

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all applicable CAS in effect on the subcontractor's award date or, if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, except that—

(1) If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in 48 CFR 9903.201-4 shall be inserted; and

(2) This requirement shall apply only to negotiated subcontracts in excess of \$500,000 where the price negotiated is not based on—

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(ii) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

(End of clause)

32. Newly designated section 52.230-6 is amended:

(a) By revising the date of the clause to read "(APR 1996)";

(b) In paragraph (a)(1) by removing the phrase "to comply with a new or modified CAS"; and removing the comma after the word "Standards" and inserting in its place "; or subparagraph (a)(3) and subdivisions (a)(4)(i) or (a)(4)(iv) of the clause at FAR 52.230-5, Cost Accounting Standards-Educational Institution;";

(c) In paragraph (a)(2) by adding an "s" to the end of the word "clause" the first time it appears; and adding after the word "Standards," the phrase "and FAR 52.230-5, Cost Accounting Standards-Educational Institution;";

(d) In paragraph (a)(3) by adding after the word "Standards," the phrase "and FAR 52.230-5, Cost Accounting Standards-Educational Institution;";

(e) In the introductory text of paragraph (b) by adding after the word "ACO" the phrase ", or cognizant Federal agency official;";

(f) By revising paragraphs (b)(1) and (b)(2);

(g) In paragraph (b)(3) by adding an "s" at the end of the word "clause" the first time it appears; and adding after the word "Standards," the phrase "and FAR 52.230-5, Cost Accounting Standards-Educational Institution;";

(h) In paragraph (d) by removing "CAS clause" and inserting "clauses" in its place; and adding after the citation "52.230-2," the phrase "and 52.230-5;";

(i) By revising the introductory text of paragraph (e) and the first sentence of paragraph (e)(2)(iv); and

(j) In paragraph (g) by removing "CAS clause," and inserting in its place "clauses at FAR 52.230-2 or 52.230-5,".

The revised text reads as follows:

52.230-6 Administration of Cost Accounting Standards.

* * * * *

ADMINISTRATION OF COST ACCOUNTING STANDARDS (APR 1996)

* * * * *

(b) * * *

(1) Cost impact proposals submitted for changes in cost accounting practices required in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the clause at FAR 52.230-2, Cost Accounting Standards; or subparagraph (a)(3) and subdivisions (a)(4)(i) or (a)(4)(iv) of the clause at FAR 52.230-5, Cost Accounting Standards-Educational Institution; shall identify the applicable standard or cost principle and all contracts and subcontracts containing the clauses entitled Cost Accounting Standards or Cost Accounting Standards-Educational Institution, which have an award date before the effective date of that standard or cost principle.

(2) Cost impact proposals submitted for any change in cost accounting practices proposed in accordance with subdivisions (a)(4) (ii) or (iii) of the clauses at FAR 52.230-2, Cost Accounting Standards, and FAR 52.230-5, Cost Accounting Standards-Educational Institution; or with subparagraph (a)(3) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; shall identify all contracts and subcontracts containing the clauses at FAR 52.230-2, Cost Accounting Standards, FAR 52.230-5, Cost Accounting Standards-Educational Institution, and FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices.

* * * * *

(e) For all subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, or 52.230-5—

* * * * *

(2) * * *

(iv) Any changes the subcontractor has made or proposes to make to cost accounting practices that affect prime contracts or subcontracts containing the clauses at FAR 52.230-2, 52.230-3, or 52.230-5, unless these changes have already been reported.

* * * * *

[FR Doc. 96-10429 Filed 4-26-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 32

[FAC 90-38; FAR Case 94-767; Item III]

RIN 9000-AG91

Federal Acquisition Regulation; Assignment of Claims; Presidential Delegation

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

ACTION: Final rule.

SUMMARY: This final rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355) (FASA) to reflect the Presidential delegation of authority to make determinations of need and to provide guidance for determinations of need made in accordance with the Presidential delegation dated October 3, 1995. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. It is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 28, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. John Galbraith, Finance/Payment Team Leader, at (703) 697-6710, in reference to this case. For general information, contact the FAR Secretariat, Room 4037, 18th & F Streets NW., Washington, DC 20405, (202) 501-4755. Please cite FAC 90-38, FAR Case 94-767 in all correspondence related to this case.

SUPPLEMENTARY INFORMATION:

A. Background

The statutes authorizing assignments of claims under Federal contracts provide authority for the Government to make no-setoff commitments under certain conditions. FASA established a requirement for a determination of need by the President. Implementation was published in the Federal Register, at 60 FR 49729, on September 26, 1995, as FAR Case 94-761. The President, on October 3, 1995, delegated the authority to make determinations of need to the Secretaries of Defense and Energy, the Administrator of General Services, and the heads of all other departments or agencies, subject to such additional guidance as provided by the Administrator of the Office of Federal Procurement Policy. The Administrator of Procurement Policy, in accordance

with the President's delegation, has provided guidance for exercise of the authority delegated by the President to make determinations of need to make no-setoff commitments under contracts containing assignment of claims clauses. Because this guidance is administrative in nature and has no significant impact upon the public, it is being published as a final rule.

B. Regulatory Flexibility Act

As noted above, this rule implements a change in authority for existing policy and procedures in the FAR. This change in authority to be cited does not change the usage of the procedure (the no-setoff commitment) or the impact upon small entities. Thus, this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 601 *et seq.*, (FAC 90-38, FAR Case 94-767) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Part 32

Government procurement.

Dated: April 18, 1996.

Edward C. Loeb,
Deputy Project Manager for the
Implementation of the Federal Acquisition
Streamlining Act of 1994.

Therefore, 48 CFR Part 32 is amended as set forth below:

PART 32—CONTRACT FINANCING

1. The authority citation for 48 CFR Part 32 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 32.803 is amended by revising paragraph (d) to read as follows:

32.803 Policies.

* * * * *

(d) Any contract of a designated agency (see FAR 32.801), except a contract under which full payment has been made, may include a no-setoff commitment only when a determination of need is made by the head of the agency, in accordance with the Presidential delegation of authority dated October 3, 1995, and after such determination has been published in the Federal Register. The Presidential delegation makes such determinations of need subject to further guidance issued by the Office of Federal Procurement Policy. The following guidance has been provided: Use of the no-setoff provision may be appropriate to facilitate the national defense; in the event of a national emergency or natural disaster; or when the use of the no-setoff provision may facilitate private financing of contract performance. However, in the event an offeror is significantly indebted to the United States, the contracting officer should consider whether the inclusion of the no-setoff commitment in a particular contract is in the best interests of the United States. In such an event, the contracting officer should consult with the Government officer(s) responsible for collecting the debt(s).

* * * * *

Section 32.806 is amended by revising paragraph (a)(2) to read as follows:

32.806 Contract clause.

(a) * * *

(2) If a no-setoff commitment has been authorized (see FAR 32.803(d)), the contracting officer shall use the clause with its Alternate I.

* * * * *

[FR Doc. 96-10430 Filed 4-26-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 32 and 52

[FAC 90-38; FAR Case 92-045; Item IV]

RIN 9000-AF44

Federal Acquisition Regulation; Interest Clause; Revisions

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 have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to clarify that certain Cost Accounting

Standards (CAS) clauses provide for the use of differing interest rates under differing circumstances. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. It is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 28, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-38, FAR case 92-045.

SUPPLEMENTARY INFORMATION:

A. Background

Under the CAS clauses at 52.230-2, Cost Accounting Standards, 52.230-3, Disclosure and Consistency of Cost Accounting Practices, and 52.230-4, Consistency in Cost Accounting Practices, interest charges associated with contract price adjustments resulting from CAS noncompliance are computed at the annual interest rate established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621), as required by subsection 5(h)(4) of the Office of Federal Procurement Policy Act Amendments of 1988 (Public Law 100-679). The clauses at 52.230-2 and 52.230-3 also specify that disputes are subject to the Contract Disputes Act which, in contrast, uses the semiannual interest rate established by the Secretary of the Treasury for the Renegotiation Board pursuant to Public Law 92-41. This rule revises FAR 32.610(b)(2), 32.613(h)(3), 32.614-1(c), and the clause at 52.232-17 to clarify that the CAS clauses at 52.230-2 and 52.230-3 provide for the use of differing interest rates under differing circumstances.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subparts will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601 *et seq.* (FAC 90-38, FAR case 92-045), in correspondence.