Subpart 30.2 - CAS Program Requirements

Parent topic: Part 30 - Cost Accounting Standards Administration

30.201 Contract requirements.

Title 48 CFR 9903.201-1 describes the rules for determining whether a proposed contract or subcontract is exempt from CAS. Negotiated contracts not exempt in accordance with 48 CFR 9903.201-1(b) *shall* be subject to CAS. A CAS-covered contract *may* be subject to either full or modified coverage. The rules for determining whether full or modified coverage applies are in 48 CFR 9903.201-2.

30.201-1 CAS applicability.

(a) See 48 CFR 9903.201-1.

(b) In accordance with 41 U.S.C. 1502(b)(1)(B), the threshold for determining the tentative applicability of CAS at the contract level is the amount set forth in 10 U.S.C. 3702(a)(1)(A), as adjusted for inflation in accordance with 41 U.S.C. 1908.

30.201-2 Types of CAS coverage.

See 48 CFR 9903.201-2.

30.201-3 Solicitation provisions.

(a) The *contracting officer shall* insert the provision at 52.230-1, Cost Accounting Standards Notices and Certification, in *solicitations* for proposed contracts subject to CAS as specified in 48 CFR 9903.201.

(b) If an award to an educational institution is contemplated prior to July 1, 1997, the *contracting officer shall* insert the basic provision set forth at 52.230-1 with its *Alternate* I, unless the contract is to be performed by a Federally Funded Research and Development Center (FFRDC) (see 48 CFR 9903.201-2(c)(5)), or the provision at 48 CFR 9903.201-2(c)(6) applies.

(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.

30.201-4 Contract clauses.

(a) *Cost accounting standards.*

(1) The *contracting officer shall* insert the clause at FAR 52.230-2, Cost Accounting Standards, in

negotiated contracts, unless the contract is exempted (see 48 CFR 9903.201-1), the contract is subject to modified coverage (see 48 CFR 9903.201-2), or the clause prescribed in paragraph (c) of this subsection is used.

(2) The clause at FAR 52.230-2 requires the contractor to comply with all CAS specified in 48 CFR 9904, to disclose actual cost accounting practices (applicable to CAS-covered contracts only), and to follow disclosed and established cost accounting practices consistently.

(b) *Disclosure and consistency of cost accounting practices.*

(1) Insert the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, in negotiated contracts when the contract amount is over $2.5 million, but less than $50 million, and the *offeror* certifies it is eligible for and elects to use modified CAS coverage (see 48 CFR 9903.201-2), unless the clause prescribed in paragraph (c) of this subsection is used.

(2) The clause at FAR 52.230-3 requires the contractor to comply with 48 CFR 9904.401, 9904.402, 9904.405, and 9904.406 to disclose (if it meets certain requirements) actual cost accounting practices, and to follow consistently its established cost accounting practices.

(c) *Disclosure and Consistency of Cost Accounting Practices-Foreign Concerns*.

(1) The *contracting officer shall* insert the clause at FAR 52.230-4, Disclosure and Consistency of Cost Accounting Practices-Foreign Concerns, in negotiated contracts with foreign concerns, unless the contract is otherwise exempt from CAS (see 48 CFR 9903.201-1). Foreign concerns do not include foreign governments or their agents or instrumentalities.

(2) The clause at 52.230-4 requires the contractor to comply with 48 CFR 9904.401 and 48 CFR 9904.402 to disclose (if it meets certain requirements) actual cost accounting practices, and to follow consistently its disclosed and established cost accounting practices.

(d) *Administration of cost accounting standards.*

(1) The *contracting officer shall* insert the clause at FAR 52.230-6, Administration of Cost Accounting Standards, in contracts containing any of the clauses prescribed in paragraphs (a), (b), (c), or (e) of this subsection.

(2) The clause at FAR 52.230-6 specifies rules for administering CAS requirements and procedures to be followed in cases of failure to comply.

(e) *Cost accounting standards-educational institutions.*

(1) The *contracting officer shall* insert the clause at FAR 52.230-5, Cost Accounting Standards-Educational Institution, in negotiated contracts awarded to educational institutions, unless the contract is exempted (see 48 CFR 9903.201-1), the contract is to be performed by an FFRDC (see 48 CFR 9903.201-2(c)(5)), or the provision at 48 CFR 9903.201-2(c)(6)applies.

(2) The clause at FAR 52.230-5 requires the educational institution to comply with all CAS specified in 48 CFR 9905, to disclose actual cost accounting practices as required by 48 CFR 9903.202-1(f), and to follow disclosed and established cost accounting practices consistently.

30.201-5 Waiver.

(a) The *head of the agency*-

(1) *May* waive the applicability of CAS for a particular contract or subcontract under the conditions listed in paragraph (b) of this subsection; and

(2) *Must* not delegate this waiver authority to any official in the agency below the senior contract policymaking level.

(b) The *head of the agency may* grant a waiver when one of the following conditions exists:

(1) The contract or subcontract value is less than 15 million, and the *head of the agency* determines, *in writing*, that the *segment* of the contractor or subcontractor that will perform the contract or subcontract-

(i) Is primarily engaged in the sale of *commercial products* or *commercial services*; and

(ii) Has no contracts or subcontracts that are subject to CAS.

(2) The *head of the agency* determines that exceptional circumstances exist whereby a waiver of CAS is necessary to meet the needs of the agency. Exceptional circumstances exist only when the benefits to be derived from waiving the CAS outweigh the risk associated with the waiver. The determination that exceptional circumstances exist *must*-

(i) Be set forth *in writing*; and

(ii) Include a statement of the specific circumstances that justify granting the waiver.

(c) When one of the conditions in paragraph (b) of this subsection exists, the request for waiver *should* include the following:

(1) The amount of the proposed award.

(2) A description of the contract or subcontract type (*e.g.,* firm-fixed-price, cost-reimbursement).

(3) Whether the *segment*(s) that will perform the contract or subcontract has CAS-covered contracts or subcontracts.

(4) A description of the item(s) being procured.

(5) When the contractor or subcontractor will not accept the contract or subcontract if CAS applies, a statement to that effect.

(6) Whether *certified cost or pricing data* will be obtained, and if so, a discussion of how the data will be used in negotiating the contract or subcontract price.

(7) The benefits to the Government of waiving CAS.

(8) The potential risk to the Government of waiving CAS.

(9) The date by which the waiver is needed.

(10) Any other information that *may* be useful in evaluating the request.

(d) When neither of the conditions in paragraph (b) of this subsection exists, the waiver request *must* be prepared in accordance with 48 CFR 9903.201-5(e) and submitted to the CAS Board.

(e) Each agency *must* report any waivers granted under paragraph (a) of this subsection to the CAS Board, on a fiscal year basis, not later than 90 days after the close of the Government's fiscal year.

30.201-6 Findings.

See 48 CFR 9903.201-6.

30.201-7 Cognizant Federal agency responsibilities.

See 48 CFR 9903.201-7.

30.202 Disclosure requirements.

30.202-1 General requirements.

See 48 CFR 9903.202-1.

30.202-2 Impracticality of submission.

See 48 CFR 9903.202-2.

30.202-3 Amendments and revisions.

See 48 CFR 9903.202-3.

30.202-4 Privileged and confidential information.

See 48 CFR 9903.202-4.

30.202-5 Filing Disclosure Statements.

See 48 CFR 9903.202-5.

30.202-6 Responsibilities.

(a) The *contracting officer* is responsible for determining when a proposed contract *may* require CAS coverage and for including the appropriate notice in the *solicitation*. The *contracting officer must* then ensure that the *offeror* has made the required *solicitation* certifications and that required Disclosure Statements are submitted. (Also see 48 CFR 9903.201-3 and 9903.202).

(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.

(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, 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.

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.

(b) Any determination that it is impractical to secure a subcontractor's Disclosure Statement *must* be made in accordance with 48 CFR 9903.202-2.