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PART 9901—RULES AND PROCEDURES

Authority: Pub. L. 100-679, 102 Stat. 4056, 41 U.S.C. 422.

Source: 56 FR 19304, Apr. 26, 1991, unless otherwise noted.

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Parent topic: SUBCHAPTER A—ADMINISTRATION

9901.301 Purpose.

This part is published in compliance with Public Law 100-679, section 5(f)(3), 41 U.S.C. 422(f)(3), and constitutes the rules and procedures governing actions and the administration of the Cost

Accounting Standards Board.

9901.302 Authority.

(a) The Cost Accounting Standards Board (hereinafter referred to as the “Board”) is established by and operates in compliance with Public Law 100-679.

(b) The Board has the exclusive authority to make, promulgate, amend, and rescind cost accounting standards and regulations, including interpretations thereof, designed to achieve uniformity and consistency in the cost accounting practices governing measurement, assignment, and allocation of costs to contracts with the United States Government.

(c) All cost accounting standards, waivers, exemptions, interpretations, modifications, rules, and regulations promulgated under section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall remain in effect unless and until amended, superseded, or rescinded by the Board pursuant to Public Law 100-679.

9901.303 Offices.

The Cost Accounting Standards Board's offices are located in the New Executive Office Building, 725 17th Street, NW., Washington, DC 20503. The hours of business for the Board are 9 a.m. to 5:30 p.m., local time, Monday through Friday, excluding holidays observed by the Federal Government in Washington, DC.

9901.304 Membership.

The Board consists of five members, including the Administrator of the Office of Federal Procurement Policy (hereinafter referred to as the “Administrator”) who shall serve as Chairman, and four other members with experience in Government contract cost accounting who are to be appointed as follows:

(a) A representative of the Department of Defense appointed by the Secretary of Defense.

(b) An officer or employee of the General Services Administration appointed by the Administrator of the General Services Administration or his/her designee.

(c) A representative of industry appointed from the private sector by the Administrator.

(d) An individual who is particularly knowledgeable about cost accounting problems and systems appointed from the private sector by the Administrator.

(e) The term of office of each of the members of the Board, other than the Administrator, shall be four years, with the exception of the initial appointment of members. Of the initial appointments to the Board, two members shall hold appointment for a term of two years, one shall hold appointment for a term of three years, and one shall hold appointment for a term of four years.

(f) The members from the Department of Defense and the General Services Administration shall not

be permitted to continue to serve on the Board after ceasing to be an officer or employee of their respective appointing agency. A vacancy on the Board shall be filled in the same manner in which the original appointment was made. A member may be reappointed for a subsequent term(s). Any member appointed to fill an interim vacancy on the Board shall serve for the remainder of the term for which his or her predecessor was appointed.

(g) In the event of the absence or incapacity of the Administrator or during a vacancy in the office, the official of the Office of Federal Procurement Policy, acting as Administrator, shall serve as the Chairman of the Board.

(h) In the event of the absence of any of the other Board members, a representative of that Board member may attend the Board meeting, but shall have no vote, and his or her attendance shall not be counted to establish a quorum.

9901.305 Requirements for standards and interpretive rulings.

Prior to the promulgation of cost accounting standards and interpretations thereof, the Board shall:

(a) Take into account, after consultation and discussion with the Comptroller General, professional accounting organizations, contractors, government agencies and other interested parties:

(1) The probable costs of implementation, including inflationary effects, if any, compared to the probable benefits;

(2) The advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning, contacts; and

(3) The scope of, and alternatives available to, the action proposed to be taken.

(b) Prepare and publish a report in the Federal Register on issues reviewed under paragraph (a) of this section.

(c) Publish an advance notice of proposed rulemaking in the Federal Register in order to solicit comments on the report prepared pursuant to paragraph (b) of this section, and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments. During this 60-day period, consult with the Comptroller General and consider any recommendation the Comptroller General may make.

(d) Publish a notice of such proposed rulemaking in the Federal Register and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments.

(e) Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended by the Board, shall have the full force and effect of law and shall become effective within 120 days after publication in the Federal Register in final form, unless the Board determines a longer period is necessary. Implementation dates for contractors and subcontractors shall be determined by the Board, but in no event shall such dates be later than the beginning of the second fiscal year of affected contractors or subcontractors after the standard becomes effective. Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended by the Board shall be accompanied by prefatory comments and by illustrations, if necessary.

(f) The above functions exercised by the Board are excluded from the operations of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

9901.306 Standards applicability.

Cost Accounting Standards promulgated by the Board shall be mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing and administration of, and settlement of disputes concerning, all negotiated prime contract and subcontract procurements with the United States Government in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), other than contracts or subcontracts that have been exempted by the Board's regulations.

9901.307 Exemptions and waivers.

The Board may exempt classes or categories of contractors and subcontractors from cost accounting standards requirements, and establish procedures for waiver of the requirements with respect to individual contracts and subcontracts. The official records of the Board shall be documented with supporting justification for class or category exemptions and individual waivers.

9901.308 Meetings.

The Board shall meet at the call of the Chairman. Agenda for Board meetings shall be proposed by the Chairman, but any Board member may request any item to be placed on the agenda.

9901.309 Quorum.

Three Board members, at least one of whom is appointed by the Administrator from the private sector, shall constitute a quorum of the Board.

9901.310 Board action.

Board action shall be by majority vote of the members present and voting, except that any vote to publish a proposed standard, rule or regulation in the Federal Register for comment or any vote to promulgate, amend or rescind a standard, rule or regulation, or any interpretation thereof, shall require at least three affirmative votes for the five Board members. The Chairman may vote on all matters presented for a vote, not merely to resolve tie votes. The results of final votes shall be reported in the minutes of the meeting, and the vote of a Board member may be recorded at his/her request.

9901.311 Executive sessions.

During the course of a Board meeting, any Board Member may request that for any portion of the meeting, the Board meet in executive session. The Chairman shall thereupon order such a session.

9901.312 Minutes.

The Executive Secretary of the Board shall be responsible for keeping accurate minutes of Board meetings and maintaining Board files.

9901.313 Public hearings.

Public hearings to assist the Board in the development and explanation of cost accounting standards and interpretive rulings may be held to the extent the Board in its sole discretion deems desirable. Notice of such hearings shall be given by publication in the Federal Register.

9901.314 Informal actions.

The Chairman may take actions on behalf of the Board on administrative issues, as determined by the Chairman, without holding an official meeting of the members. However, details of the actions so taken shall be provided to all of the members at the next Board meeting following such actions. Board members may be polled by telephone on other issues that must be processed on a timely basis when such matters cannot be deferred until the next formal meeting of the Board.

9901.315 Executive Secretary.

The Board's staff of professional, technical and supporting personnel is directed and supervised by the Executive Secretary.

9901.316 Files and records.

The files and records of the Board shall be maintained in accordance with the *Federal Records Creation, Maintenance, and Disposition Manual* of the Executive Office of The President, Office of Administration. As a minimum, the files and records shall include:

(a) A record of every Board meeting, including the minutes of Board proceedings and public hearings.

(b) Cost accounting standards promulgated, amended, or rescinded and interpretations thereof along with the supporting documentation and applicable research material.

(c) Applicable working papers, memoranda, research material, etc. related to issues under consideration by the Board and/or previously considered by the Board.

(d) Substantive regulations and statutes of general applicability and general policy and interpretations thereof.

(e) Any other file or record deemed important and relevant to the duties and responsibilities of the Board.

9901.317 Amendments.

This part 9901, Rules and Procedures, may be amended by the Chairman, after consultation with the Board.