

**52.246-17 Warranty of Supplies of a Noncomplex Nature.**

As prescribed in 46.710(a)(1), insert a clause substantially as follows:

## WARRANTY OF SUPPLIES OF A NONCOMPLEX NATURE (MAR 2001)

(a) *Definitions.* As used in this clause—  
*Acceptance* means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the contract.

*Supplies* means the end items furnished by the Contractor and related services required under this contract. The word does not include “data.”

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134. Amend section 52.246-18 by revising the introductory paragraph, the date of the clause, and paragraph (a) of the clause to read as follows:

**52.246-18 Warranty of Supplies of a Complex Nature.**

As prescribed in 46.710(b)(1), insert a clause substantially as follows:

## WARRANTY OF SUPPLIES OF A COMPLEX NATURE (MAR 2001)

(a) *Definitions.* As used in this clause—  
*Acceptance* means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services rendered, as partial or complete performance of the contract.

*Supplies* means the end items furnished by the Contractor and related services required under this contract. The word does not include “data.”

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135. Amend section 52.246-19 by revising the introductory paragraph, the date of the clause, and paragraph (a) of the clause to read as follows:

**52.246-19 Warranty of Systems and Equipment under Performance Specifications or Design Criteria.**

As prescribed in 46.710(c)(1), the contracting officer may insert a clause substantially as follows:

## WARRANTY OF SYSTEMS AND EQUIPMENT UNDER PERFORMANCE SPECIFICATIONS OR DESIGN CRITERIA (MAR 2001)

(a) *Definitions.* As used in this clause—  
*Acceptance* means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services rendered, as partial or complete performance of the contract.

*Defect* means any condition or characteristic in any supplies or services furnished by the Contractor under the contract that is not in compliance with the requirements of the contract.

*Supplies* means the end items furnished by the Contractor and related services required

under this contract. Except when this contract includes the clause entitled Warranty of Data, supplies also mean “data.”

\* \* \* \* \*

136. Amend section 52.246-20 by revising the introductory paragraph and the date of the clause; and in paragraph (a) of the clause by removing the paragraph heading “Definitions” and adding “Definition” in its place; and by removing the definition “Correction”. The revised text reads as follows:

**52.246-20 Warranty of Services.**

As prescribed in 46.710(d), insert a clause substantially as follows:

## WARRANTY OF SERVICES (MAR 2001)

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## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

## 48 CFR Parts 30 and 52

[FAC 97-22; FAR Case 2000-301; Item II]

RIN 9000-A179

**Federal Acquisition Regulation; Applicability, Thresholds and Waiver of Cost Accounting Standards Coverage**

**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 on a final rule amending the Federal Acquisition Regulation (FAR) to implement Section 802 of the National Defense Authorization Act for Fiscal Year 2000 and the Cost Accounting Standards (CAS) Board’s final rule, Applicability, Thresholds and Waiver of Cost Accounting Standards Coverage. The FAR rule revises CAS applicability requirements, dollar thresholds, and waiver requirements.

**DATES:** *Effective Date:* January 10, 2001.  
**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at

(202) 501-1900. Please cite FAC 97-22, FAR case 2000-301.

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

Section 802 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106-65)—

- Revised, at 41 U.S.C. 422(f)(2)(B), the categories of contracts and subcontracts that are exempt from all CAS requirements;
- Required the Administrator for Federal Procurement Policy to revise the rules and procedures issued under 41 U.S.C. 422(f) to increase the dollar threshold for full CAS coverage from \$25 million to \$50 million; and
- Revised 41 U.S.C. 422(f) to permit the head of an executive agency to waive the applicability of CAS under certain conditions.

In response to Public Law 106-65, the CAS Board in the Office of Federal Procurement Policy published an interim rule in the **Federal Register** on February 7, 2000 (65 FR 5990). The CAS Board rule, Applicability, Thresholds and Waiver of Cost Accounting Standards Coverage, amended the regulations at 48 CFR part 9903 to implement Section 802. After analysis of public comments, the CAS Board converted its interim rule to a final rule, with no change, and published the final rule in the **Federal Register** on June 9, 2000 (65 FR 36768).

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 65 FR 36028, June 6, 2000. One respondent submitted public comments on the interim rule. The Councils considered all comments before agreeing to convert the interim rule to a final rule without change.

This FAR rule—

- Amends the provision at FAR 52.230-1, Cost Accounting Standards Notices and Certification, to remove the requirement that a contractor or subcontractor must have received at least one CAS-covered contract exceeding \$1 million (“trigger contract”) to be subject to “full CAS coverage,” since the CAS Board removed this “trigger contract” amount from its corresponding solicitation provision, Cost Accounting Standards Notices and Certification, at 48 CFR 9903.201-3. The CAS Board added a new “trigger contract” dollar amount of \$7.5 million at paragraph (b)(7) of 48 CFR 9903.201-1, CAS applicability, which is already referenced at FAR 30.201-1;
- Revises FAR 30.201-4(b)(1), Disclosure and consistency of cost accounting practices, and amends the provision at FAR 52.230-1 to reflect changes made by the CAS Board to

increase the dollar threshold for full CAS coverage from \$25 million to \$50 million; and

- Revises the CAS waiver procedures and conditions at FAR 30.201–5, as required by Section 802 of Pub. L. 106–65.

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 contracts and subcontracts with small businesses are exempt from all CAS requirements in accordance with 48 CFR 9903.201–1(b)(3).

### 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: December 22, 2000.

**Al Matera,**

*Acting Director, Federal Acquisition Policy Division*

### Interim Rule Adopted as Final Without Change

Accordingly, DoD, GSA, and NASA adopt the interim rule amending 48 CFR parts 30 and 52, which was published in the **Federal Register** at 65 FR 36028, June 6, 2000, as a final rule without change.

**Authority:** 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).  
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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 32 and 52

[FAC 97–22; FAR Case 1999–016; Item III]

RIN 9000–AI74

#### Federal Acquisition Regulation; Advance Payments for Non-Commercial Items

**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 on a final rule amending the Federal Acquisition Regulation (FAR) to permit federally insured credit unions to participate in the maintenance of special accounts for advance payments.

**DATE:** Effective Date: March 12, 2001.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson, at (202) 501–4755. Please cite FAC 97–22, FAR case 1999–016.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Prior to publication of this final FAR rule, FAR Subpart 32.4, Advance Payments for Non-Commercial Items, required, unless exempted by FAR 32.409–3(e) or (f), that contractors deposit advance payments in special accounts separate from their general or other funds. FAR 32.411 and other FAR text excluded credit unions from participating in the maintenance of these special accounts by requiring that contractors establish these special accounts only at banks that are members of the Federal Reserve System (FRS) or insured by the Federal Deposit Insurance Corporation (FDIC). However, many credit unions are federally insured through the National Credit Union Administration (NCUA). Therefore, these credit unions also are able to provide the Government a measure of security for Federal funds advanced to contractors.

This final rule amends FAR Subpart 32.4 and FAR 52.232–12 to change

certain terminology (*e.g.*, change the word “bank” to “financial institution”) to provide contractors an additional option of depositing advance payments in special accounts maintained by credit unions that are federally insured by NCUA. This revision will foster competition among financial institutions that are in the business of providing special accounts for advance payment funds, without increasing the risk to the Government.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 65 FR 25614, May 2, 2000. Two respondents submitted public comments on the proposed rule. The Councils considered all comments before agreeing to convert the proposed rule to a final rule 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 only applies to the very limited number of contractors that receive advance payments and deposit these payments in special accounts.

### 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 32 and 52

Government procurement.

Dated: December 22, 2000.

**Al Matera,**

*Acting Director, Federal Acquisition Policy Division*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 32 and 52 as set forth below:

1. The authority citation for 48 CFR parts 32 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).