

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Parts 30 and 52

[FAR Case 1999-025]

RIN 9000-AI70

Federal Acquisition Regulation; Cost
Accounting Standards Administration

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

ACTION: Proposed rule with request for comments, and notice of a public meeting.

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

DATES: *Comment date:* Interested parties should submit comments in writing on or before September 2, 2003 to be considered in the formulation of a final rule.

Public meeting: A public meeting will be held on August 5, 2003, at the address shown below from 9 a.m. to 5 p.m., local time.

ADDRESSES: *Comments:* Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—farcase.1999-025@gsa.gov.

Please submit comments only and cite FAR case 1999-025 in all correspondence related to this case.

Public meeting: The public meeting will be held at—Crystal Mall 3, 1931 Jefferson Davis Highway, Room C-43, Arlington, VA, 22202.

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. Edward Loeb at (202) 501-0650. Please cite FAR case 1999-025.

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 on August 5, 2003. 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 also be posted at <http://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** at 65 FR 20854, April 18, 2000. The rule delineated the entire cost-impact process the Government and the contractor shall 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, which was published in the **Federal Register** at 65 FR 37469, June 14, 2000. 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. *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. *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. *New solicitation provision.* This second proposed rule adds a provision