

Dated: April 17, 1996.
Eleanor R. Spector,
Director, Defense Procurement.

Dated: April 16, 1996.
Ida M. Ustad,
Deputy Associate Administrator, Office of
Acquisition Policy, GSA.

Dated: April 18, 1996.
Deidre A. Lee,
Associate Administrator for Procurement,
National Aeronautics and Space
Administration.
[FR Doc. 96-10427 Filed 4-26-96; 8:45 am]
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48 CFR Part 43

[FAC 90-38; FAR Case 94-723; Item I]
RIN 9000-AG90

Federal Acquisition Regulation; Modification of Existing Contracts

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

ACTION: Interim rule.

SUMMARY: This interim rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994 (FASA) (Public Law 103-355) to amend the Federal Acquisition Regulation (FAR). It implements Section 10002 of FASA which authorizes regulations to provide for modification of existing contracts without requiring consideration, upon request of the contractor, to incorporate changes authorized by FASA. 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.

DATES: *Effective Date:* April 29, 1996.
Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before June 28, 1996 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4037, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90-38, FAR case 94-723, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Al Winston at (703) 602-2119 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 94-723.

SUPPLEMENTARY INFORMATION:

A. Background

Section 10002 of FASA states that regulations implementing FASA may provide for modification of existing contracts without consideration, upon request of the contractor, to incorporate changes authorized by FASA. Section 10002 also states that nothing in FASA requires the renegotiation or modification of existing contracts to incorporate changes authorized by FASA. The interim rule adopts the policy of encouraging, but not requiring, appropriate modifications without consideration, upon the request of the contractor. If the contracting officer determines that modification of an existing contract is appropriate to incorporate changes authorized by FASA, the modification should insert the current version of the applicable FAR clauses.

B. Regulatory Flexibility Act

The changes may 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 it will require contractors seeking to amend existing contracts to so notify the contracting officer. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. 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 94-723), 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.*

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 compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because immediate implementation as an interim rule will provide significant benefits to industry and the Government. Section 10002 of FASA, authorizes contracting officers, if requested by the prime contractor to modify contracts without requiring consideration, to incorporate changes authorized by FASA. The regulatory implementation of FASA has been a success for both industry and the Government. Implementation of FASA Section 10002 as an interim rule will enable industry and the Government to gain immediate benefits, including the potential reduction of procurement costs. The interim rule authorizes the adoption of any of the FASA rules that will benefit the contracting parties. The interim rule should involve no substantial risk to industry, since contractors must affirmatively request adoption of the FASA rules to an existing contract. It has been through the process of the consideration and adoption of the FAR rules to implement FASA, that the potential benefits from this interim rule became apparent. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formulation of the final rule.

List of Subjects in 48 CFR Part 43

Government procurement.

Dated: April 18, 1996.

Edward C. Loeb,

Deputy Project Manager for Implementation of the Federal Acquisition Streamlining Act of 1994.

Therefore, 48 CFR Part 43 is amended as set forth below:

PART 43—CONTRACT MODIFICATIONS

1. The authority citation for 48 CFR Part 43 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 43.102 is amended by adding paragraph (c) to read as follows:

43.102 Policy.

* * * * *

(c) The Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (FASA), authorizes, but does not require, contracting officers, if requested by the prime contractor, to

modify contracts without requiring consideration to incorporate changes authorized by FASA amendments into existing contracts. Contracting officers are encouraged, if appropriate, to modify contracts without requiring consideration to incorporate these new policies. The contract modification should be accomplished by inserting into the contract, as a minimum, the current version of the applicable FAR clauses.

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48 CFR Parts 1, 30, 42, and 52

[FAC 90-38; FAR Case 95-002; Item II]

RIN 9000-AG71

Federal Acquisition Regulation; Application of Cost Accounting Standards Board Regulations to Educational Institutions

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 to amend the Federal Acquisition Regulation (FAR) to implement changes made to the Cost Accounting Standards (CAS). The final rule applies to educational institutions receiving a negotiated Federal contract or subcontract award in excess of \$500,000 (excluding contracts awarded for the operation of Federally Funded Research and Development Centers (FFRDCs) which are already subject to CAS Board regulations), and requires that such educational institutions comply with certain specified CAS Board rules, regulations and standards. The revisions to the FAR are based on the CAS Board's amendments to 48 CFR Chapter 99. 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: April 29, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy 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 95-002.

SUPPLEMENTARY INFORMATION:

A. Background

The Office of Federal Procurement Policy, Cost Accounting Standards Board (CASB), has amended the regulatory provisions contained at 48 CFR Chapter 99. The amendments apply to educational institutions receiving a negotiated Federal contract or subcontract award in excess of \$500,000 (excluding contracts awarded for the operation of Federally Funded Research and Development Centers (FFRDCs) which are already subject to CASB regulations) and require that such educational institutions comply with certain specified CASB rules, regulations, and Cost Accounting Standards (CAS). The CAS final rule was published in the Federal Register on November 8, 1994, at 59 FR 55746, and became effective on January 9, 1995, and is authorized pursuant to section 26 of the Office of Federal Procurement Policy Act. The Board has taken action on this topic in order to promote uniformity and consistency in educational institutions' cost accounting practices.

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 comment is not required because the requirements for the regulation were published by the CASB and codified at 48 CFR Chapter 99. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subparts 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 95-002).

C. Paperwork Reduction Act

The information collection aspects of this rule have been approved by the Office of Management and Budget and assigned Control Number 0348-0055.

D. Public Comments

Public comments are not necessary because the policies and procedures contained in this regulation have already been publicized in the Federal Register by the Office of Federal Procurement Policy Cost Accounting Standards Board's Notice of Proposed Rulemaking made available for public comment in the Federal Register, at 57 FR 60503, on December 21, 1992.

List of Subjects in 48 CFR Parts 1, 30, 42, and 52

Government procurement.

Dated: April 18, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 1, 30, 42, and 52 are amended as set forth below:

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1. The authority citation for 48 CFR Parts 1, 30, 42, and 52 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).

1.106 [Amended]

2. Section 1.106 is amended in the FAR segment column by removing "52.230-5" and inserting "52.230-6" in its place.

PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

30.000 [Amended]

3. Section 30.000 is amended by removing "(appendix B, FAR loose-leaf edition)" and inserting "(FAR appendix B)" in its place, and by removing "(see 48 CFR chapter 99 (appendix B, FAR loose-leaf edition), Subpart 9903.201-1(b)," and inserting "(see 48 CFR 9903.201-1(b) (FAR appendix B))" in its place.

30.201 [Amended]

4. Section 30.201 is amended in the first sentence by removing "48 CFR chapter 99 (appendix B, FAR loose-leaf edition), Subpart 9903.201-1," and inserting "48 CFR 9903.201-1 (FAR appendix B)" in its place, in the second sentence by removing "subpart" and inserting "48 CFR" in its place, and in the last sentence by removing "48 CFR chapter 99 (appendix B, FAR loose-leaf edition), Subpart 9903.201-2." and inserting "48 CFR 9903.201-2 (FAR appendix B)." in its place.

5. Section 30.201-1 is revised to read as follows:

30.201-1 CAS applicability.

See 48 CFR 9903.201-1 (FAR appendix B).

6. Section 30.201-2 is revised to read as follows:

30.201-2 Types of CAS coverage.

See 48 CFR 9903.201-2 (FAR appendix B).

7. Section 30.201-3 is revised to read as follows: