

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 Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because contracts and subcontracts with small businesses are exempt from all CAS requirements in accordance with 48 CFR 9903.201-1(b)(3). An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 30 and 52 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 does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 30 and 52

Government procurement.

Dated: June 26, 2003.

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Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 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, 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 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 paragraph (b); removing from paragraph (c) the word “cognizant”; and by revising paragraph (d) to read as follows:

30.202-6 Responsibilities.

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(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 CFAO shall make a determination of adequacy as soon as possible after the award.

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(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 cognizant auditor shall—