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contracting activities to support the contention that a contractor is an agent of the Government for the purpose of immunity from a State or local sales or use tax, contracting activities should whenever possible, devise alternative clauses, procedures, and practices for future use which will accomplish their intended purpose without providing the basis for contention that the contractor is an agent of the Government for the purpose of immunity from State and local sales or use taxes. Any referral to the AAG/A for approval under this subpart shall include comments on the extent to which alternative clauses, procedures, or practices may be utilized to accomplish the intended purpose without providing the basis for the contention that the contractor is an agent of the Government for the purpose of immunity from State and local sales or use taxes.

[63 FR 16131, Apr. 2, 1998]

PART 2830—COST ACCOUNTING STANDARDS (CAS) ADMINISTRATION

Subpart 2830.2—CAS Program Requirements

Sec.

2830.201-5 Waiver.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

Subpart 2830.2—CAS Program Requirements

2830.201-5 Waiver

A request for a waiver of the Cost Accounting Standards requirements shall be forwarded to the HCA after the contracting officer has made the determination required by FAR 30.201-5.

[63 FR 16131, Apr. 2, 1998]

PART 2831—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 2831.1—Applicability

Sec.

2831.101 Objectives.

2831.109 Advance agreements.

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Subpart 2831.2—Contracts With Commercial Organizations

2831.205 Selected costs.

2831.205-32 Precontract costs.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16132, Apr. 2, 1998, unless otherwise noted.

Subpart 2831.1—Applicability

2831.101 Objectives.

(a) The PE is the official authorized to grant individual deviations from the cost principles of FAR part 31. All requests for individual deviations must cite the facts and circumstances surrounding the request as well as attempts to negotiate contractor compliance.

(b) Requests for class deviations from the cost principles set forth in FAR part 31 will be forwarded through the PE prior to submission to the Civilian Agency Acquisition Counsel. Requests must contain the information required in paragraph (a) of this section.

2831.109 Advance agreements.

(a) The DOJ and bureau contracting officers are encouraged to negotiate advance agreements concerning the treatment of special or unusual costs to avoid possible subsequent disputes or disallowance of costs based upon unreasonableness or nonallowability. All such agreements shall be negotiated in accordance with FAR 31.109 prior to the contractor incurring such costs. Contracting officers are not authorized to agree to a treatment of costs which would be inconsistent with FAR part 31.

(b) Prior to negotiating an advance agreement, contracting officers shall make a written determination setting forth the reasons and rationale for entering into such agreements. In addition, the determination will set forth the nature, the duration, and which contract or contracts are covered by the proposed agreement. All determinations required by this subpart will be reviewed and approved at a level above the contracting officer prior to negotiation of the proposed agreement. The approved determination will be placed in the contract file.

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(c) All advance agreements shall be in writing and shall set forth the nature, duration, and contract or contracts covered by the agreements. Advance agreements will be signed by both the contractor and the contracting officer, and made a part of the contract file. Copies of executed advance agreements will be distributed to the cognizant audit office when applicable.

(d) All advance agreements will be incorporated in full in the subsequent contract(s) to which they pertain, prior to award.

Subpart 2831.2—Contracts With Commercial Organizations

2831.205 Selected costs.

2831.205-32 Precontract costs.

(a) Precontract cost authorizations shall be used only on cost reimbursement contracts, contain no provisions for payment of fees, and be treated as advance agreements in accordance with the provisions of FAR 31.109 and 2831.109.

(b) The following limitations apply to the execution of precontract cost authorizations.

(1) Contracts which are estimated to be greater than the simplified acquisition threshold may contain a precontract cost authorization providing the authorization is for a period of 60 days or less and the dollar amount does not exceed the lesser of the simplified acquisition threshold or one third of the total estimated costs (including fee if any) of the contract.

(2) the limitation expressed under paragraph (b) of this section may be increased in unusual circumstances as appropriate, with the written approval of the HCA, but in no event shall they exceed one-third of the total estimated costs (including fee if any) of the contract or be for periods of time which exceed 90 days.

PART 2832—CONTRACT FINANCING

Subpart 2832.1—Non-Commercial Item Purchase Financing

Sec.
2832.114 Unusual contract financing.

Subpart 2832.4—Advance Payments for Non-Commercial Items

2832.402 General.
2832.407 Interest.

SUBPART 2832.9—Prompt Payment

2832.903 Policy.

Subpart 2832.11—Electronic Funds Transfer

2832.1110 Solicitation provision and contract clauses.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16132, Apr. 2, 1998, unless otherwise noted.

Subpart 2832.1—Non-Commercial Item Purchase Financing

2832.114 Unusual contract financing.

The HCA, or designee at a level not lower than the BPC, is the official authorized to approve unusual contract financing as set forth in FAR 31.114.

Subpart 2832.4—Advance Payments for Non-Commercial Items

2832.402 General.

(a) The authority to sign written determinations and findings with respect to making advance payments is vested in the HCA.

(b) Prior to awarding a contract which contains provisions for making advanced payments, the contract terms and conditions concerning advance payments must be approved at a level above the contracting officer, with advice and consent of the bureau's legal counsel.

(c) The contracting officer shall coordinate with the activity that is to provide contract financing for advance payments, the bureau's disbursing or finance office, or the Treasury Department, as appropriate, to ensure that all