

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Part 23**

[FAC 2005–27; FAR Case 2006–025; Item X; Docket 2007–0001; Sequence 18]

RIN 9000–AK76

**Federal Acquisition Regulation; FAR Case 2006–025, Online Representations and Certifications Application Review**

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed to adopt as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to revise the prescription for use of clauses for the use of Environmental Protection Agency-designated products and toxic chemical release reporting.

**DATES:** *Effective Date:* September 17, 2008.

**FOR FURTHER INFORMATION CONTACT** Mr. Ernest Woodson Procurement Analyst, at (202) 501–3775 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAC 2005–27, FAR case 2006–025.

**SUPPLEMENTARY INFORMATION:****A. Background**

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 72 FR 46359 on August 17, 2007, to amend FAR 23.406 and 23.906 to revise the prescriptions for the use of 52.223–9 and 52.223–14 to provide for their use under the same circumstances as the prescription for use of their associated provisions. These revisions ensure compliance with the requirements of 40 CFR part 247 and 42 U.S.C. 11023. The comment period closed October 16, 2007. No public comments were received on the rule. The Councils have determined to adopt the interim rule as final, without change.

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 Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 the rule revises language that the Office of Management and Budget (OMB) has already approved for obtaining representations and certifications under OMB Control Numbers 9000–0134 and 9000–0139 for compliance with Section 6002 of the Resource Conservation and Recovery Act and the requirements of Executive Order 12969, Emergency Planning and Community Right-to-Know Act of 1986. No comments were received with regard to an impact on small entities.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Numbers 9000–0134 and 9000–0139.

**List of Subjects in 48 CFR Part 23**

Government procurement.

Dated: September 9, 2008.

**Al Matera,**

*Director, Office of Acquisition Policy.*

**Interim Rule Adopted as Final Without Change**

■ Accordingly, under the authority of 40 U.S.C. 121, the interim rule amending 48 CFR part 23 which was published in the **Federal Register** at 72 FR 46359, August 17, 2007, is adopted as a final rule without change.

[FR Doc. E8–21378 Filed 9–16–08; 8:45 am]

**BILLING CODE 6820–EP–S**

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Parts 30 and 52**

[FAC 2005–27; FAR Case 2007–002; Item XI; Docket 2008–0001, Sequence 7]

RIN 9000–AL09

**Federal Acquisition Regulation; FAR Case 2007–002, Cost Accounting Standards (CAS) Administration and Associated Federal Acquisition Regulation Clauses**

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to revise the contract clauses related to the administration of the Cost Accounting Standards (CAS) to maintain consistency between the FAR and CAS.

**DATES:** *Effective Date:* October 17, 2008.

*Comment Date:* Interested parties should submit written comments to the FAR Secretariat on or before November 17, 2008 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAC 2005–27, FAR case 2007–002, by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting “FAR Case 2007–002” under the heading “Comment or Submission”. Select the link “Send a Comment or Submission” that corresponds with FAR Case 2007–002. Follow the instructions provided to complete the “Public Comment and Submission Form”.

Please include your name, company name (if any), and “FAR Case 2007–002” on your attached document.

- Fax: 202–501–4067.

- Mail: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, ATTN: Laurieann Duarte, Washington, DC 20405.

*Instructions:* Please submit comments only and cite FAC 2005–27, FAR case 2007–002, 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** Mr. Ed Chambers, Procurement Analyst, at (202) 501-3221 for clarification of content. Please cite FAC 2005-27, FAR case 2007-002. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

On June 14, 2007, the CAS Board published a final rule (72 FR 32809) revising the contract clauses for CAS administration. The final rule effected the following changes:

- Amended the CAS applicability threshold to be the same as the threshold for compliance with the Truth in Negotiations Act (TINA) as required by section 822 of the 2006 National Defense Authorization Act (Pub. L. 109-163). The TINA threshold is currently \$650,000.

- Changed the effective dates of 48 CFR 9903.201-3 and 48 CFR 9903.201-4(a), (c), and (e) from April 2000 and June 2000, respectively, to June 2007.

On June 14, 2000, the CAS Board published a final rule (65 FR 37470) revising the contract clauses for CAS administration. The final rule effected the following changes:

- Specified that the interest rate for overpayments by the Government under 48 CFR 9903.201-4(a), (c), and (e) shall be computed at the annual rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6621(a)(2)).

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

1. FAR 30.201-4(b)(1), the prescription for use of the FAR clause at 52.230-3, is revised to reflect the amendments promulgated by the CAS Board on June 14, 2007.

2. FAR 52.230. The following clauses are revised to reflect the amendments promulgated by the CAS Board on June 14, 2007 and June 14, 2000:

a. FAR 52.230-2, Cost Accounting Standards.

b. FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices.

c. FAR 52.230-5, Cost Accounting Standards—Educational Institution.

3. FAR 52.230-1, Cost Accounting Standards Notices and Certification, is

revised to reflect the amendments promulgated by the CAS Board on June 14, 2007.

4. FAR 52.230-4, Consistency of Cost Accounting Practices, is revised to maintain consistency with all other CAS clauses in specifying the rate to be used to compute interest on overpayments by the Government.

5. FAR 52.230-3(a)(3)(ii) is revised to correctly reference 48 CFR 9903.201-6(c), Desirable change.

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 interim rule is not expected 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. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. 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.* (FAC 2005-27, FAR case 2007-002), in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the 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.*

**D. Determination to Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because Federal Acquisition Regulation Part 30, Cost Accounting Standards, describes policies and procedures for applying the Cost Accounting Standards Board (CASB) rules and regulations (48 CFR Chapter 99 (FAR Appendix)). Without this interim rule, FAR Part 30 is inconsistent with the Cost Accounting

Standards that it is to describe. However, pursuant to Public Law 98-577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

**List of Subjects in 48 CFR Parts 30 and 52**

Government procurement.

Dated: September 9, 2008.

**Al Matera,**

*Director, Office of Acquisition Policy.*

■ Therefore, DoD, GSA, and NASA amend 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**

**30.201-4 [Amended]**

■ 2. Amend section 30.201-4 in paragraph (b)(1) by removing “\$500,000” and adding “\$650,000” in its place.

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

**52.230-1 [Amended]**

■ 3. Amend section 52.230-1 by revising the date of the provision to read “(OCT 2008)”, and by removing from I. Disclosure Statement—Cost Accounting Practices and Certification, in paragraph (a) “\$500,000” and adding “\$650,000” in its place.

**52.230-2 [Amended]**

■ 4. Amend section 52.230-2 by—

■ a. Revising the date of the clause to read “(OCT 2008)”;

■ b. Removing from paragraph (a)(5) “6621” and adding “6621(a)(2)” in its place each time it appears; and

■ c. Removing from paragraph (d) “\$500,000” and adding “\$650,000” in its place.

■ 5. Amend section 52.230-3 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a)(3)(ii) “9903.201-6(b)” and adding “9903.201-6(c)” in its place;

■ c. Revising the second sentence of paragraph (a)(4); and

■ d. Removing from paragraph (d)(2) “\$500,000” and adding “\$650,000” in its place.

■ The revised text reads as follows:

**52.230-3 Disclosure and Consistency of Cost Accounting Practices.**

\* \* \* \* \*

## DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (OCT 2008)

(a) \* \* \*

(4) \* \* \* Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the annual rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6621(a)(2)), from the time the payment by the United States was made to the time the adjustment is effected.

\* \* \* \* \*

**52.230-4 [Amended]**

■ 6. Amend section 52.230-4 by revising the date of the clause date to read "(OCT 2008)"; and removing "6621" and adding "6621(a)(2)" in its place each time it appears.

**52.230-5 [Amended]**

■ 7. Amend section 52.230-5 by—

■ a. Revising the date of the clause date to read "(OCT 2008)";

■ b. Removing from paragraph (a)(5) "6621" and adding "6621(a)(2)" in its place each time it appears; and

■ c. Removing from paragraph (d)(2) "\$500,000" and adding "\$650,000" in its place.

[FR Doc. E8-21367 Filed 9-16-08; 8:45 am]

BILLING CODE 6820-EP-S

**DEPARTMENT OF DEFENSE****GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 30 and 52**

[FAC 2005-27; FAR Case 2006-004; Item XII; Docket 2008-0001; Sequence 14]

RIN 9000-AK58

**Federal Acquisition Regulation; FAR Case 2006-004, CAS Administration**

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed to adopt a proposed rule, published in the **Federal Register** at 71 FR 58338, October 3, 2006, as a final rule, with minor changes. The rule amends the Federal Acquisition Regulation (FAR) to implement revisions to the regulations related to the administration of the Cost Accounting Standards (CAS) as they

pertain to contracts with foreign concerns, including United Kingdom (U.K.) concerns.

**DATES:** *Effective Date:* October 17, 2008.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Mr. Edward Chambers, at (202) 501-3221. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-27, FAR case 2006-004.

**SUPPLEMENTARY INFORMATION:****A. Background**

The Councils published a proposed rule in the **Federal Register** at 71 FR 58338, October 3, 2006, to maintain consistency between CAS and FAR in matters relating to disclosure requirements and the administration of CAS for contracts awarded to foreign concerns, including U.K. concerns.

This proposed rule was issued in response to the Cost Accounting Standards Board's interim rule (70 FR 29457, May 23, 2005) (finalized without change at 72 FR 32546, June 13, 2007), revising the applicability of CAS to U.K. contracts and subcontracts.

The Councils received no comments on the proposed rule and have adopted the proposed rule as a final rule with minor changes. The minor changes to 30.201-4(c) clarify that clause 52.230-4 need not be included in contracts with foreign concerns otherwise exempt from CAS coverage, and that foreign concerns do not include foreign governments, or their agents or instrumentalities.

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 Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 all small businesses are exempt from CAS.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the 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 9, 2008.

**Al Matera,**

*Director, Office of Acquisition Policy.*

■ Therefore, DoD, GSA, and NASA amend 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 with foreign concerns, unless the contract is otherwise exempt from CAS (see 48 CFR 9903.201-1). Such contracts are subject to CAS 401 and 402 under 48 CFR 9903.201-1(b)(4)(FAR Appendix). Foreign concerns do not include foreign governments or their agents or instrumentalities.

\* \* \* \* \*

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

■ 3. Amend section 52.230-4 by revising the section heading, the clause heading and date, and the first, second, and fourth sentences of 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 (OCT 2008).

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