause.

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(i) For GDM and DCI proposals that are subject to the requirements of paragraph (g) or (h) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall—

~~(i) Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., whether or not the final indirect cost rates have been established).~~

~~(ii) Combine the cost impact for all segments if the effect of a change results in costs flowing between those segments.~~

(2) For noncompliances that involve estimating costs, compute the change in contract and subcontract price ~~only for~~ **[flexibly-priced and]** fixed-price contracts and subcontracts **[(the computation for the flexibly-priced contracts is used in determining any necessary adjustments to fee and incentives)]**, based on the difference between—

(i) The negotiated contract or subcontract price; and

(ii) What the negotiated price would have been had the contractor used a compliant practice.

(3) For noncompliances that involve accumulating costs, compute the change in cost accumulations ~~only~~ for flexibly-priced **[and fixed-price]** contracts and subcontracts **[the computation for the fixed-price contracts is used only for purposes of determining interest on costs paid]**, based on the difference between—

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

(ii) The costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice).

(4) **[For purposes of determining increased costs in the aggregate for noncompliances that involve estimating costs,]** ~~D[d]~~etermine the increased or decreased cost **[to]** ~~paid by~~ the Government for fixed-price contracts and subcontracts as follows:

(i) When the amount in paragraph (i)(2)(i) exceeds the amount in paragraph (i)(2)(ii) of this clause, the difference is increased cost **[to the Government]** ~~paid~~.

(ii) When the amount in paragraph (i)(2)(i) is less than the amount in paragraph (i)(2)(ii) of this clause, the difference is decreased cost **[to the Government]** ~~paid~~.

(5) **[For purposes of determining increased costs in the aggregate for noncompliances that involve cost accumulation,]** determine the increased or decreased cost **[to]** ~~paid by~~ the Government for flexibly-priced contracts and subcontracts as follows:

(i) When the amount in paragraph (i)(3)(i) exceeds the amount in paragraph (i)(3)(ii) of this clause, the difference is ~~de~~**[in]**creased cost **[to the Government]** ~~paid~~.

(ii) When the amount in paragraph (i)(3)(i) is less than the amount in paragraph (i)(3)(ii) of this clause, the difference is ~~in~~**[de]**creased cost **[to the Government]** ~~paid~~.

(6) **[Calculate the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased cost to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the contractor used a compliant practice.**

(7) For noncompliances that involve estimating costs,] ~~E[c]~~alculate the increased or decreased cost **[to]** ~~paid by~~ the Government in the aggregate by adding—

(i) The increased or decreased cost **[to the Government]** ~~paid~~ for fixed-price contracts and subcontracts;

~~(ii) The increased or decreased cost paid for flexibly priced contracts and subcontracts; and~~

~~(iii) The total increase or decrease in contract and subcontracts incentives, fees, and profits [computed in (i)(6) of this clause] associated with the increased or decreased cost paid. The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated.~~

[(8) For noncompliances that involve accumulating costs, calculate the increased or decreased cost to the Government in the aggregate by adding-

(i) The increased or decreased cost to the Government for flexibly-priced contracts and subcontracts; and

(ii) The total increase or decrease in contract and subcontracts incentives, fees, and profits computed in (i)(6) of this clause.]

(j) If the Contractor does not submit the information required by paragraph (b) or (c) of this clause within the specified time, or any extension granted by the CFAO, the CFAO may take one or both of the following actions:

(1) Withhold an amount not to exceed 10 percent of each subsequent payment to the Contractor's **[affected]** 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.

(2) Issue a final decision in accordance with FAR 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.

(k) Agree to-

(1) Contract modifications to reflect adjustments required in accordance with paragraph (a)(4) or (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with paragraph (a)(3) or (a)(4) of the clause at FAR 52.230-3; and

(2) Repay the Government for any aggregate increased cost paid to the Contractor.

(l) 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 CFAO:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(m) Notify the CFAO in writing of any adjustments required to subcontracts under this contract and agree to an adjustment 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.

(n) For subcontracts containing the clause or substance of the clause at FAR 52.230-2, FAR 52.230-3, 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)

52.230-7 Proposal Disclosure-Cost Accounting Practice Changes.

As prescribed in 30.201-3(c), insert the following provision:

PROPOSAL DISCLOSURE-COST ACCOUNTING PRACTICE CHANGES (DATE)

The offeror shall check "Yes" below if the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable changes:

[] Yes [] No

If the offeror checks "Yes" above, the offeror shall--

(1) Prepare the pricing proposal in response to the solicitation using the changed practice for the period of performance for which the practice will be used; and

(2) Submit a description of the changed cost accounting practice to the contracting officer and the Cognizant Federal Agency Official as pricing support for the proposal.

(End of provision)]

PROPOSED FEDERAL REGISTER NOTICE

**DEPARTMENT OF DEFENSE
GENERAL SERVICES ADMINISTRATION
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 30 and 52
[FAR Case 1999-025]**

**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 with request for comments ¹and notice of a public meeting.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the 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 on the proposed rule in writing to the FAR Secretariat at the address shown below on or before (60 days after publication) to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to:

General Services Administration
FAR Secretariat (MVR)
1800 F Street, NW, Room 4035
ATTN: Laurie Duarte
Washington, DC 20405

Address e-mail comments submitted via the Internet to:
farcase.1999-025@gsa.gov.

¹ 11/05 Underlined words have been added to provide notice of a public meeting.

Please cite FAR Case 1999-025 in all correspondence related to this issue.

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) 501-3221.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed rule delineates 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 uses a noncompliant practice. In conjunction with the proposed rule being published today, a public meeting will be held approximately three weeks from the date of this publication. The public meeting is intended to provide the purpose and rationale for each paragraph of the proposed rule. The public meeting will also offer participants an opportunity to ask questions regarding the content of the proposed rule. The specific date, time, and location of the meeting will be posted at www.acq.osd.mil/dp/cpf within three days of the date of this publication.

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.

A proposed FAR rule was published in the Federal Register on April 18, 2000 (65 FR 20854). The rule delineated the entire cost-impact process the Government and the contractor must follow when a contractor makes a compliant change to a cost accounting practice or follows a noncompliant practice. Nine responders submitted public comments. Additional comments were provided by the public at a series of public meetings that were held on August 2, 2000, September 26, 2000, and October 17, 2000.

The Councils considered the written comments received in response to the proposed rule and the comments provided during

the public meetings. As a result, the Councils are currently proposing a rule that differs significantly from the proposed rule that was published on April 18, 2000. The main differences between the two proposed FAR rules are listed below.

1. **CASB final rule.** This second proposed rule incorporates changes based on a CASB final rule, Changes in Cost Accounting Practices, that was published in the Federal Register on June 14, 2000 (65 FR 37469). These FAR changes include the addition of-

a. Definitions for required, unilateral, and desirable changes; and

b. CASB language excluding cost accounting practice changes related to external restructuring from contract price and cost adjustments;

2. **Offsets.** This second proposed rule eliminates the term "offset" to avoid potential confusion regarding the term but includes the effect of offsets in the cost impact calculation process by separating the calculation of the cost impact from the resolution of the cost impact;

3. **Materiality.** This second proposed rule clarifies that the cognizant Federal agency official (CFAO) may make a materiality determination at any point in the cost impact process, including before requesting a general dollar magnitude (GDM) proposal.

4. **Desirable change.** This second proposed rule provides addition guidance regarding what constitutes a desirable change.

5. **Form and content of the GDM and detailed cost impact (DCI) proposals.** This second proposed rule revises the requirements regarding the form and content of both the GDM and DCI proposals to provide greater flexibility to apply practical solutions to the cost impact process and to reduce the administrative effort. This includes revising the requirements of the-

a. GDM proposal so that broad based data may be used as the basis for the GDM proposal; and

b. DCI proposal to provide flexibility for the CFAO to not require individual data on all contracts, but to project the cost impact on larger contracts to the remaining contract universe.

[6. **Contract Price Adjustments.** The proposed rule provides for the CFAO to 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. In an ideal world, the CFAO would adjust all contracts so that each and every dollar of the cost impact is perfectly re-allocated to each and every affected contract. However, the Councils recognize that, in many instances, adjusting all contracts is not practical or feasible. The proposed rule therefore provides the CFAO the flexibility to

resolve the cost impact using methods other than adjusting every contract, provided the Government will not pay more, in the aggregate, than would be paid if the CFAO had adjusted all the contracts.]

[7]6. **Responsibilities and roles of the CFAO.** This second proposed rule requires the CFAO to execute contract modifications in lieu of the contracting officers at the agencies that awarded the contracts; and

[8]7. **New solicitation provision.** This second proposed rule adds a provision that requires a contractor to indicate if the contract award will result in a cost accounting practice change and, if so, to prepare a pricing proposal using the changed practice.

This is not a significant regulatory action and, therefore, was not subject to 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 proposed rule is not expected 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). Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils invite comments from small businesses and other interested parties. The Councils will also consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite FAR Case 1999-025 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) does not apply because the proposed changes to the FAR do not impose information collection requirements that require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

Open Case

03/11/2005

DFARS #: Requestor: OSD
FAR #: 1999-025 **Committee:** Cost Accounting Standards
Regulation: FAR **Sponsor:** DCMA
Open Date: 12/07/1999 **Manager:** Godlewski, Ted
On Hold Date: / / **Status Code:** 599 **Date:** 03/09/200 **Rule Type:** Final
Priority: 2

Title: Cost Accounting Standards (CAS) Administration

Synopsis: Amend FAR 30.6 to add a process for determining monies due the Government as a result of contractor changes in cost accounting practice.

Status: 12/07/1999, Opened case.

Major Events: 4/18/2000, Published proposed FAR rule in Federal Register (65 FR 20854).
10/17/2000, Public meetings concluded.
7/3/2003, Published proposed FAR rule in Federal Register (68 FR 40104).
03/09/2005, Final FAR rule published in Federal Register (70 FR 11743).

12/3/1999, Received draft proposed FAR rule from CPF.
12/8/1999, Tasked Adhoc Cmte to revise draft proposed FAR rule.
12/15/1999 Received Adhoc Cmte draft proposed FAR rule.
1/5/2000 Agreed to draft proposed FAR rule.
1/13/2000 Sent draft proposed FAR rule to CAAC.
2/25/2000 Sent proposed FAR rule to FAR Secretariat.
3/10/2000 Received DoD approval to publish.
3/15/2000 Sent DoD approval to publish to FAR Secretariat.
4/18/2000 Published proposed FAR rule in Federal Register (65 FR 20854).
6/19/2000 Public comment period ended.
6/28/2000 Tasked CAS Cmte to review public comments on proposed FAR rule.
7/12/2000, On hold pending further policy guidance.
7/19/2000, Notice of Public Meeting(s) to be chaired by DP/CPF published in the Federal Register.
10/17/2000, Public meetings concluded.
5/4/2001, Received CAS Cmte draft final FAR rule.
5/31/2001, Agreed to draft proposed FAR rule.
6/18/2001, Coordinating revised draft proposed FAR rule with Chair, CAS Cmte and within OSD.
8/01/2001, Received revised draft proposed FAR rule.
8/8/2001, Agreed to draft proposed FAR rule.
9/5/2001, Sent draft proposed FAR rule to CAAC.
10/26/2001, Proposed FAR rule to FARSEC for preparation of FR notice.
11/21/2001, FAR staff sent draft proposed FAR rule to OFPP for review.

Open Case

03/11/2005

DFARS #: Requestor: OSD
FAR #: 1999-025 **Committee:** Cost Accounting Standards
Regulation: FAR **Sponsor:** DCMA
Open Date: 12/07/1999 **Manager:** Godlewski, Ted
On Hold Date: / / **Status Code:** 599 **Date:** 03/09/200 **Rule Type:** Final
Priority: 2

1/3/2002, Received DoD approval to publish.
4/4/2002, OFPP identified draft proposed FAR rule issues. OFPP, FAR, and DAR staff resolving issues.
12/11/2002, DARC will discuss draft proposed FAR rule on 12/18/2002.
12/18/2002, DARC agreed to draft proposed FAR rule. DAR staff processing.
12/27/2002, DAR staff sent draft proposed FAR rule to CAAC Chair for FAR staff review and presentation to CAAC.
3/3/2003, Draft proposed FAR rule from FAR analyst to GSA Legal. GSA Legal reviewing.
5/20/2003, Draft proposed FAR rule from FAR staff to OFPP. OFPP reviewing.
5/21/2003, CAAC Chair sent draft proposed FAR rule to OIRA. OIRA reviewing.
6/2/2003, OIRA cleared proposed FAR rule. FAR staff processing.
6/03/2003, Proposed FAR rule to FARSEC for preparation of FR notice.
7/3/2003, Published proposed FAR rule in Federal Register (68 FR 40104). Public meeting scheduled for 8/5/2003. Public comment period ends 9/2/2003.
9/2/2003, public comment period ends.
9/17/2003, DARC tasked CAS Cmte to review public comments, draft final FAR rule. Report due: 11/13/2003.
11/13/2003, DARC tasked CAS Cmte Chair to provide status. Due date 03/03/2004.
11/13/2003, DARC tasked CAS Cmte Chair to draft final FAR rule. Report due 5/5/2004.
5/5/2004, DARC Will discuss draft final FAR rule on 6/9/2004.
6/9/2004 DARC agreed to draft final FAR rule. DAR staff processing.
7/30/2004, DAR staff sent draft final FAR rule to CAAC Chair.
8/19/2004, DAR sent supplemental information to CAAC Chair.
10/04/2004, CAAC sent draft final FAR rule to OFPP. OFPP reviewing. Awaiting OFFP approval - due 11/18/2004.
11/09/2004, OFPP cleared final FAR rule.
11/16/2004, CAAC sent draft final FAR rule to OIRA. Awaiting OIRA approval - due 12/16/2004.
12/08/2004, OIRA cleared final FAR rule. FAR staff preparing to sent to FARSEC.
01/03/2005, Final FAR rule sent to FARSEC for publication in next FAC.
03/09/2005, Final FAR rule published in Federal Register (70 FR 11743).

Councils' response: Nonconcur. With the removal of the calculation of increased cost in the aggregate from the final rule (*see* comment 26), the Councils do not believe there are any issues that warrant holding another public meeting.

Complex and Prescriptive

2. *Comment:* Five respondents asserted that the proposed rule is overly prescriptive. One respondent stated that the proposed rule is unnecessarily complicated and does not address the major reasons that the current process does not work. Two respondents asserted the proposed rule is so detailed and prescriptive that CFAOs will be unable to exercise good business judgment and consider the unique aspects of each contractor's business environment in settling issues. Another respondent stated that the highly prescriptive nature of this regulation will impede the expeditious and fair resolution of CAS issues. The respondent stated that CFAOs will interpret the proposed rule as significantly decreasing the flexibility regularly exercised under the current regulation. Yet another respondent asserted that the detailed requirements for a GDM are too prescriptive. This respondent stated that, in many cases, very high-level GDM's are all that is needed to determine if an impact is going to be immaterial, while in other cases, a GDM with more detail may be necessary. They stated that the GDM's require more flexibility than is provided for in the proposed amendment.

Councils' response: Nonconcur. The Councils do not believe that the general content of the rule is overly prescriptive. The Councils believe that the CFAO and the contractor have significant flexibility in the proposed process, including the ability to determine materiality at any time during the process, the ability to submit a GDM in whatever format that is acceptable to the CFAO, and the ability to negotiate the cost-impact by adjusting a single contract, multiple contracts, or some other suitable method. However, the Councils concur with some of the specific recommendations made in the public comments regarding revisions to the proposed language. To the extent the respondents have provided specific comments regarding the prescriptive nature of the rule, the Councils have addressed those comments and made recommended revisions as deemed appropriate.

Define "Cost Accumulation"

3. *Comment:* One respondent recommended defining the term "cost

accumulation" in FAR Part 31.001, Definitions, and clarifying the expression "noncompliances that involve accumulating costs."

Councils' response: Nonconcur. The Councils do not agree that there is confusion as to the intent of the term. The Councils believe the term "cost accumulation" is self-evident and clearly understood. In addition, since the CAS Board defines "accumulating costs" in 48 CFR 9904.401-30(a)(1), there is no need to add clarifying language regarding the expression "noncompliances that involve accumulating costs."

Adequacy Determination—Cost-Impact System

4. *Comment:* One respondent recommended that the proposed rule be revised to "require the CFAO to make a determination, in conjunction with DCAA, regarding a contractor's cost-impact system and their ability to submit cost-impact proposals. If a contractor has the ability to identify increased or decreased cost accumulations for each affected CAS-covered contract and subcontract and can properly summarize the increased or decreased cost by contract type and Government agency, the CFAO should be required to utilize that contractors system."

Councils' response: Nonconcur. The Councils are unaware of any criteria that have been established as the basis for a CFAO's determination of adequacy of a contractor's cost-impact system, unlike other systems upon which the Government makes determinations of adequacy, such as accounting or billing systems. The Councils also believe that such criteria are unnecessary. The effort necessary to establish and continuously review cost-impact systems would not be cost beneficial to the Government or the contractor. The proposed rule provides the contractor with the flexibility to submit a GDM and/or DCI proposal in any format that is acceptable to the CFAO. To the extent a contractor has a process that produces GDM and/or DCI proposals that are acceptable to the CFAO, the contractor will continue to be able to use that process under the proposed rule.

CFAO Acting for Non-DoD Agencies

5. *Comment:* One respondent stated that the CFAO responsibilities set forth in the proposed rule will not work at contractors who have CAS-covered contracts and subcontracts with many Government agencies. The respondent further stated that agencies outside of DoD have refused to accept final incurred expense rates that have been

audited by DCAA and approved by its ACO and, therefore, it is inconceivable that agencies such as DOE or USAID will allow a CFAO to execute a bilateral modification to one of its contracts.

Councils' response: Nonconcur. The Councils have not changed the requirements under FAR 30.601, Responsibilities. CAS administration for all contracts and subcontracts in a business unit must be performed by a single agency. The proposed rule merely uses the term "Cognizant Federal Agency Official (CFAO)" instead of "cognizant ACO." This does not change the responsibilities of the cognizant Federal agency.

Under FAR 42.202(d), delegation of functions pertaining to cost accounting standards cannot be rescinded by any contracting agency. Furthermore, FAR 42.703 sets forth that a single agency shall be responsible for establishing final indirect cost rates for each business unit. These rates shall be binding on all agencies and their contracting offices, unless otherwise specifically prohibited by statute. An agency shall not perform an audit of indirect cost rates when the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit that was conducted by any other department or agency of the Federal Government.

Materiality Determination—Guidelines

6. *Comment:* One respondent recommended that the FAR Council provide guidelines for what constitutes adequate documentation in making a determination of materiality.

Councils' response: Nonconcur. The Councils believe that any attempt to add guidelines for what constitutes adequate documentation would be overly prescriptive, could result in submittal of unnecessary documentation, would reduce the flexibility needed to resolve cost-impacts in a timely manner, and could potentially lead to disputes. The Councils' position is consistent with the requirements at FAR 1.704, Determination and Findings (D&F). As noted at 30.601, Responsibilities, the CFAO is required to make all CAS-related required D&Fs for all CAS-covered contracts and subcontracts. FAR 1.704 requires that each D&F include necessary supporting documentation to clearly and convincingly justify the specific determination made. However, since each case must be evaluated based on its particular facts and circumstances, FAR 1.704 does not provide guidelines for what constitutes necessary supporting documentation. Similarly, since each cost-impact must be evaluated based on

the particular facts and circumstances, the Councils do not believe it is necessary to provide guidelines for what constitutes adequate documentation.

Immateriality Determination—Prior to GDM

7. *Comment:* One respondent expressed concern with the wording of the proposed rule which allows for a determination of materiality before submittal of the GDM. The respondent asked how the CFAO can make such a determination and what data would have to be provided to the CFAO for this determination.

Councils' response: The Councils believe there will be instances in which a determination of materiality can be made (based on the criteria at 48 CFR 9903.305) without submittal of a GDM. The data required to make such a determination would be identified by the CFAO on a case-by-case basis, depending on the particular facts and circumstances involved. The Councils note that language at 30.602(b)(1) provides the CFAO with such flexibility, something that other respondents have emphasized is needed in the cost-impact process. The Councils also note that this language was endorsed by another respondent who stated that they " * * * support the Council's efforts to clarify the process for determining and resolving cost-impacts and believes there are favorable aspects of the proposed amendment. For example, the proposed cost-impact process begins without having to prepare a general dollar magnitude (GDM) proposal. In addition, the Cognizant Federal Agency Official (CFAO) has the ability to make materiality determinations at any time during the process."

Immateriality Determination—Documentation

8. *Comment:* One respondent recommended that whenever the CFAO determines the cost-impact is immaterial, the CFAO should be required to document the criteria used in making that determination.

Councils' response: Concur. The Councils believe a requirement for the CFAO to document the immateriality determination is appropriate and has included the requirement at FAR 30.602(c)(2).

Clarify "Assertion"

9. *Comment:* One respondent recommended modifying or removing the term "assertion" in the statement at contract clause FAR 52.230-6(b) that reads "a description of any cost accounting practice change to the

Disclosure Statement and any assertion that the cost-impact of the change is immaterial." In addition, the respondent recommended that any statement by the contractor regarding whether the cost-impact of the change is immaterial should be in writing.

Councils' response: Concur. To avoid potential confusion, the Councils agree that paragraph (b) of the contract clause at FAR 52.230-6 be revised to require submission of a written statement that the cost-impact is immaterial. In addition, the term "written statement" replaces the term "assertion" at FAR 30.603-1(c)(2)(ii), 30.603-2(c)(1)(ii), and 30.605(b)(2)(ii)(B).

Time Restrictions for Contractor

10. *Comment:* One respondent recommended that the Council reinstate existing specific time limits for the contractor to provide information regarding accounting changes and noncompliances in all paragraphs where the phrase "by a specified date" is used.

Councils' response: Nonconcur. The respondent's references to the CFAO affixing "a specified time limit" for contractors to submit a GDM (FAR 30.604(b)(1)(i)), revised GDM (FAR 30.604(f)(1)), or DCI (FAR 30.604(f)(2)) does not provide flexibility to the CFAO to specify a date that is commensurate with the complexity of the issue(s). Ultimately, the total time allotted a contractor is addressed by FAR 30.604(i), Remedies, which may be disputed by the contractor.

Time Restrictions for Government

11. *Comment:* Two respondents stated that the proposed rule does not address one of the major problems associated with the resolution of cost-impact proposals related to noncompliances and accounting changes. One respondent stated that the problem is the fact that the Government has no time restrictions for performing its responsibilities. The respondent recommended that the proposed rule require all actions related to these issues be performed within specific time frames. In addition, the respondent recommended that reasonable response times be established for Government personnel.

Councils' response: Nonconcur. The Councils believe a specific time requirement for CFAO action could increase disputes concerning the adequacy of contractor submissions since the time periods cannot reasonably start until an adequate submission is received. The Councils are not aware of, and the respondents did not provide, a remedy for

Government failure to comply with a recommended time requirement.

DCI in Lieu of GDM

12. *Comment:* Two respondents stated that the submittal of a GDM requires extra analysis and is less precise than a detailed cost proposal. The respondents asserted that the databases and cost-impact calculation systems used by CAS-covered contractors can provide a DCI that is much more precise than the calculations required by a GDM.

Councils' response: Partially concur. The GDM proposal does not require extra analysis. Proposed FAR 30.604(d) and 30.605(d) allow the CFAO and contractor flexibility in the submittal of a GDM. For some contractors, the databases and cost-impact calculation systems they use allow for the computation of DCIs with relative ease. In such cases, it is anticipated that a contractor would submit the cost-impact calculation generated by its system as the GDM. However, the final rule has been revised at FAR 30.604(d)(3) and 30.605(d)(3) to clarify that the contractor may submit a DCI in lieu of a GDM proposal. The Councils believe that allowing, but not requiring, the submittal of a GDM gives contractors flexibility to submit proposals as complex and precise as they choose, up to and including the submittal of a full DCI.

Cost-Impact Approximations

13. *Comment:* Two respondents stated that the use of approximations of prices and cost accumulations are not necessary. Both respondents stated that it is easy and more cost effective to calculate DCI proposals. One respondent also stated that it does not see why a contractor should be required to calculate the increased cost in the aggregate one way for a GDM proposal and another way for the cost-impact calculation.

Councils' response: Nonconcur. For some contractors, the databases and cost-impact calculation systems they use allow for the computation of detailed cost-impacts with relative ease. For other contractors, this is not necessarily the case. The Councils believe that allowing the submittal of a GDM that provides a reasonable approximation of the total increase in cost accumulations, gives contractors flexibility to submit proposals as complex and precise as they choose, up to and including the submittal of a full DCI. However, since some contractors may choose to go directly to the DCI, the final rule has been revised to specifically state that the contractor may

submit a DCI in lieu of a GDM proposal (see comment 12).

Representative Sample and Projections

14. *Comment:* Two respondents stated that the use of a representative sample and the projection of that sample to determine the total increase or decrease in cost accumulations are problematic. Both respondents stated that they have had difficulties over the years in reaching agreement with the Government on what constitutes a representative sample.

Councils' response: Nonconcur. The Councils believe that for some contractors, the projection of representative samples is a feasible method for computing increases and decreases in cost accumulations for the purposes of the submittal of a GDM (see FAR 30.604(e)(2)(i) and 30.605(d)(2)(i)). For contractors that find it problematic to come to an agreement with the Government on what constitutes a representative sample, there are alternative methods for computing increases and decreases in cost accumulations in preparing for the submittal of a GDM. In addition, the final rule has been revised to permit contractors to submit a DCI in lieu of a GDM proposal (see comment 12).

Firm-Fixed-Price Contracts

15. *Comment:* Six respondents commented that firm-fixed-price (FFP) contracts should not be included in cost-impacts for changes in cost accounting practices. One respondent asserted that "increased costs to the Government only result from a change in contractor's cost accounting practices when the actual costs paid by the Government are more than they would have been had the contractor's practices not changed." The respondent further asserted that FFP contracts are not included in the cost-impact because the amount of costs a contractor assigns to FFP contracts due to a change in cost accounting practices has no effect on the amount ultimately paid by the Government.

Councils' response: Nonconcur. FFP contracts are properly included in cost-impacts for changes in cost accounting practice in the subject rule. 48 CFR 9903.306(a) does not differentiate among contract types in its definition of increased costs to the Government. Further, 48 CFR 9903.306(b) measures increased costs for FFP contracts by "the difference between the contract price agreed to and the contract price that would have been agreed to had the contractor proposed in accordance with the cost accounting practices used during contract performance." The final

rule at FAR 30.604 is consistent with the requirements at 48 CFR 9903.306(a) and (b).

Required Information

16. *Comment:* One respondent questioned whether the benefits to be derived from the requirement at FAR 30.604(e)(3) to provide certain information when a unilateral change is involved are worth the costs to comply. The respondent's concern was based on its belief that FAR 30.606(c)(3) neither justifies why the information is needed nor discusses how the information will be used.

Councils' response: Nonconcur. The information required by FAR 30.604(e)(3) (the increased or decreased costs by agency, and the increased or decreased costs for fixed-price contracts and subcontracts and flexibly-priced contracts and subcontracts) is required to determine how any adjustments will be handled. Specifically, the increase or decrease by agency is needed to assure that the contracts to be adjusted and the amounts of those adjustments are fairly allocated among the executive agencies. The breakout by firm-fixed price and flexibly-priced contracts is needed since the terms "increased costs" and "decreased costs" mean different things when applied to fixed-price versus flexibly-priced contracts.

GDM Versus DCI

17. *Comment:* One respondent commented that over the last decade, "technology has advanced to the stage where a very accurate cost-impact proposal covering all affected pricing actions, (by contract, task, agency, contract type, etc.) is now practical. The speed and power of personal computers, combined with advances in database technology, now make it much easier to calculate precise cost-impacts in a very short time." Thus, "the debate over GDM versus DCI cost-impacts may well become moot."

Councils' response: Nonconcur. The Councils believe that retention of the GDM as an option available to the CFAO promotes the streamlining of the cost-impact process in many cases, such as those where the contractor does not have a sophisticated cost-impact system as envisioned by the respondent. The final rule at FAR 30.604(f)(1) provides that the CFAO may use the GDM to resolve cost-impacts without requiring the preparation of a DCI. The Councils believe that this option will result in a significant savings of resources for both the contractor and the Government.

Contradictory Rules

18. *Comment:* One respondent stated that proposed FAR 30.604(h) seems to apply only to Detailed Cost-impact proposals (DCIs), but the proposed language in the FAR clause at FAR 52.230-6(f) applies the principle to both General Dollar Magnitude Proposals (GDMs) and DCIs. The respondent's conclusion is that these two paragraphs of the proposed rule are contradictory.

Councils' response: Nonconcur. FAR 30.604(e)(1), General dollar magnitude proposal content, and FAR 30.604(g)(1), Detailed cost-impact proposal, both require computation of the cost-impact in accordance with 30.604(h), Calculating cost-impacts. Thus, the proposed rule is not contradictory.

Cost-Impact Computations

19. *Comment:* One respondent stated that the required cost-impact computations set forth in FAR 30.604(h) and 30.605(h) cause additional administrative burden. These requirements preclude the respondent from utilizing its Government approved cost-impact system.

Councils' response: Nonconcur. The proposed rule does not preclude the respondent from using its cost-impact system, provided that the system computes the cost-impact in accordance with FAR 30.604(h) and 30.605(h). It is noted that the Government does not "approve" cost-impact systems.

Closed Contracts and Closed Years

20. *Comment:* Four respondents commented that the cost-impact calculation should not include closed contracts or years with final negotiated overhead rates.

Councils' response: Nonconcur. The Councils believe that it is appropriate to include closed contracts and closed fiscal years in the cost-impact calculation. Under the CAS clause at 48 CFR 9903.201-4(a)(5), the contractor in connection with this contract shall "agree to an adjustment of the contract price or cost allowance, as appropriate, if the contractor or a subcontractor fails to comply with an applicable cost accounting standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the annual rate established under Section 6621(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6621(a)(2)) for such period, from the time the payment by the United States was made to the time the adjustment is effected."

The provision at 48 CFR 9903.201-4(a)(5) does not provide for the exclusion of closed contracts or closed fiscal years from the cost-impact calculation. Since the CAS Board has not excluded such contracts, the Councils believe they must be included in the cost-impact calculation. The Councils further note that this position is consistent with the treatment of closed contracts and final negotiated overhead rates for price adjustments under the Truth in Negotiations Act. Defective pricing claims are often brought after the contract is closed and closure is no barrier to Government relief. The Councils also believe this is consistent with the position historically taken by the Government on CAS.

Cost-Impacts in Prior Years

21. *Comment:* One respondent stated that the proposed language at FAR 30.604(h)(1) infers that all cost-impacts occur in prior periods. The cost-impact calculation for all affected contracts generally involves the "estimated cost to complete" that will be incurred in future periods, after the change is implemented. To clarify that the cost-impact can involve existing contracts that will be performed in the future, insert the words "or will be" between "were" and "incurred."

Councils' response: Concur. The Councils agree that the respondent's recommendation will clarify the intent of the language at FAR 30.604(h)(1). However, the Councils believe the language at FAR 30.604(h)(1), as well as 30.605(h)(1), would be better clarified by inserting the word "are" in place of the word "were."

Change in Cost Accumulation

22. *Comment:* Two respondents expressed concern that the proposed rule requires that a GDM and/or DCI is required for a change in cost accumulation without regard to whether costs were billed. The respondents stated that the Government cannot be harmed until an actual billing has been submitted and paid. One respondent questioned how there can be any increased or decreased costs paid by the Government related to a unilateral change if contractors are complying with the current regulations.

Councils' response: Nonconcur. The rule assumes that the contractor's system used to accumulate costs is also used to bill those costs. While the Government cannot be harmed until the costs are actually billed, the CFAO is required to take action to preclude the Government from paying increased costs. Thus, if action is not taken to correct the noncompliance in cost

accumulation, the increased costs could ultimately be billed to the Government. Note that one of the actions that can be taken is the correction of the accumulated costs to correct the noncompliance.

Estimated Cost To Complete—Same Level of Work

23. *Comment:* One respondent recommended that the language regarding the two estimates to complete at FAR 30.604(h)(3) be revised to state that they should be based on contractor performance at the same level of contract work. The respondent recommended adding the words "in cost accumulation" and the phrase "required to perform the same level of contract work."

Councils' response: Nonconcur. The language at issue concerns the items to be included in a GDM and DCI proposal. Based on past experience, the Councils believe adding the recommended language is more likely to cause confusion and disputes rather than add clarity. In the CAS Board Announced Notice of Proposed Rulemaking on changes in cost accounting practice and in the first proposed rule on FAR Part 30, the language required that the estimates be based on a "consistent baseline." In both instances, public comments were submitted that clearly showed confusion as to the intent of the proposed language and requested clarification as to what was meant by a "consistent baseline." The Councils believe the revised final language at FAR 30.604(h)(3) is sufficient for the parties to understand that the purpose of using an estimate to complete is to determine the difference in cost accumulations solely as a result of the changed practice, i.e., the two estimates to complete cannot use different work scopes, different anticipated wage increases, different anticipated material price increases, or any other differences that do not result from the use of a different accounting practice.

Estimated Cost To Complete

24. *Comment:* Four respondents stated that the proposed rule requires the contractors to use current estimates-to-complete to calculate the cost-impact of changes to cost accounting practices. Two of the respondents asserted that such estimates may be so impacted by other events occurring subsequent to the award of a contract that they do not provide a reasonable basis for measuring increased costs to the Government.

Councils' response: Nonconcur. Although not specifically stated, it appears that the respondents are addressing the use of current estimates

to complete for determining the cost-impact on fixed-price contracts (see FAR 30.604(h)(3)). For flexibly-priced contracts, since the current estimates to complete represent the actual amount that will be reimbursed, there should be no issue regarding the use of such estimates.

The Councils do not believe it is practical to use the original cost estimates for determining the cost-impact on fixed-price contracts. The Councils believe using current estimates to complete is the only feasible method for computing the cost-impact of changes in cost accounting practice. As noted in CAS Working Group Paper 76-9, there are several serious impediments to using original cost estimates for adjusting fixed-price contracts. While the parties to a fixed-price contract have agreed to a total price, there is often no agreement as to how much of the price represents cost and how much of the price represents profit, and seldom a meeting of the minds on the amount of any individual element of cost. Further, many fixed-price contracts will have undergone numerous price changes due to engineering modifications and other changes. In such cases, tracking an individual cost element may prove virtually impossible. There is also the danger that the confusion resulting from the attempt to reconstruct the original data will provide an opportunity to re-price loss portions of contract performance that have elapsed prior to the point of the change.

Define "In the Aggregate"

25. *Comment:* One respondent commented that the CAS Board should define "in the aggregate."

Councils' response: The Councils recommend the respondent address its suggestion to the CAS Board, which can then decide if any action is necessary.

Increased Costs in the Aggregate

26. *Comment:* Eight respondents stated that the proposed rule on increased costs in the aggregate was a violation of CAS and the statutory provision.

Councils' response: The comment is no longer applicable—the final rule does not include the calculation of increased cost in the aggregate. The calculations at the following proposed coverage were removed from the final rule: 30.604(h)(3), and (4)(iv)(A) through (C); and 30.605(h)(5), (6), (8)(i) and (ii), and (9).

In addition, revisions were made at the following proposed coverage as a result of the removal of the calculations: 30.604(h)(4)(i), (ii), and (iv)—now 30.604(h)(3)(i), (ii), and (iv); and

30.605(h)(3), (4), and (8)—now 30.605(h)(3), (4), and (6).

Offsets Between Contract Types

27. *Comment:* Two respondents stated that the proposed rule incorrectly disallows offsets between contract types. In addition, one respondent asserted that the Government could be provided with a "windfall profit" if offsets are not allowed between contract types in the case of any noncompliance or unilateral change that causes costs to shift between fixed-price contracts and subcontracts and flexibly-priced contracts and subcontracts.

Councils' response: The comment is no longer applicable—the final rule does not include the calculation of increased cost in the aggregate. The calculations were removed from the final rule (see comment 26).

Interest Computation—Calculation

28. *Comment:* One respondent stated that it does not understand how interest can be calculated by multiplying the difference in indirect costs by an applicable base, and that the methodology used to compute interest at FAR 30.605(d)(2)(ii)(B) makes no sense.

Councils' response: Concur. The Councils recognize that potential confusion could result from the language, and that the language may be overly prescriptive. The Councils have therefore revised the final rule to eliminate the discussion of interest by deleting proposed FAR 30.605(d)(2)(ii)(B) to reduce the prescriptive nature of the language.

Interest Computation—Over and Underpayments

29. *Comment:* One respondent stated that the proposed requirements for calculating quarterly interest payments associated with overpayments or underpayments for noncompliances are overly prescriptive.

Councils' response: Concur. The Councils believe it is imperative for the contractor to provide information on when any increased costs were paid, so that the CFAO can compute interest in accordance with the statutory requirements. However, the Councils recognize that more flexibility can be inserted in the process. Therefore, the Councils revised the requirements for a GDM and DCI proposal at proposed FAR 30.605(d)(3)(iii) (now 30.605(d)(4)(iii)) by adding "for fixed-price and flexibly-priced contracts" after the word "underpayments" in the first sentence, and deleting the second sentence that required total over and underpayments be broken down by quarter.

Quarterly Data

30. *Comment:* One respondent asserted that the "proposed rule mandates a schedule of increased or decreased costs paid by quarter (or an analysis to demonstrate why such a schedule is necessary) by Executive agency as a required part of a general dollar magnitude cost-impact for an alleged noncompliance." The respondent stated that this administrative burden should be evaluated.

Councils' response: Nonconcur. The proposed rule at FAR 30.605(d)(3) does not require a schedule of increased or decreased costs paid by quarter by Executive agency as part of a general dollar magnitude cost-impact. The proposed rule requires that the GDM include the total overpayments and underpayments broken down by quarter, unless each of the quarterly amounts billed during the period of noncompliance were approximately equal. It does not require that such amounts also be broken down by Executive agency. It is noted that the Councils removed the requirement at proposed FAR 30.605(d)(3)(iii) that the overpayments and underpayments be broken down by quarter in the GDM proposal (see comment 29), as well as the requirement at proposed FAR 30.605(g)(2)(i) and (ii) concerning the computation of interest on the quarterly amounts billed.

Task Order Contracts

31. *Comment:* One respondent stated that one of the many situations that greatly affect the cost accumulation calculation that is not addressed in the proposal is the trend toward task order contracts that may have both fixed fee and incentive fee tasks, as well as CAS covered and non-CAS covered tasks.

Councils' response: Nonconcur. The Councils believe that this situation is adequately covered by the language at FAR 30.605(h)(5), and the definition of "Affected CAS-covered contracts" at FAR 30.001.

FAR 30.605(h)(5) requires that the computation of the cost-impact include a calculation of the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased costs to the Government in accordance with 48 CFR 9903.306(c). Thus, if the task involves a fixed fee, the contractor would need to compute the increase or decrease in that fixed fee as a result of the change or noncompliance. Conversely, if the task involved an incentive fee, the contractor would need to compute the increase or decrease in

the incentive fee as a result of the change or noncompliance.

As for the issue of CAS-covered versus non-CAS-covered tasks, a contract cannot contain both CAS-covered and non-CAS-covered tasks. In order for CAS-coverage to differ between tasks, each task would have to be a separate contract. In such cases, the definition of affected CAS-covered contracts would exclude the non-CAS covered tasks from the computation of the cost-impact.

Cost-Impact on Incentives, Fee, and Profit

32. *Comment:* One respondent stated that FAR 30.605(h)(5) excludes flexibly-priced contract cost ceilings or target costs for determining increased costs in the aggregate for noncompliances involving estimating costs. The respondent stated that the proposed requirement is only applied to fixed price contracts, and asserted that "the proposed coverage ignores the cost-impact on negotiated flexibly priced contract cost ceilings or target costs that were understated or overstated due to a contractor's proposal that contained estimated costs which were based on the use of a noncompliant practice." The respondent recommended that FAR 30.605(h)(5) be revised to include flexibly-priced contracts in the computation of increased costs in the aggregate for estimating noncompliances. The respondent also stated that under FAR 30.606(c)(4)(ii), as proposed, fixed price contracts would only be subject to downward price adjustment if there are "net" increased cost to the Government and opined that flexibly-priced contracts should not be excluded from the adjustment process. The respondent believes that the proposed approach to only recover the aggregate increased cost to the Government for fixed price contracts can result in inequities.

Councils' response: Nonconcur. The Councils believe that flexibly-priced contracts are properly included in the computation of increased costs in the aggregate. For a noncompliance in estimating costs, the Councils do not believe the impact on negotiated flexibly-priced contract cost ceilings or target costs should be included in the computation of increased costs in the aggregate. Under a flexibly-priced contract, the Government reimburses the actual costs incurred. As a result, a noncompliance in estimating the costs does not affect the total costs the Government will ultimately reimburse on flexibly-priced contracts. However, an estimating noncompliance may have a significant impact on the amount of

incentives, fees or profits for flexibly-priced contracts. Thus, the final rule requires inclusion of the impact on incentives, fees, and profits in computing the increased costs in the aggregate for estimating noncompliances.

Records Retention

33. *Comment:* One respondent stated that problems with the current process for handling cost-impacts could be addressed by adding a requirement for contractors to retain cost proposals that were the basis for negotiating the value of the CAS-covered pricing actions.

Councils' response: Nonconcur. The Councils disagree that adding a specific requirement to FAR Part 30 is appropriate. FAR 4.703, Policy-Contractor Records Retention, already describes the record retention requirements for contract negotiations, administration, and audit requirements of the contracting agencies. The Councils believe these record retention requirements are adequate for purposes of CAS administration.

Adjust Each Individual Contract

34. *Comment:* One respondent recommended that FAR 30.606(a)(2) include an analysis of the total payments that would be made if all affected contracts were individually adjusted so that the CFAO can determine whether one or more contracts are to be adjusted, or if an alternative method can be used to resolve the impact. The respondent asked how, without such data, the CFAO can determine that the Government will not pay more, in the aggregate, than would be paid if the CFAO had adjusted all affected contracts?

Councils' response: Nonconcur. In an ideal world, the contractor would provide a detailed analysis of the total payments for each and every affected contract. However, the Councils recognize that this is often not feasible and, in fact, would impose a significant administrative burden on contractors, extending the cost-impact process by years. The Councils do not believe that individual contract data is necessary in every circumstance in order for the CFAO to determine increased costs in the aggregate. The final rule, therefore, provides the CFAO the flexibility to obtain data at a more macro level, if appropriate.

Combining Certain Types of Impacts

35. *Comment:* Two respondents stated that they believe the proposed language at FAR 30.606(a)(3) is counterproductive as it contains language that

will further limit the Government and the contractor from resolving some of the more complex cost-impacts. The section precludes the Government from combining cost-impacts that include: (a) Changes implemented in different fiscal years, (b) changes and noncompliances, (c) two or more noncompliances, and (d) different categories of changes.

Councils' response: Partially concur. The Councils believe that some language at FAR 30.606(a)(3) is necessary to protect the interests of the Government. However, the Councils also recognize that the proposed language should be revised to provide some additional flexibility to the CFAO in resolving cost-impacts. The Councils, therefore, revised the language at FAR 30.606(a)(3) to reflect the following:

(a) *Changes implemented in different fiscal years.* The Councils agree with the respondent that implementing changes in different fiscal years should not be the basis for precluding the combination of such changes. The Councils have, therefore, deleted proposed 30.606(a)(3)(i) from the final rule.

(b) *Required/desirable changes combined with unilateral changes/noncompliances.* The actions taken to resolve a required or desirable change (negotiate an equitable adjustment) are different from the actions taken to resolve a unilateral change or a noncompliance (recover increased costs to the Government). Therefore, the Councils believe that combining cost-impacts of required/desirable changes with the cost-impacts of unilateral changes/noncompliances should be prohibited, as indicated at FAR 30.606(a)(3)(i).

(c) *Combining unilateral changes and/or noncompliances.* When the individual cost-impact of each unilateral change and each noncompliance is increased costs in the aggregate, the Councils agree that the change and noncompliance may be combined for administrative ease in resolving cost-impacts, as indicated at FAR 30.606(a)(3)(ii). Such combinations can only be made by mutual agreement of both parties.

The Councils further believe that combining the cost-impacts of unilateral changes and/or noncompliances must be precluded if any of the individual changes or noncompliances involved results in decreased costs in the aggregate. When there are two or more unilateral changes/noncompliances, some with increased costs and others with decreased costs, combining the cost-impact of those changes does not comply with the statutory requirement that the Government recover the increased costs in the aggregate for each

unilateral change/noncompliance. There is no statutory provision that permits offsetting the cost-impact of one unilateral change/noncompliance with the cost-impact of any other unilateral change/noncompliance.

(d) *Cost-impacts of a unilateral change affecting two or more segments.* The Councils recognize that, in some circumstances, a unilateral change may affect more than one segment. When such a change affects the flow of costs between segments or implements a common cost accounting practice for two or more segments, the CFAO may treat this as a single change for cost-impact purposes, as indicated at FAR 30.606(a)(3)(iii).

Mandatory Adjustments and Disallowance of Costs

36. *Comment:* Regarding FAR 30.606, one respondent stated that "The proposed mandatory provisions in (c)(3)(i) and (ii) appear incompatible with the CASB provision at 48 CFR 9903.201-6(b) and the proposed permissive provision at (c)(3)(iii)." The respondent further stated that "The proposed provision at (c)(3)(iii) provides the CFAO 'may' adjust contract prices, including cost ceilings or target costs, provided contract prices are not increased in the aggregate." The respondent also stated that "This appears predicated on the CASB regulatory provision at 48 CFR 9903.201-6(b), but the FAR proposal makes it subservient to the mandatory provisions at (c)(3)(i) and (ii) which do not sanction such adjustments." The respondent then stated that "the proposed rule appears to conflict with the CAS rules, as amended on June 14, 2000," and cited similar inconsistencies with FAR 30.606(c)(4). The respondent recommended that FAR 30.606(c)(3)(i) and (ii), and FAR 30.606(c)(4)(i) and (ii) be deleted and make the proposed provisions at (c)(3)(iii) and (c)(4)(iii) mandatory, for consistency with CAS rules. The respondent further recommended that the parenthetical at FAR 30.605(h)(3) be deleted because it does not require the adjustment of contract cost ceilings and target prices. Finally, the respondent recommended that, after adjusting the contract ceilings and target prices, FAR 30.606(c)(3) and (c)(4) include a "mandatory provision requiring the CFAO to disallow accumulated costs under flexibly-priced contracts, but only for the portion of estimated increased cost accumulations that remains in a cost overrun condition after contract cost ceiling adjustments, if any, are made."

Councils' response: Nonconcur. In an ideal world, the CFAO would adjust all

contracts so each and every dollar of the cost-impact is perfectly re-allocated to each and every affected contract. This would include all contract ceilings and target prices. However, the Councils recognize that this is often not feasible and, in fact, would impose a significant administrative burden on contractors, extending the cost-impact process by years. The CAS rules recognize the need for flexibility at 48 CFR 9903.306(f), which states:

"Whether cost-impact is recognized by modifying a single contract, several but not all contracts, or any other suitable technique, is a contract administration matter. The Cost Accounting Standards do not in any way restrict the capacity of the parties to select the method by which the cost-impact attributable to a change in cost accounting practice is recognized."

The Councils believe the final rule provides the CFAO the flexibility to adjust the contract cost ceilings and target prices when the CFAO deems appropriate, as provided for by the CAS rules.

Cost Accumulation Noncompliances

37. *Comment:* One respondent commented that the FAR Council should rethink its requirement for cost accumulation noncompliances. The respondent asserted that the only harm to the Government in such noncompliances is the application of interest to the difference between a compliant and noncompliant billing.

Councils' response: Nonconcur. The Councils do not agree with the respondent's assessment of the harm to the Government in the case of a noncompliance in accumulating costs. The respondent assumes that the contractor agrees to correct the noncompliance and immediately reflects the correction in subsequent billings to the Government. This may not always be the case since the Government and contractor may not

agree on the nature and extent of the noncompliance and the contractor may decline to make appropriate adjustments to billed costs. In addition, the noncompliance may affect closed contracts for which there can be no corrections to billings. The calculation of the cost-impact of the accumulation noncompliance is necessary to ensure that the Government recovers the full extent of any increased costs as well as any statutorily required interest (*see* FAR 30.606(c)(5)).

Adjustment of Final Indirect Rates

38. *Comment:* Two respondents stated that the adjustment of final indirect rates by the CFAO is inappropriate. They stated that since "final incurred cost rates are applicable to all Government contracts, not just CAS-covered Government contracts. Therefore, CAS issues are being forced on non CAS-covered contracts through the application of adjusted final incurred cost rates." One respondent also argued that the proposed rule does not reflect the position taken by the CAS Board in its second supplemental notice of proposed rulemaking, 64 FR 45700, August 20, 1999, in response to a respondent suggesting the use of the final indirect expense rate settlement process rather than contract price adjustments as a method to resolve a cost-impact. In response to that comment, the CAS Board stated "Adjustments of indirect expense rates to settle a cost-impact action can result in the adjustment of the wrong contracts for the impact of the change in accounting practice. This method also results in the establishment of final indirect expense rates that are not consistent with a contractor's established and disclosed accounting practices for allocating indirect costs to final cost objectives."

Councils' response: Nonconcur. CAS issues are not being forced on non CAS-

covered contracts because the contractor must agree to any adjustment of final indirect rates. FAR 30.606(d)(1) states that the CFAO may use an alternate method to resolve the cost-impact provided the contracting parties agree on the use of that alternate method. Thus, the impact of the change or noncompliance will not affect non CAS-covered contracts unless the contractor agrees. The CAS Board recognizes the use of an alternate method such as adjusting indirect rates at 48 CFR 9903.306(f), which states "Whether cost-impact is recognized by modifying a single contract, several but not all contracts, or any other suitable technique, is a contract administration matter. The Cost Accounting Standards rules do not in any way restrict the method by which the cost-impact attributable to a change in cost accounting practice is recognized."

Other Changes

The Councils revised the clause language at FAR 52.230-6, Administration of Cost Accounting Standards, to be in accord with the changes made to the final rule as described in the Councils' responses to the public comments, above. In addition, the Councils made several editorial-type changes to the proposed language to enhance clarity and structure of the final rule.

The Councils also made a clarifying change at FAR 30.001 to the definition of "Fixed-price contracts and subcontracts" to exclude fixed-price contracts with economic price adjustments (EPA) based on actual costs of labor or material [described at 16.203-1(a)(2)], and included these EPA contracts in the definition of "Flexibly-priced contracts and subcontracts."

C. Summary of Changes

Issue	Current FAR rule	Final FAR rule
Definitions		
1.	No definitions for "Affected CAS-covered contract," "Fixed-price contracts," and "Flexibly-priced contracts."	Added new definitions for "Affected CAS-covered contract," "Fixed-price contracts," and "Flexibly-priced contracts" (30.001).
2.	Included old CAS definitions and terminology of "Mandatory change," "Voluntary change," and "Desirable change."	Updated definitions to match CAS definitions and terminology for "Required change," "Unilateral change," and "Desirable change" (30.001).
Responsibilities		
3.	ACO is used throughout FAR section	Changed Administrative Contracting Officer (ACO) to Cognizant Federal Agency Official (CFAO) to be consistent with current CAS.

Issue	Current FAR rule	Final FAR rule
Determinations		
4.	Did not contain actions for what to do if Disclosure Statement is adequate, inadequate, compliant, or noncompliant.	Provides actions to be taken when the Disclosure Statement is adequate (30.202-7(a)(2)(i)), inadequate (30.202-7(a)(2)(ii)), compliant (30.202-7(b)(2)), or noncompliant (30.605(b)).
Materiality		
5.	No discussion of materiality	Added new section on materiality (30.602). Permits determination of immateriality at any time in the process; references CAS section on materiality in determining whether a change/noncompliance is immaterial; and requires CFAO to document rationale for any determination that the cost impact is immaterial.
Required Changes		
6.	Did not address early implementation of a required change	Requires CFAO to process early implementation of a required change as a unilateral change, unless determined to be desirable (30.603-1(d)(2)).
Unilateral and Desirable Changes		
7.	Did not address how a unilateral change is treated if a decision on desirability has not been made.	States that until a change is determined to be desirable, it shall be treated as a unilateral change (30.603-2(b)(2)).
8.	Did not provide information on how to determine whether a change is desirable.	Provides specific factors to consider in determining whether a change is desirable (30.603-2(b)(3)).
9.	Did not address retroactive changes	Provides specific section on retroactive changes (30.603-2(d)). CFAO can make a change retroactive to the beginning of the fiscal year in which the change was made.
10.	Did not include exemption from contract price adjustments for changes related to external restructuring activities.	Includes current CAS exemption from contract price adjustments for changes related to external restructuring activities (30.603-2(e)).
Processing Changes to Disclosed or Established Cost Accounting Practices, And Processing Noncompliances		
11.	No process for evaluating changes or noncompliances	Includes process for evaluating changes (30.604(c)) and non-compliances (30.605).
12.	No separation of cost impact computation and cost impact resolution.	Separate cost impact computation (30.604(h) and 30.605(h)) from cost impact resolution (30.606).
13.	Required submittal of a GDM in format specified by ACO for use in determining whether cost impact is material.	Requires submittal of GDM in format specified by CFAO, provided certain basic information is included (30.604(e)(3)). GDM can be used as basis to negotiate cost impact (30.604(f)(1) and 30.605(e)(1)). Permits contractor to submit DCI proposal in lieu of GDM proposal (30.604(d)(3) and 30.605(d)(3)).
14.	Required DCI showing cost impact for each contract. DCI required anytime cost impact is material.	Requires DCI in format specified by CFAO, provided certain basic information is included. DCI does not need to include every contract if CFAO and contractor can agree on sample and to project results to universe (30.604(e)(2)(i) and 30.605(d)(2)(i)). DCI only required when GDM is not adequate for resolving cost impact (30.604(f)(2) and 30.605(e)(2)).
15.	Provided no information on what constituted increased or decreased cost.	Provides specific information on what constitutes increased and decreased cost. Does not include how to compute increased cost in the aggregate (30.604(h)(3)(iv) and 30.605(h)(6)). Also see Comment 26.
16.	Did not discuss equitable adjustments for required or desirable changes.	States that cost impact computation is used as basis for determining amount of equitable adjustments resulting from required or desirable changes (30.604(h)(4)).
Interest		
17.	Does not address use of simple versus compound interest in determining amounts due resulting from increased cost paid on a noncompliance.	Does not address use of simple versus compound interest in determining amounts due resulting from increased cost paid on a noncompliance (30.605(g)).
Resolving Cost Impacts		
18.	Requires ACO to coordinate with all PCO's whose contracts will be affected by \$10,000 or more.	Requires CFAO to coordinate with all PCO's whose contracts will be affected by \$100,000 or more (30.606(a)).

Issue	Current FAR rule	Final FAR rule
19.	Did not discuss which cost impacts could and could not be combined.	Specifies which cost impacts cannot be combined. Never combine a required change and a unilateral change; a required change and a noncompliance; a desirable change and a unilateral change; a desirable change and a noncompliance (30.606(a)(3)(i)). Never combine, unless all have increased costs, one or more unilateral changes; one or more noncompliances; unilateral changes and noncompliances (30.606(a)(3)(ii)). May treat as a single change any change affecting costs flowing between multiple segments and implementation of a common accounting practice among segments (30.606(a)(3)(iii)).
20.	ACO notifies PCO's of settlement, PCO's issue modifications adjusting contracts. No option other than adjusting contracts.	CFAO settles cost impact by modifying single contract, more than one contract, all contracts, or some alternate method (e.g., adjusting indirect rates) (30.606(a)(2)). In adjusting indirect rates, CFAO must provide for appropriate gross-up to reflect Government participation (30.606(d)(3)(ii)) and can only make adjustments to final indirect cost rates (30.606(d)(3)(i)).
Subcontract Administration		
21.	Does not provide for remedies if a subcontractor refuses to submit a required GDM or DCI proposal.	Specifies that remedies are at the prime contract level if a subcontractor refuses to submit a required GDM or DCI proposal (30.607).
Contract Clause—Administration of CAS		
22.	Contract clause did not reflect process	Contract clause incorporates process (52.230–6).
Contract Clause—Proposal Disclosure—Cost Accounting Practice Changes		
23.	No provision to address how to price proposal when contract award will result in a change in accounting practice.	Added a new provision to address how to price proposal when contract award will result in a change in accounting practice (52.230–7).

This is not a significant regulatory action and, therefore, was not subject to 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.

D. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 cost accounting standard requirements in accordance with 48 CFR 9903.201–1(b)(3).

E. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 9000–0129.

List of Subjects in 48 CFR Parts 30 and 52

Government procurement.

Dated: February 24, 2005.

Rodney P. Lantier,
Director, Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 30 and 52 as set forth below:

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

Authority: 40 U.S.C. 121(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 Definitions.

As used in this part—

Affected CAS-covered contract or subcontract means a contract or subcontract subject to Cost Accounting Standards (CAS) rules and regulations for which a contractor or subcontractor—

(1) Used one cost accounting practice to estimate costs and a changed cost accounting practice to accumulate and report costs under the contract or subcontract; or

(2) Used a noncompliant practice for purposes of estimating or accumulating and reporting costs under the contract or subcontract.

Cognizant Federal agency official (CFAO) means the contracting officer assigned by the cognizant Federal agency to administer CAS.

Desirable change means a unilateral change to a contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is, therefore, not subject to the no increased cost prohibition provisions of CAS-covered contracts and subcontracts affected by the change.

Fixed-price contracts and subcontracts means—

(1) Fixed-price contracts and subcontracts described at 16.202, 16.203 (except when price adjustments are based on actual costs of labor or material, described at 16.203–1(a)(2)), and 16.207;

(2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (Subpart 16.4);

(3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (Subpart 16.5); and

(4) The fixed-hourly rate portion of time-and-materials and labor-hours

contracts and subcontracts (Subpart 16.6).

Flexibly-priced contracts and subcontracts means—

- (1) Fixed-price contracts and subcontracts described at 16.203–1(a)(2), 16.204, 16.205, and 16.206;
- (2) Cost-reimbursement contracts and subcontracts (Subpart 16.3);
- (3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (Subpart 16.4);
- (4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (Subpart 16.5); and
- (5) The materials portion of time-and-materials contracts and subcontracts (Subpart 16.6).

Noncompliance means a failure in estimating, accumulating, or reporting costs to—

- (1) Comply with applicable CAS; or
- (2) Consistently follow disclosed or established cost accounting practices.

Required change means—

- (1) A change in cost accounting practice that a contractor is required to make in order to comply with a CAS, or a modification or interpretation thereof, that subsequently becomes applicable to an existing CAS-covered contract due to the receipt of another CAS-covered contract or subcontract; or
- (2) A prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the contractor to remain in compliance.

Unilateral change means a change in cost accounting practice from one compliant practice to another compliant practice that a contractor with a CAS-covered contract(s) or subcontract(s) elects to make that has not been deemed a desirable change by the CFAO and for which the Government will pay no aggregate increased costs.

■ 3. Amend section 30.201–3 by adding paragraph (c) to read as follows:

30.201–3 Solicitation provisions.

* * * * *

(c) Insert the provision at FAR 52.230–7, Proposal Disclosure—Cost Accounting Practice Changes, in solicitations for contracts subject to CAS as specified in 48 CFR 9903.201 (FAR Appendix).

■ 4. Amend section 30.202–6 by revising paragraphs (b) and (d) to read as follows:

30.202–6 Responsibilities.

* * * * *

(b) The contracting officer shall not award a CAS-covered contract until the

cognizant Federal agency official (CFAO) has made a written determination that a required Disclosure Statement is adequate unless, in order to protect the Government's interest, the agency head, on a nondelegable basis, authorizes award without obtaining submission of the required Disclosure Statement (see 48 CFR 9903.202–2). In this event, the contractor shall submit the required Disclosure Statement and the CFAO shall make a determination of adequacy as soon as possible after the award.

* * * * *

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

■ 5. 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 shall—

- (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 shall determine if the Disclosure Statement adequately describes the contractor's cost accounting practices. Also, the CFAO shall—

- (i) If the Disclosure Statement is adequate, notify the contractor in writing, and provide a copy to the auditor with a copy to the contracting officer if the proposal triggers submission of a Disclosure Statement. The notice of adequacy shall state that—

(A) The disclosed practices are adequately described and the CFAO currently is not aware of any additional practices that should be disclosed;

(B) The notice is not a determination that all cost accounting practices were disclosed; and

(C) The contractor shall not consider a disclosed practice, by virtue of such disclosure, an approved practice for estimating proposals or accumulating and reporting contract and subcontract cost data; or

(ii) If the Disclosure Statement is inadequate, notify the contractor of the inadequacies and request a revised Disclosure Statement.

(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 shall—

- (i) Conduct a detailed compliance review to ascertain whether or not the

disclosed practices comply with CAS and Part 31, as applicable; and

- (ii) Advise the CFAO of the results.

(2) The CFAO shall make a determination of compliance or take action regarding a report of alleged noncompliance in accordance with 30.605(b). Such action should include requesting a revised Disclosure Statement that corrects the CAS noncompliance. Noncompliances with Part 31 shall be processed separately.

■ 6. 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 of subcontractor disclosure statements, the CFAO for the subcontractor shall provide this determination to the CFAO for the contractor or next higher-tier subcontractor. The higher-tier CFAO shall not change the determination of the lower-tier CFAO.

* * * * *

■ 7. Revise Subpart 30.6 to read as follows:

Subpart 30.6—CAS Administration

Sec.

30.601 Responsibility.

30.602 Materiality.

30.603 Changes to disclosed or established cost accounting practices.

30.603–1 Required changes.

30.603–2 Unilateral and desirable changes.

30.604 Processing changes to disclosed or established cost accounting practices.

30.605 Processing noncompliances.

30.606 Resolving cost impacts.

30.607 Subcontract administration.

30.601 Responsibility.

(a) The CFAO shall perform CAS administration for all contracts and subcontracts in a business unit, even when the contracting officer retains other administration functions. The CFAO shall make all CAS-related required determinations and findings (see Subpart 1.7) 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 subject to CAS, the contracting officer making the award shall request the CFAO to perform administration for CAS matters (see Subpart 42.2). For subcontract awards, the contractor awarding the subcontract must follow the procedures at 52.230–6(b).

30.602 Materiality.

(a) In determining materiality, the CFAO shall use the criteria in 48 CFR 9903.305 (FAR Appendix).

(b) A CFAO determination of materiality—

(1) May be made before or after a general dollar magnitude proposal has been submitted, depending on the particular facts and circumstances; and

(2) Shall be based on adequate documentation.

(c) When the CFAO determines the cost impact is immaterial, the CFAO shall—

(1) Make no contract adjustments and conclude the cost impact process;

(2) Document the rationale for the determination; and

(3) In the case of noncompliance issues, inform the contractor that—

(i) The noncompliance should be corrected; and

(ii) 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.

(d) For required, unilateral, and desirable changes, and CAS noncompliances, when the amount involved is material, the CFAO shall adjust the contract or use another suitable method (*see* 30.606).

30.603 Changes to disclosed or established cost accounting practices.**30.603-1 Required changes.**

(a) *General.* Offerors shall state whether or not the award of a contract would require a change to an established cost accounting practice affecting existing contracts and subcontracts (*see* 52.230-1). The contracting officer shall notify the CFAO if the offeror states that a change in cost accounting practice would be required.

(b) *CFAO responsibilities.* Prior to making an equitable adjustment under the applicable paragraph(s) that address a required change at 52.230-2, Cost Accounting Standards; 52.230-3, Disclosure and Consistency of Cost Accounting Practices; or 52.230-5, Cost Accounting Standards—yEducational Institution, the CFAO shall determine that—

(1) The cost accounting practice change is required to comply with a CAS, or a modification or interpretation thereof, that subsequently became applicable to one or more contracts or subcontracts; or

(2) The former cost accounting practice was in compliance with applicable CAS and the change is necessary to remain in compliance.

(c) Notice and proposal preparation.

(1) When the award of a contract would require a change to an established cost accounting practice, the provision at 52.230-7, Proposal Disclosure—Cost Accounting Practice Changes, requires the offeror to—

(i) Prepare the contract pricing proposal in response to the solicitation using the changed cost accounting practice for the period of performance for which the practice will be used; and

(ii) Submit a description of the changed cost accounting practice to the contracting officer and the CFAO as pricing support for the proposal.

(2) When a change is required to remain in compliance (for reasons other than a contract award) or to comply with a new or modified standard, the clause at 52.230-6, Administration of Cost Accounting Standards, requires the contractor to—

(i) Submit a description of the change to the CFAO not less than 60 days (or other mutually agreeable date) before implementation of the change; and

(ii) Submit rationale to support any contractor written statement that the cost impact of the change is immaterial.

(d) *Equitable adjustments for new or modified standards.* (1) Required changes made to comply with new or modified standards may require equitable adjustments, but only to those contracts awarded before the effective date of the new or modified standard (*see* 52.230-2, 52.230-3, or 52.230-5).

(2) When a contractor elects to implement a required change to comply with a new or modified standard prior to the applicability date of the standard, the CFAO shall administer the change as a unilateral change (*see* 30.603-2). Contractors shall not receive an equitable adjustment that will result in increased costs in the aggregate to the Government prior to the applicability date unless the CFAO determines that the unilateral change is a desirable change.

30.603-2 Unilateral and desirable changes.

(a) *Unilateral changes.* (1) The contractor may unilaterally change its disclosed or established cost accounting practices, but the Government shall not pay any increased cost, in the aggregate, as a result of the unilateral change.

(2) Prior to making any contract price or cost adjustments under the applicable paragraph(s) addressing a unilateral change at 52.230-2, 52.230-3, or 52.230-5, the CFAO shall determine that—

(i) *The contemplated contract price or cost adjustments will protect the Government from the payment of the*

estimated increased costs, in the aggregate; and

(ii) The net effect of the contemplated adjustments will not result in the recovery of more than the increased costs to the Government, in the aggregate.

(b) *Desirable changes.* (1) Prior to taking action under the applicable paragraph(s) addressing a desirable change at 52.230-2, 52.230-3, or 52.230-5, the CFAO shall determine the change is a desirable change and not detrimental to the interests of the Government.

(2) Until the CFAO has determined a change to a cost accounting practice is a desirable change, the change is a unilateral change.

(3) Some factors to consider in determining if a change is desirable include, but are not limited to, whether—

(i) The contractor must change the cost accounting practices it uses for Government contract and subcontract costing purposes to remain in compliance with the provisions of Part 31;

(ii) The contractor is initiating management actions directly associated with the change that will result in cost savings for segments with CAS-covered contracts and subcontracts over a period for which forward pricing rates are developed or 5 years, whichever is shorter, and the cost savings are reflected in the forward pricing rates; and

(iii) Funds are available if the determination would necessitate an upward adjustment of contract cost or price.

(c) *Notice and proposal preparation.* (1) When a contractor makes a unilateral change, the clause at 52.230-6, Administration of Cost Accounting Standards, requires the contractor to—

(i) Submit a description of the change to the CFAO not less than 60 days (or other mutually agreeable date) before implementation of the change; and

(ii) Submit rationale to support any contractor written statement that the cost impact of the change is immaterial.

(2) If a contractor implements the change in cost accounting practice without submitting the notice as required in paragraph (c)(1) of this subsection, the CFAO may determine the change a failure to follow a cost accounting practice consistently and process it as a noncompliance in accordance with 30.605.

(d) *Retroactive changes.* (1) If a contractor requests that a unilateral change be retroactive, the contractor shall submit supporting rationale.

(2) The CFAO shall promptly evaluate the contractor's request and shall, as soon as practical, notify the contractor in writing whether the request is or is not approved.

(3) The CFAO shall not approve a date for the retroactive change that is before the beginning of the contractor's fiscal year in which the request is made.

(e) *Contractor accounting changes due to external restructuring activities.* The requirements for contract price and cost adjustments do not apply to compliant cost accounting practice changes that are directly associated with external restructuring activities that are subject to and meet the requirements of 10 U.S.C. 2325. However, the disclosure requirements in 52.230-6(b) shall be followed.

30.604 Processing changes to disclosed or established cost accounting practices.

(a) *Scope.* This section applies to required, unilateral, and 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. The CFAO shall—

(1) If the description of the change is both adequate and compliant, notify the contractor in writing and—

(i) For required or unilateral changes (except those requested to be determined desirable changes), request the contractor submit a general dollar magnitude (GDM) proposal by a specified date, unless the CFAO determines the cost impact is immaterial; or

(ii) For unilateral changes that the contractor requests to be determined desirable changes, inform the contractor that the request shall include supporting rationale and—

(A) For any request based on the criteria in 30.603-2(b)(3)(ii), the data necessary to demonstrate the required cost savings; or

(B) For any request other than those based on the criteria in 30.603-2(b)(3)(ii), a GDM proposal and any other data necessary for the CFAO to determine if the change is a desirable change;

(2) If the description of the change is inadequate, request a revised description of the new cost accounting practice; and

(3) If the disclosed practice is noncompliant, notify the contractor in writing that, if implemented, the CFAO will determine the cost accounting

practice to be noncompliant and process it accordingly.

(c) *Evaluating requests for desirable changes.* (1) When a contractor requests a unilateral change be determined a desirable change, the CFAO shall promptly evaluate the contractor's request and, as soon as practical, notify the contractor in writing whether the change is a desirable change or the request is denied.

(2) If the CFAO determines the change is a desirable change, the CFAO shall negotiate any cost or price adjustments that may be needed to resolve the cost impact (see 30.606).

(3) If the request is denied, the change is a unilateral change and shall be processed accordingly.

(d) *General dollar magnitude 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 cost accounting practice;

(2) Assists the CFAO in determining whether individual contract price or cost adjustments are required; and

(3) The contractor may submit a detailed cost-impact (DCI) proposal in lieu of a GDM proposal provided the DCI proposal is in accordance with paragraph (g) of this section.

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

(1) Shall calculate the cost impact in accordance with paragraph (h) of this section;

(2) May use one or more of the following methods to determine the increase or decrease in cost accumulations:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations for all affected fixed-price and flexibly-priced contracts and subcontracts.

(3) May be in any format acceptable to the CFAO but, as a minimum, shall include the following data:

(i) A general dollar magnitude estimate of the total increase or decrease in cost accumulations by Executive agency, including any impact the

change may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(ii) For unilateral changes, the increased or decreased costs to the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts; and

(4) When requested by the CFAO, shall identify all affected CAS-covered contracts and subcontracts.

(f) *General dollar magnitude proposal evaluation.* The CFAO, with the assistance of the auditor, shall promptly evaluate the GDM proposal. If the cost impact is immaterial, the CFAO shall notify the contractor in writing and conclude the cost-impact process with no contract adjustments. Otherwise, the CFAO shall—

(1) Negotiate and resolve the cost impact (see 30.606). If necessary, the CFAO may request that the contractor submit a revised GDM proposal by a specified date with specific additional data needed to resolve the cost impact (e.g., an expanded sample of affected CAS-covered contracts and subcontracts or a revised method of computing the increase or decrease in cost accumulations); or

(2) Request that the contractor submit a DCI proposal by a specified date if the CFAO determines that the GDM proposal is not sufficient to resolve the cost impact.

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

(1) Shall calculate the cost impact in accordance with paragraph (h) of this section;

(2) Shall show the estimated increase or decrease in cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and contractor agree to—

(i) Include only those affected CAS-covered contracts and subcontracts exceeding a specified amount; and

(ii) Estimate the total increase or decrease in cost accumulations for all affected CAS-covered contracts and subcontracts, using the results in paragraph (g)(2)(i) of this section;

(3) May be in any format acceptable to the CFAO but, as a minimum, shall include the requirements at paragraphs (e)(3)(i) and (ii) of this section; and

(4) When requested by the CFAO, shall identify all affected contracts and subcontracts.

(h) *Calculating cost impacts.* The cost impact calculation shall—

(1) Include all affected CAS-covered contracts and subcontracts regardless of their status (*i.e.*, open or closed) or the fiscal year(s) in which the costs are incurred (*i.e.*, whether or not the final indirect rates have been established);

(2) Combine the cost impact for all affected CAS-covered contracts and subcontracts for all segments if the effect of a change results in costs flowing between those segments;

(3) For unilateral changes—

(i) Determine the increased or decreased cost to the Government for flexibly-priced contracts and subcontracts as follows:

(A) When the estimated cost to complete using the changed practice exceeds the estimated cost to complete using the current practice, the difference is increased cost to the Government.

(B) When the estimated costs to complete using the changed practice is less than the estimated cost to complete using the current practice, the difference is decreased cost to the Government.

(ii) Determine the increased or decreased cost to the Government for fixed-price contracts and subcontracts as follows:

(A) When the estimated cost to complete using the changed practice is less than the estimated cost to complete using the current practice, the difference is increased cost to the Government.

(B) When the estimated cost to complete using the changed practice exceeds the estimated cost to complete using the current practice, the difference is decreased cost to the Government.

(iii) Calculate the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased cost to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated.

(iv) Calculate the increased cost to the Government in the aggregate.

(4) For equitable adjustments for required or desirable changes—

(i) Estimated increased cost accumulations are the basis for increasing contract prices, target prices and cost ceilings; and

(ii) Estimated decreased cost accumulations are the basis for decreasing contract prices, target prices and cost ceilings.

(i) *Remedies.* If the contractor does not submit the accounting change description or the proposals required in paragraph (d) or (g) of this section

within the specified time, or any extension granted by the CFAO, the CFAO shall—

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

(2) Take one or both of the following actions:

(i) 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.

(ii) Issue a final decision in accordance with 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.

30.605 Processing noncompliances.

(a) *General.* Prior to making any contract price or cost adjustments under the applicable paragraph(s) addressing noncompliance at 52.230-2, 52.230-3, or 52.230-5, the CFAO shall determine that—

(1) The contemplated contract price or cost adjustments will protect the Government from the payment of increased costs, in the aggregate;

(2) The net effect of the contemplated contract price or cost adjustments will not result in the recovery of more than the increased costs to the Government, in the aggregate;

(3) The net effect of any invoice adjustments made to correct an estimating noncompliance will not result in the recovery of more than the increased costs paid by the Government, in the aggregate; and

(4) The net effect of any interim and final voucher billing adjustments made to correct a cost accumulation noncompliance will not result in the recovery of more than the increased cost paid by the Government, in the aggregate.

(b) *Notice and determination.* (1) Within 15 days of receiving a report of alleged noncompliance from the auditor, the CFAO shall—

(i) Notify the auditor that the CFAO disagrees with the alleged noncompliance; or

(ii) Issue a notice of potential noncompliance to the contractor and provide a copy to the auditor.

(2) The notice of potential noncompliance shall—

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

(ii) Allow the contractor 60 days or other mutually agreeable date to—

(A) Agree or submit reasons why the contractor considers the existing practices to be in compliance; and

(B) Submit rationale to support any written statement that the cost impact of the noncompliance is immaterial.

(3) The CFAO shall—

(i) If applicable, review the reasons why the contractor considers the existing practices to be compliant or the cost impact to be immaterial;

(ii) Make a determination of compliance or noncompliance consistent with 1.704; and

(iii) Notify the contractor and the auditor in writing of the determination of compliance or noncompliance and the basis for the determination.

(4) If the CFAO makes a determination of noncompliance, the CFAO shall follow the procedures in paragraphs (c) through (h) of this section, as appropriate, unless the CFAO also determines the cost impact is immaterial. If immaterial, the CFAO shall—

(i) Inform the contractor in writing that—

(A) The noncompliance should be corrected; and

(B) 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.

(c) *Correcting noncompliances.* (1) The clause at 52.230-6 requires the contractor to submit a description of any cost accounting practice change needed to correct a noncompliance within 60 days after the earlier of—

(i) Agreement with the CFAO that there is a noncompliance; or

(ii) Notification by the CFAO of a determination of noncompliance.

(2) The CFAO, with the assistance of the auditor, should review the proposed change to correct the noncompliance concurrently for adequacy and compliance (see 30.202-7). The CFAO shall—

(i) When the description of the change is both adequate and compliant—

(A) Notify the contractor in writing;

(B) Request that the contractor submit by a specified date a general dollar magnitude (GDM) proposal, unless the CFAO determines the cost impact is immaterial; and

(C) Follow the procedures at paragraph (b)(4) of this section if the CFAO determines the cost impact is immaterial.

(ii) If the description of the change is inadequate, request a revised description of the new cost accounting practice; or

(iii) If the disclosed practice is noncompliant, notify the contractor in writing that, if implemented, the CFAO

will determine the cost accounting practice to be noncompliant and process it accordingly.

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

(1) Shall calculate the cost impact in accordance with paragraph (h) of this section;

(2) May use one or more of the following methods to determine the increase or decrease in contract and subcontract price or cost accumulations, as applicable:

(i) A representative sample of affected CAS-covered contracts and subcontracts affected by the noncompliance.

(ii) When the noncompliance involves cost accumulation, the change in indirect rates multiplied by the applicable base for flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease in contract and subcontract prices and cost accumulations;

(3) The contractor may submit a DCI proposal in lieu of a GDM proposal provided the DCI proposal is in accordance with paragraph (f) of this section.

(4) May be in any format acceptable to the CFAO but, as a minimum, shall include the following data:

(i) The total increase or decrease in contract and subcontract prices and cost accumulations, as applicable, by Executive agency, including any impact the noncompliance may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(ii) The increased or decreased costs to the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(iii) The total overpayments and underpayments for fixed-price and flexibly-priced contracts made by the Government during the period of noncompliance; and

(5) When requested by the CFAO, shall identify all affected CAS-covered contracts and subcontracts.

(e) *General dollar magnitude proposal evaluation.* The CFAO shall promptly evaluate the GDM proposal. If the cost impact is immaterial, the CFAO shall follow the requirements in paragraph (b)(4) of this section. Otherwise, the CFAO shall—

(1) Negotiate and resolve the cost impact (see 30.606). If necessary, the

CFAO may request the contractor submit a revised GDM proposal by a specified date, with specific additional data needed to resolve the cost impact (e.g., an expanded sample of affected CAS-covered contracts and subcontracts or a revised method of computing the increase or decrease in contract and subcontract price and cost accumulations); or

(2) Request that the contractor submit a DCI proposal by a specified date if the CFAO determines that the GDM proposal is not sufficient to resolve the cost impact.

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

(1) Shall calculate the cost impact in accordance with paragraph (h) of this section.

(2) Shall show the increase or decrease in price and cost accumulations, as applicable for each affected CAS-covered contract and subcontract unless the CFAO and contractor agree to—

(i) Include only those affected CAS-covered contracts and subcontracts having—

(A) Contract and subcontract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase or decrease in price and cost accumulations for all affected CAS-covered contracts and subcontracts using the results in paragraph (f)(2)(i) of this section;

(3) May be in any format acceptable to the CFAO but, as a minimum, shall include the information in paragraph (d)(4) of this section; and

(4) When requested by the CFAO, shall identify all affected CAS-covered contracts and subcontracts.

(g) *Interest.* The CFAO shall—

(1) Separately identify interest on any increased cost paid, in the aggregate, as a result of the noncompliance;

(2) Compute interest from the date of overpayment to the date of repayment using the rate specified in 26 U.S.C. 6621(a)(2).

(h) *Calculating cost impacts.* The cost impact calculation shall—

(1) Include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs are incurred (i.e., whether or not the final indirect cost rates have been established);

(2) Combine the cost impact for all affected CAS-covered contracts and

subcontracts for all segments if the effect of a change results in costs flowing between those segments;

(3) For noncompliances that involve estimating costs, determine the increased or decreased cost to the Government for fixed-price contracts and subcontracts as follows:

(i) When the negotiated contract or subcontract price exceeds what the negotiated price would have been had the contractor used a compliant practice, the difference is increased cost to the Government.

(ii) When the negotiated contract or subcontract price is less than what the negotiated price would have been had the contractor used a compliant practice, the difference is decreased cost to the Government;

(4) For noncompliances that involve accumulating costs, determine the increased or decreased cost to the Government for flexibly-priced contracts and subcontracts as follows:

(i) When the costs that were accumulated under the noncompliant practice exceed the costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice), the difference is increased cost to the Government.

(ii) When the costs that were accumulated under the noncompliant practice are less than the costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice) the difference is decreased cost to the Government;

(5) Calculate the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased costs to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the contractor used a compliant practice; and

(6) Calculate the increased cost to the Government in the aggregate.

(i) *Remedies.* If the contractor does not correct the noncompliance or submit the proposal required in paragraph (d) or (f) of this section within the specified time, or any extension granted by the CFAO, the CFAO shall follow the procedures at 30.604(i).

30.606 Resolving cost impacts.

(a) *General.* (1) The CFAO shall coordinate with the affected contracting officers before negotiating and resolving the cost impact when the estimated cost impact on any of their contracts is at least \$100,000. However, the CFAO has the sole authority for negotiating and resolving the cost impact.

(2) 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.

(3) In resolving the cost impact, the CFAO—

(i) Shall not combine the cost impacts of any of the following:

(A) A required change and a unilateral change.

(B) A required change and a noncompliance.

(C) A desirable change and a unilateral change.

(D) A desirable change and a noncompliance.

(ii) Shall not combine the cost impacts of any of the following unless all of the cost impacts are increased costs to Government:

(A) One or more unilateral changes.

(B) One or more noncompliances.

(C) Unilateral changes and noncompliances; and

(iii) May consider the cost impacts of a unilateral change affecting two or more segments to be a single change if—

(A) The change affects the flow of costs between segments; or

(B) Implements a common cost accounting practice for two or more segments.

(4) For desirable changes, the CFAO should consider the estimated cost impact of associated management actions on contract costs in resolving the cost impact.

(b) *Negotiations.* The CFAO shall—

(1) Negotiate and resolve the cost impact on behalf of all Government agencies; and

(2) At the conclusion of negotiations, prepare a negotiation memorandum and send copies to the auditor and affected contracting officers.

(c) *Contract adjustments.* (1) The CFAO may adjust some or all contracts with a material cost impact, subject to the provisions in paragraphs (c)(2) through (c)(6) of this section.

(2) In selecting the contract or contracts to be adjusted, the CFAO should assure, to the maximum extent practical and subject to the provisions in paragraphs (c)(3) through (c)(6) of this section, that the adjustments reflect a *pro rata* share of the cost impact based on the ratio of the cost impact of each

Executive agency to the total cost impact.

(3) For unilateral changes and noncompliances, the CFAO shall—

(i) To the maximum extent practical, not adjust the price upward for fixed-price contracts;

(ii) If contract adjustments are made, preclude payment of aggregate increased costs by taking one or both of the following actions:

(A) Reduce the contract price on fixed-price contracts.

(B) Disallow costs on flexibly-priced contracts; and

(iii) The CFAO may, in consultation with the affected contracting officers, increase or decrease individual contract prices, including contract cost ceilings or target costs on flexibly-priced contracts. In such cases, the CFAO shall limit any upward contract price adjustments on affected contracts to the amount of downward price adjustments to other affected contracts, *i.e.*, the aggregate price of all contracts affected by a unilateral change shall not be increased (48 CFR 9903.201-6(b)).

(4) For noncompliances that involve estimating costs, the CFAO—

(i) Shall, to the extent practical, not adjust the price upward for fixed-price contracts;

(ii) Shall, if contract adjustments are made, preclude payment of aggregate increased costs by reducing the contract price on fixed-price contracts;

(iii) May, in consultation with the affected contracting officers, increase or decrease individual contract prices, including costs ceilings or target costs on flexibly-priced contracts. In such cases, the CFAO shall limit any upward contract price adjustments to affected contracts to the amount of downward price adjustments to other affected contracts, *i.e.*, the aggregate price of all contracts affected by a noncompliance that involves estimating costs shall not be increased (48 CFR 9903.201-6(d));

(iv) Shall require the contractor to correct the noncompliance, *i.e.*, ensure that compliant cost accounting practices will now be utilized to estimate proposed contract costs; and

(v) Shall require the contractor to adjust any invoices that were paid based on noncompliant contract prices to reflect the adjusted contract prices, after any contract price adjustments are made to resolve the noncompliance.

(5) For noncompliances that involve cost accumulation, the CFAO—

(i) Shall require the contractor to—

(A) Correct noncompliant contract cost accumulations in the contractor's cost accounting records for affected contracts to reflect compliant contract cost accumulations; and

(B) Adjust interim payment requests (public vouchers and/or progress payments) and final vouchers to reflect the difference between the costs paid using the noncompliant practice and the costs that should have been paid using the compliant practice; or

(ii) Shall adjust contract prices. In adjusting contract prices, the CFAO shall preclude payment of aggregate increased costs by disallowing costs on flexibly-priced contracts.

(A) The CFAO may, in consultation with the affected contracting officers, increase or decrease individual contract prices, including costs ceilings or target costs on flexibly-priced contracts. In such cases, the CFAO shall limit any upward contract price adjustments to affected contracts to the amount of downward price adjustments to other affected contracts, *i.e.*, the aggregate price of all contracts affected by a noncompliance that involves cost accumulation shall not be increased (48 CFR 9903.201-6(d)).

(B) Shall require the contractor to—

(1) Correct contract cost accumulations in the contractor's cost accounting records to reflect the contract price adjustments; and

(2) Adjust interim payment requests (public vouchers and/or progress payments) and final vouchers to reflect the contract price adjustments.

(6) When contract adjustments are made, the CFAO shall—

(i) Execute the bilateral modifications if the CFAO and contractor agree on the amount of the cost impact and the adjustments (see 42.302(a)(11)(iv)); or

(ii) When the CFAO and contractor do not agree on the amount of the cost impact or the contract adjustments, issue a final decision in accordance with 33.211 and unilaterally adjust the contract(s).

(d) *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 and the contracting parties agree on the use of that alternate method.

(2) The CFAO may not use an alternate method for contracts when application of the alternate method to contracts would result in—

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

(ii) 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 shall—

(i) Apply such exclusion only to the determination of final indirect cost rates (see 42.705); and

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

30.607 Subcontract administration.

When a negotiated CAS price adjustment or a determination of noncompliance is required at the subcontract level, the CFAO for the subcontractor shall furnish a copy of the negotiation memorandum or the determination to the CFAO for the contractor of the next higher-tier subcontractor. The CFAO of the contractor or the next higher-tier subcontractor shall not change the determination of the CFAO for the lower-tier subcontractor. If the subcontractor refuses to submit a GDM or DCI proposal, remedies are made at the prime contractor level.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. 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 (April 2005)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in paragraphs (b) through (i) and (k) through (n) of this clause:

(a) *Definitions.* As used in this clause—

Affected CAS-covered contract or subcontract means a contract or subcontract subject to CAS rules and regulations for which a Contractor or subcontractor—

(1) Used one cost accounting practice to estimate costs and a changed cost accounting practice to accumulate and report costs under the contract or subcontract; or

(2) Used a noncompliant practice for purposes of estimating or accumulating and reporting costs under the contract or subcontract.

Cognizant Federal agency official (CFAO) means the Contracting Officer assigned by

the cognizant Federal agency to administer the CAS.

Desirable change means a compliant change to a Contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is, therefore, not subject to the no increased cost prohibition provisions of CAS-covered contracts and subcontracts affected by the change.

Fixed-price contracts and subcontracts means—

(1) Fixed-price contracts and subcontracts described at FAR 16.202, 16.203, (except when price adjustments are based on actual costs of labor or material, described at 16.203-1(a)(2)), and 16.207;

(2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (FAR Subpart 16.4);

(3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (FAR Subpart 16.5); and

(4) The fixed-hourly rate portion of time-and-materials and labor-hours contracts and subcontracts (FAR Subpart 16.6).

Flexibly-priced contracts and subcontracts means—

(1) Fixed-price contracts and subcontracts described 16.203-1(a)(2) at FAR 16.204, 16.205, and 16.206;

(2) Cost-reimbursement contracts and subcontracts (FAR Subpart 16.3);

(3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (FAR Subpart 16.4);

(4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (FAR Subpart 16.5); and

(5) The materials portion of time-and-materials contracts and subcontracts (FAR Subpart 16.6).

Noncompliance means a failure in estimating, accumulating, or reporting costs to—

(1) Comply with applicable CAS; or

(2) Consistently follow disclosed or established cost accounting practices.

Required change means—

(1) A change in cost accounting practice that a Contractor is required to make in order to comply with a CAS, or a modification or interpretation thereof, that subsequently becomes applicable to existing CAS-covered contracts or subcontracts due to the receipt of another CAS-covered contract or subcontract; or

(2) A prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the Contractor to remain in compliance.

Unilateral change means a change in cost accounting practice from one compliant practice to another compliant practice that a Contractor with a CAS-covered contract(s) or subcontract(s) elects to make that has not been deemed a desirable change by the CFAO and for which the Government will pay no aggregate increased costs.

(b) Submit to the CFAO a description of any cost accounting practice change as

outlined in paragraphs (b)(1) through (3) of this clause (including revisions to the Disclosure Statement, if applicable), and any written statement that the cost impact of the change is immaterial. If a change in cost accounting practice is implemented without submitting the notice required by this paragraph, the CFAO may determine the change to be a failure to follow paragraph (a)(2) of the clause at FAR 52.230-2, Cost Accounting Standards; paragraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; or paragraph (a)(2) of the clause at FAR 52.230-5, Cost Accounting Standards—Educational Institution.

(1) When a description has been submitted for a change in cost accounting practice that is dependent on a contract award and that contract is subsequently awarded, notify the CFAO within 15 days after such award.

(2) For any change in cost accounting practice not covered by (b)(1) of this clause that is required in accordance with paragraphs (a)(3) and (a)(4)(i) of the clause at FAR 52.230-2; or paragraphs (a)(3), (a)(4)(i), or (a)(4)(iv) of the clause at FAR 52.230-5; submit a description of the change to the CFAO not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change.

(3) For any change in cost accounting practices proposed in accordance with paragraph (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2 and FAR 52.230-5; or with paragraph (a)(3) of the clause at FAR 52.230-3, submit a description of the change not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change. If the change includes a proposed retroactive date submit supporting rationale.

(4) 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) of the clause at FAR 52.230-2 and FAR 52.230-5; or by paragraph (a)(4) of the clause at FAR 52.230-3)—

(i) Within 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) after the date of agreement with the CFAO that there is a noncompliance; or

(ii) In the event of Contractor disagreement, within 60 days after the CFAO notifies the Contractor of the determination of noncompliance.

(c) When requested by the CFAO, submit on or before a date specified by the CFAO—

(1) A general dollar magnitude (GDM) proposal in accordance with paragraph (d) or (g) of this clause. The Contractor may submit a detailed cost-impact (DCI) proposal in lieu of the requested GDM proposal provided the DCI proposal is in accordance with paragraph (e) or (h) of this clause;

(2) A detailed cost-impact (DCI) proposal in accordance with paragraph (e) or (h) of this clause;

(3) For any request for a desirable change that is based on the criteria in FAR 30.603-2(b)(3)(ii), the data necessary to demonstrate the required cost savings; and

(4) For any request for a desirable change that is based on criteria other than that in

FAR 30.603-2(b)(3)(ii), a GDM proposal and any other data necessary for the CFAO to determine if the change is a desirable change.

(d) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the GDM proposal shall—

(1) Calculate the cost impact in accordance with paragraph (f) of this clause;

(2) Use one or more of the following methods to determine the increase or decrease in cost accumulations:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations for all affected fixed-price and flexibly-priced contracts and subcontracts;

(3) Use a format acceptable to the CFAO but, as a minimum, include the following data:

(i) The estimated increase or decrease in cost accumulations by Executive agency, including any impact the change may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(ii) For unilateral changes, the increased or decreased costs to the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts; and

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(e) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the DCI proposal shall—

(1) Show the calculation of the cost impact in accordance with paragraph (f) of this clause;

(2) Show the estimated increase or decrease in cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to include—

(i) Only those affected CAS-covered contracts and subcontracts having an estimate to complete exceeding a specified amount; and

(ii) An estimate of the total increase or decrease in cost accumulations for all affected CAS-covered contracts and subcontracts, using the results in paragraph (e)(2)(i) of this clause;

(3) Use a format acceptable to the CFAO but, as a minimum, include the information in paragraph (d)(3) of this clause; and

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(f) For GDM and DCI proposals that are subject to the requirements of paragraph (d) or (e) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall include all affected CAS-covered contracts

and subcontracts regardless of their status (*i.e.*, open or closed) or the fiscal year in which the costs were incurred (*i.e.*, whether or not the final indirect rates have been established).

(2) For unilateral changes—

(i) Determine the increased or decreased cost to the Government for flexibly-priced contracts and subcontracts as follows:

(A) When the estimated cost to complete using the changed practice exceeds the estimated cost to complete using the current practice, the difference is increased cost to the Government.

(B) When the estimated cost to complete using the changed practice is less than the estimated cost to complete using the current practice, the difference is decreased cost to the Government;

(ii) Determine the increased or decreased cost to the Government for fixed-priced contracts and subcontracts as follows:

(A) When the estimated cost to complete using the changed practice is less than the estimated cost to complete using the current practice, the difference is increased cost to the Government.

(B) When the estimated cost to complete using the changed practice exceeds the estimated cost to complete using the current practice, the difference is decreased cost to the Government;

(iii) Calculate the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased costs to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated; and

(iv) Calculate the increased cost to the Government in the aggregate.

(3) For equitable adjustments for required or desirable changes—

(i) Estimated increased cost accumulations are the basis for increasing contract prices, target prices and cost ceilings; and

(ii) Estimated decreased cost accumulations are the basis for decreasing contract prices, target prices and cost ceilings.

(g) For any noncompliant cost accounting practice subject to paragraph (b)(4) of this clause, prepare the GDM proposal as follows:

(1) Calculate the cost impact in accordance with paragraph (i) of this clause.

(2) Use one or more of the following methods to determine the increase or decrease in contract and subcontract prices or cost accumulations, as applicable:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) When the noncompliance involves cost accumulation the change in indirect rates multiplied by the applicable base for only flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease.

(3) Use a format acceptable to the CFAO but, as a minimum, include the following data:

(i) The total increase or decrease in contract and subcontract price and cost

accumulations, as applicable, by Executive agency, including any impact the noncompliance may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(ii) The increased or decreased cost to the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(iii) The total overpayments and underpayments made by the Government during the period of noncompliance.

(4) When requested by the CFAO, identify all CAS-covered contracts and subcontracts.

(h) For any noncompliant practice subject to paragraph (b)(4) of this clause, prepare the DCI proposal as follows:

(1) Calculate the cost impact in accordance with paragraph (i) of this clause.

(2) Show the increase or decrease in price and cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to—

(i) Include only those affected CAS-covered contracts and subcontracts having—

(A) Contract and subcontract values exceeding a specified amount when the noncompliance involves estimating costs; and

(B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and

(ii) Estimate the total increase or decrease in price and cost accumulations for all affected CAS-covered contracts and subcontracts using the results in paragraph (h)(2)(i) of this clause.

(3) Use a format acceptable to the CFAO that, as a minimum, include the information in paragraph (g)(3) of this clause.

(4) When requested by the CFAO, identify all CAS-covered contracts and subcontracts.

(i) For GDM and DCI proposals that are subject to the requirements of paragraph (g) or (h) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall include all affected CAS-covered contracts and subcontracts regardless of their status (*i.e.*, open or closed) or the fiscal year in which the costs are incurred (*i.e.*, whether or not the final indirect rates have been established).

(2) For noncompliances that involve estimating costs, determine the increased or decreased cost to the Government for fixed-price contracts and subcontracts as follows:

(i) When the negotiated contract or subcontract price exceeds what the negotiated price would have been had the Contractor used a compliant practice, the difference is increased cost to the Government.

(ii) When the negotiated contract or subcontract price is less than what the negotiated price would have been had the Contractor used a compliant practice, the difference is decreased cost to the Government.

(3) For noncompliances that involve accumulating costs, determine the increased or decreased cost to the Government for

flexibly-priced contracts and subcontracts as follows:

(i) When the costs that were accumulated under the noncompliant practice exceed the costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice), the difference is increased cost to the Government.

(ii) When the costs that were accumulated under the noncompliant practice are less than the costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice), the difference is decreased cost to the Government.

(4) Calculate the total increase or decrease in contract and subcontracts incentives, fees, and profits associated with the increased or decreased cost to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the Contractor used a compliant practice.

(5) Calculate the increased cost to the Government in the aggregate.

(j) If the Contractor does not submit the information required by paragraph (b) or (c) of this clause within the specified time, or any extension granted by the CFAO, the CFAO may take one or both of the following actions:

(1) Withhold an amount not to exceed 10 percent of each subsequent amount payment to the Contractor's affected 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.

(2) Issue a final decision in accordance with FAR 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.

(k) Agree to—

(1) Contract modifications to reflect adjustments required in accordance with paragraph (a)(4)(ii) or (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with paragraph (a)(3)(i) or (a)(4) of the clause at FAR 52.230-3; and

(2) Repay the Government for any aggregate increased cost paid to the Contractor.

(l) 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 CFAO:

(i) Subcontractor's name and subcontract number.

(ii) Dollar amount and date of award.

(iii) Name of Contractor making the award.

(m) Notify the CFAO in writing of any adjustments required to subcontracts under this contract and agree to an adjustment 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.

(n) For subcontracts containing the clause or substance of the clause at FAR 52.230-2, FAR 52.230-3, 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)

■ 9. Add section 52.230-7 to read as follows:

52.230-7 Proposal Disclosure—Cost Accounting Practice Changes.

As prescribed in 30.201-3(c), insert the following provision:

Proposal Disclosure—Cost Accounting Practice Changes (Apr 2005)

The offeror shall check "yes" below if the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable changes.

☐ Yes ☐ No

If the offeror checked "Yes" above, the offeror shall—

(1) Prepare the price proposal in response to the solicitation using the changed practice for the period of performance for which the practice will be used; and

(2) Submit a description of the changed cost accounting practice to the Contracting Officer and the Cognizant Federal Agency Official as pricing support for the proposal. (End of provision)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 44 and 52

[FAC 2005-01; FAR Case 2003-024; Item VII]

RIN 9000-AK10

Federal Acquisition Regulation; Elimination of Certain Subcontract Notification Requirements

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) have agreed to amend the Federal Acquisition Regulation language regarding advance notification requirements. This change is required to implement Section 842 of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136, which resulted in revisions to 10 U.S.C. 2306(e).

DATES: *Effective Date:* March 9, 2005.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before May 9, 2005 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005-01, FAR case 2003-024 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Agency Web Site: <http://www.acqnet.gov/far/ProposedRules/proposed.htm>. Click on the FAR case number to submit comments.

- E-mail: farcase.2003-024@gsa.gov. Include FAC 2005-01, FAR case 2003-024 in the subject line of the message.

- Fax: 202-501-4067.

- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005-01, FAR case 2003-024, in all correspondence related to this case. All comments received will be posted without change to <http://www.acqnet.gov/far/ProposedRules/proposed.htm>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT The FAR Secretariat at (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Rhonda Cundiff, at (202) 501-0044. Please cite FAC 2005-01, FAR case 2003-024.

SUPPLEMENTARY INFORMATION:

A. Background

This rule revises FAR 44.201-2, Advance notification requirements, and amends Alternate I of FAR clause 52.244-2, Subcontracts. This change is required in order to implement Section 842 of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136. Section 842