

## PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

1. The authority citation for 48 CFR part 30 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 30.001 by—

a. Adding to the definition “Cognizant Federal agency official (CFAO)” “the ” following “administer”;

b. Removing from the definition “Desirable change” “unilateral” and adding “compliant” in its place; and

c. Revising paragraph (1) of the definition “Required change” to read as follows:

### 30.001 Definitions.

\* \* \* \* \*

*Required change* means—

(1) A change in cost accounting practice that a contractor is required to make in order to comply with applicable Standards, modifications or interpretations thereto, that subsequently becomes applicable to an existing CAS-covered contract or subcontract due to the receipt of another CAS-covered contract or subcontract; or

\* \* \* \* \*

3. Amend section 30.601 by removing from paragraph (b) “52.230–6(b)” and adding “52.230–6(l)” in its place; and by adding paragraph (c) to read as follows:

### 30.601 Responsibility.

\* \* \* \* \*

(c) In performing CAS administration, the CFAO shall request and consider the advice of the auditor as appropriate (see also 1.602–2).

4. Amend section 30.602 by revising paragraph (d) to read as follows:

### 30.602 Materiality.

\* \* \* \* \*

(d) For required, unilateral, and desirable changes, and CAS noncompliances, when the amount involved is material, the CFAO shall follow the applicable provisions in 30.603, 30.604, 30.605, and 30.606.

5. Amend section 30.604 by—

a. Removing from the introductory text of paragraphs (b) and (f) “, with the assistance of the auditor,”;

b. Revising the introductory text of paragraph (g);

c. Revising the introductory text of paragraph (h)(4) and removing paragraphs (h)(4)(i) and (h)(4)(ii); and

d. Removing from paragraph (i)(1) “With the assistance of the auditor, estimate” and adding “Estimate” in its place.

The revised text reads as follows:

### 30.604 Processing changes to disclosed or established cost accounting practices.

\* \* \* \* \*

(g) *Detailed cost-impact proposal.* If the contractor is required to submit a DCI proposal, the CFAO shall promptly evaluate the DCI proposal and follow the procedures at 30.606 to negotiate and resolve the cost impact. The DCI proposal—

\* \* \* \* \*

(h) \* \* \*

(4) For required or desirable changes, negotiate an equitable adjustment as provided in the Changes clause of the contract.

\* \* \* \* \*

6. Amend section 30.605 by—

a. Removing from the introductory text of paragraph (c)(2) “, with the assistance of the auditor,”;

b. Revising the introductory text of paragraph (f); and

c. Redesignating paragraph (h)(6) as (h)(7) and adding a newly designated paragraph (h)(6).

The revised text reads as follows:

### 30.605 Processing noncompliances.

\* \* \* \* \*

(f) *Detailed cost-impact proposal.* If the contractor is required to submit a DCI proposal, the CFAO shall promptly evaluate the DCI proposal and follow the procedures at 30.606 to negotiate and resolve the cost impact. The DCI proposal—

\* \* \* \* \*

(h) \* \* \*

(6) The cost impact of each noncompliance that affects both cost estimating and cost accumulation shall be determined by combining the cost impacts in paragraphs (h)(3), (h)(4), and (h)(5) of this section; and

\* \* \* \* \*

## PART 52—SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES

7. Amend section 52.230–6 by—

a. Revising the date of the clause;

b. Removing from the definition “Fixed-price contracts and subcontracts” the word “FAR” each time it appears (4 times);

c. Amending the definition “Flexibly-priced contracts and subcontracts” by revising paragraph (1); and by removing from paragraphs (2) through (5) the word “FAR”; and

d. Revising paragraph (1) of the definition “required change”.

The revised text reads as follows:

### 52.230–6 Administration of Cost Accounting Standards.

\* \* \* \* \*

### ADMINISTRATION OF COST ACCOUNTING STANDARDS (DATE)

\* \* \* \* \*

(a) \* \* \*

Flexibly-priced contracts and subcontracts means—

(1) Fixed-price contracts and subcontracts described at 16.203–1(a)(2), 16.204, 16.205, and 16.206;

\* \* \* \* \*

*Required change* means—

(1) A change in cost accounting practice that a Contractor is required to make in order to comply with applicable Standards, modifications or interpretations thereto, that subsequently become applicable to existing CAS-covered contracts or subcontracts due to the receipt of another CAS-covered contract or subcontract; or

\* \* \* \* \*

(End of clause)

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 30 and 52

[FAR Case 2006–004; Docket 2006–0020; Sequence 10]

RIN 9000–AK58

### Federal Acquisition Regulation; FAR Case 2006–004, FAR Part 30 - CAS Administration

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

**ACTION:** Proposed rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement recommendations to revise the regulations related to the administration of the Cost Accounting Standards (CAS).

**DATES:** Interested parties should submit written comments to the FAR Secretariat on or before December 4, 2006 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAR case 2006–004 by any of the following methods:

• Federal eRulemaking Portal: <http://www.regulations.gov>. Search for any document by first selecting the proper document types and selecting "Federal Acquisition Regulation" as the agency of choice. At the "Keyword" prompt, type in the FAR case number (for example, FAR Case 2006-001) and click on the "Submit" button. You may also search for any document by clicking on the "Advanced search/document search" tab at the top of the screen, selecting from the agency field "Federal Acquisition Regulation", and typing the FAR case number in the keyword field. Select the "Submit" button.

• Fax: 202-501-4067.

• Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

**Instructions:** Please submit comments only and cite FAR case 2006-004 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Jeremy Olson, at (202) 501-3221. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAR case 2006-004.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

On May 23, 2005, the Cost Accounting Standards Board published an interim rule in the **Federal Register** at 70 FR 29457 revising the applicability of CAS to U.K. contracts and subcontracts. The interim rule effected three changes in this regard:

• Amendment of 48 CFR 9903.202-1(e) to add the U.K. to the list of countries whose contractors may file a disclosure form adopted by an agency of their own government in lieu of the CASB-DS-1. As a result, U.K. contractors are permitted to file the U.K. "Questionnaire on Method of Allocation of Costs" and "Supplemental QMAC."

• Deletion of the CAS exemption at 48 CFR 9902.201-1(b)(12). Henceforth, all foreign contracts and subcontracts, including U.K. contracts and subcontracts, are subject to the requirements at 48 CFR 9903.201-1(b)(4) and must comply with CAS 401 and 402.

• Deletion of 48 CFR 9903.201-4(d), Consistency in Cost Accounting Practices. This contract clause is no longer appropriate for inclusion in contracts with U.K. concerns.

In order to retain consistency between CAS and FAR in matters relating to the administration of CAS, the Councils are proposing FAR revisions as outlined below:

1. *FAR 30.201-4(c), Consistency in Cost Accounting Practices.* This part is renamed as Disclosure and Consistency of Cost Accounting Practices for Contracts Awarded to Foreign Concerns. It is also being revised to delete the language related to contracts awarded to United Kingdom contracts and to add language that addresses contracts subject to CAS 401 and 402 under 48 CFR 9903.201-1(b)(4).

2. *FAR 52.230-4, Consistency in Cost Accounting Practices.* The clause is renamed as Disclosure and Consistency of Cost Accounting Practices for Contracts Awarded to Foreign Concerns. The clause is also revised to specify that it applies to contracts awarded to foreign concerns who are subject to CAS 401 and 402.

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 awarded to small businesses are exempt from the Cost Accounting Standards. 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 5 U.S.C. 601, *et seq.* (FAR case 2006-004), 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: September 26, 2006.

**Ralph De Stefano**

*Director, Contract 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 continues 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. Amend section 30.201-4 by revising paragraph (c) to read as follows:

##### **30.201-4 Contract clauses.**

\* \* \* \* \*

(c) *Disclosure and Consistency of Cost Accounting Practices for Contracts Awarded to Foreign Concerns.* The contracting officer shall insert the clause at FAR 52.230-4, Disclosure and Consistency of Cost Accounting Practices for Contracts Awarded to Foreign Concerns, in negotiated contracts that are subject to CAS 401 and 402 under 48 CFR 9903.201-1(b)(4).

\* \* \* \* \*

#### **PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

3. Amend section 52.230-4 by revising the section and clause headings and the clause to read as follows:

##### **52.230-4 Disclosure and Consistency of Cost Accounting Practices for Contracts Awarded to Foreign Concerns.**

\* \* \* \* \*

##### **DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES FOR CONTRACTS AWARDED TO FOREIGN CONCERNS (DATE)**

The Contractor agrees that it will consistently follow the cost accounting practices disclosed on FORM CASB DS-1 or other disclosure form as permitted by 48 CFR 9903.202-1(e) in estimating, accumulating, and reporting costs under this contract, and comply with the requirements of CAS 401, Consistency in Estimating, Accumulating, and Reporting Costs, and CAS 402, Consistency in Allocating Costs Incurred for the Same Purpose. In the event the Contractor fails to follow such practices, or comply consistently with CAS 401 and 402, it agrees that the contract price shall be adjusted, together with interest, if such failure results in increased cost paid by the U.S. Government. Interest shall be computed at the annual rate of interest established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621) from the time payment by the Government was made to the time adjustment is effected. The Contractor agrees that the Disclosure Statement or other form permitted, pursuant to 48 CFR 9903.202-1(e) shall be available for inspection and use by authorized

representatives of the United States Government.

(End of clause)

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AU77

#### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Ceanothus ophiophilus* (Vail Lake ceanothus) and *Fremontodendron mexicanum* (Mexican flannelbush)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for *Ceanothus ophiophilus* (Vail Lake ceanothus) and *Fremontodendron mexicanum* (Mexican flannelbush) pursuant to the Endangered Species Act of 1973, as amended (Act). In total, approximately 644 acres (ac) (262 hectares (ha)) are proposed for the designation of critical habitat for these two species. Approximately 283 ac (115 ha) of land in Riverside County, California, are being proposed as critical habitat for *C. ophiophilus*, and approximately 361 ac (147 ha) of land in San Diego County, California, are being proposed as critical habitat for *F. mexicanum*.

**DATES:** We will accept comments from all interested parties until December 4, 2006. We must receive requests for public hearings, in writing, at one of the addresses shown in the **ADDRESSES** section by November 17, 2006.

**ADDRESSES:** If you wish to comment on the proposed rule, you may submit your written comments and information by any of the following methods:

(1) E-mail:

[fw8cfwocomments@fws.gov](mailto:fw8cfwocomments@fws.gov). Include "RIN 1018-AU77" in the subject line. Please see the Public Comments Solicited section under **SUPPLEMENTARY INFORMATION**.

(2) Fax: 760/431-9624.

(3) U.S. mail or hand-delivery: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011.

(4) Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, telephone, 760/431-9440.

#### SUPPLEMENTARY INFORMATION:

##### Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether it is prudent to designate critical habitat;

(2) Specific information on the amount and distribution of *Ceanothus ophiophilus* or *Fremontodendron mexicanum* habitat, what areas should be included in the designations that were occupied at the time of listing that contain the features that are essential for the conservation of the species, and what areas that were not occupied at the listing are essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the mapped critical habitat subunits and their possible effects on proposed critical habitat;

(4) We are proposing to exclude non-Federal lands targeted for conservation within the Western Riverside County MSHCP from the final designation of critical habitat for *Ceanothus ophiophilus* under section 4(b)(2) of the Act (see *Exclusions Under Section 4(b)(2) of the Act* for details on the Western Riverside MSHCP). Please provide information concerning whether the benefits of exclusion of any of these specific areas outweigh the benefits of their inclusion under section 4(b)(2) of the Act. If the Secretary determines the benefits of including these lands outweigh the benefits of excluding them, they will not be excluded from critical habitat;

(5) The appropriateness of excluding lands that contain *Fremontodendron mexicanum* occurrences within areas of

the San Diego MSCP and areas of the BLM Otay Mountain Wilderness covered by the 1994 multiple agency MOU (MOU 1994) from the final designation of critical habitat. *Fremontodendron mexicanum* is not covered by the MSCP; however, other species that co-occur with *F. mexicanum* are covered by the MSCP. Please provide comments whether the protection and management of the habitat for these co-occurring species is adequate to justify the exclusion of these lands under section 4(b)(2) of the Act. Also, we are seeking any information on the benefits of including or excluding these lands from the critical habitat designation;

(6) The appropriateness of including lands in the Agua Tibia Mountains owned by the U.S. Forest Service and managed under its Land Management Plans for the Four Southern California National Forests from the final designation of critical habitat for *Ceanothus ophiophilus*. Please provide comments on how implementation of the management plan(s) in the Agua Tibia Mountains will or will not provide for conservation for *C. ophiophilus*. Also provide information on any minimization measures or monitoring plans for *C. ophiophilus* that will help insure that the occurrences of *C. ophiophilus* remain healthy and viable in the Cleveland National Forest. Finally, provide comments on the benefits of including or excluding these lands from the critical habitat designation;

(7) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities;

(8) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments;

(9) Information concerning pollinator species for *Ceanothus ophiophilus* or *Fremontodendron mexicanum* and whether sufficient information exists to determine if such a biological feature should be considered a primary constituent element for either of these species (please see "Primary Constituent Elements" section of this proposed rule for a detailed discussion);

(10) Whether any areas not currently known to be occupied by either species, but essential to the conservation of either species, should be included in the proposed designation; and

(11) Whether the benefit of exclusion of any particular area outweighs the