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.

Parent topic: 30.201 Contract requirements.