

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: June 15, 2011

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011-17451 Filed 7-11-11; 8:45 am]

BILLING CODE 9110-12-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WC Docket No. 07-245, GN Docket No. 09-51; FCC 11-50]

Implementation of Section 224 of the Act; A National Broadband Plan for Our Future

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Federal Communications Commission published a document in the Federal Register that contained new information collection requirements. The Office of Management and Budget (OMB) gave approval for these information requirements contained in the Commission's Report and Order and Order on Reconsideration, Implementation of Section 224 of the Act; A National Broadband Plan for Our Future.

DATES: The final rules published at 76 FR 26620, May 9, 2011, including 47 CFR 1.1420, 1.1422, and 1.1424, are effective on July 12, 2011.

FOR FURTHER INFORMATION CONTACT: Jonathan Reel, Competition Policy Division, Wireline Competition Bureau, at (202) 418-0637, or via the Internet at Jonathan.Reel@fcc.gov.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission has received OMB approval for the rules contained in information collection OMB Control No: 3060-1151, Pole Attachment Access Rules. The information collection was adopted in the Report and Order and Order on Reconsideration, Implementation of Section 224 of the Act; A National Broadband Plan for Our Future in WC Docket No. 07-245, GN Docket No. 09-51, which appears at 76 FR 26620, May 9, 2011. The effective date of the rules adopted in that Order was published as June 8, 2011, except for 47 CFR 1.1420, 1.1422 and 1.1424, which contain information collection requirements that would not be effective until approved

by the Office of Management and Budget. Through this document, the Commission announces that it has received this approval (OMB Control No. 3060-1151, *Expiration Date:* December 31, 2011), and that 47 CFR 1.1420, 1.1422, and 1.1424 are effective on July 12, 2011.

Pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13, an agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Cathy Williams, Federal Communications Commission, (202) 418-2918, or via the Internet at Cathy.Williams@fcc.gov.

Federal Communications Commission.

Bulah P. Wheeler,
Deputy Manager.

[FR Doc. 2011-17369 Filed 7-11-11; 8:45 am]

BILLING CODE 6712-01-P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Parts 9901 and 9903

Cost Accounting Standards: Change to the CAS Applicability Threshold for the Inflation Adjustment to the Truth in Negotiations Act Threshold

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (OMB).

ACTION: Interim rule.

SUMMARY: The Office of Federal Procurement Policy (OFPP), Cost Accounting Standards (CAS) Board (Board), invites public comments concerning this interim rule revising the threshold for the application of CAS from "\$650,000" to "the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation." The change is being made because the CAS applicability threshold is statutorily tied to TINA. The TINA threshold for obtaining cost or pricing data was recently adjusted for inflation to \$700,000 in the Federal Acquisition Regulation (FAR), as required by the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.

Until this interim change, the CAS applicability threshold was a stated dollar amount (\$650,000) in the Code of Federal Regulations. This wording change will effectively revise the CAS threshold to \$700,000 and cause future changes to the CAS applicability threshold to self-execute upon any changes to the TINA threshold as they are implemented in the FAR.

DATES: *Effective date:* August 11, 2011.

Comment date: Comments must be in writing and must be received by September 12, 2011.

ADDRESSES: All comments to this interim rule must be in writing. Electronic comments may be submitted in any one of three ways:

1. *Federal eRulemaking Portal:* Comments may be directly sent via <http://www.regulations.gov>—a Federal E-Government Web site that allows the public to find, review, and submit comments on documents that agencies have published in the **Federal Register** and that are open for comment. Simply type "CAS-TINA Threshold" (without quotation marks) in the Comment or Submission search box, click Go, and follow the instructions for submitting comments;

2. *E-mail:* Comments may be included in an e-mail message sent to casb2@omb.eop.gov. The comments may be submitted in the text of the e-mail message or as an attachment;

3. *Facsimile:* Comments may also be submitted via facsimile to (202) 395-5105; or

4. *Mail:* If you choose to submit your responses via regular mail, please mail them to: Office of Federal Procurement Policy, 725 17th Street, NW., Room 9013, Washington, DC 20503, ATTN: Raymond J. M. Wong. Due to delays caused by the screening and processing of mail, respondents are strongly encouraged to submit responses electronically.

Be sure to include your name, title, organization, postal address, telephone number, and e-mail address in the text of your public comment and reference "CAS-TINA Threshold" in the subject line irrespective of how you submit your comments. Comments received by the date specified above will be included as part of the official record. Comments delayed due to use of regular mail may not be considered.

Please note that all public comments received will be available in their entirety at http://www.whitehouse.gov/omb/casb_index_public_comments/ and <http://www.regulations.gov> after the close of the comment period. Do not include any information whose disclosure you would object to.

FOR FURTHER INFORMATION CONTACT:

Raymond J. M. Wong, Director, Cost Accounting Standards Board (telephone: 202-395-6805; e-mail: Raymond_wong@omb.eop.gov).

SUPPLEMENTARY INFORMATION:**A. Regulatory Process**

Rules, Regulations and Standards issued by the Cost Accounting Standards Board (Board) are codified at 48 CFR chapter 99. The Office of Federal Procurement Policy (OFPP) Act, at 41 U.S.C. 1502(c) [formerly, 41 U.S.C. 422(g)], requires that the Board, prior to the establishment of any new or revised Cost Accounting Standard (CAS or Standard), complete a prescribed rulemaking process. The process generally consists of the following four steps:

1. Consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of Government contracts as a result of the adoption of a proposed Standard.
2. Promulgate an Advance Notice of Proposed Rulemaking (ANPRM).
3. Promulgate a Notice of Proposed Rulemaking (NPRM).
4. Promulgate a Final Rule.

The Board notes that the CAS applicability threshold in 48 CFR Chapter 99 (at 48 CFR 9901.306; 9903.201-1, .201-2, 201-3, and 201-4; and 9903.202-1) is not subject to the four-step process required by 41 U.S.C. 1502(c) [formerly, 41 U.S.C. 422(g)(1)] because it is not a Cost Accounting Standard. However, the Board elects to follow some of those requirements in the OFPP Act, at 41 U.S.C. 1502(c) [formerly, 41 U.S.C. 422(g)(1)], i.e., to consult with interested persons concerning the advantages, disadvantages, and improvements anticipated in the pricing and administration of Government contracts as a result of the adoption of any new or revised rule on the CAS applicability threshold, prior to its promulgation.

B. Background and Summary

The Office of Federal Procurement Policy (OFPP), Cost Accounting Standards Board (Board), is today releasing this interim rule to revise the Cost Accounting Standards (CAS) applicability threshold in 48 CFR chapter 99 from “\$650,000” to “the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908) and (41 U.S.C. 1502(b)(1)(B))”, because of a revision to the Truth in Negotiations Act (TINA) threshold for the submission of cost or

pricing data as adjusted for inflation by section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375) as incorporated into Federal Acquisition Regulation (FAR) 15.403-4(a)(1) by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council on August 30, 2010 (at 75 FR 53129). By revising the CAS applicability threshold so that it directly references the FAR TINA threshold for the submission of cost or pricing data (rather than referencing a stated dollar amount), any future changes to the FAR TINA threshold will automatically apply to the CAS applicability threshold (thereby eliminating the need to revise this regulation to specify a different dollar amount).

Statutory Requirement for Inflation Adjustment of TINA Thresholds

Section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375) requires a periodic adjustment for inflation every five years to the acquisition related thresholds using the Consumer Price Index (CPI) for all urban consumers, except for the Davis-Bacon Act, Service Contract Act, and trade agreement thresholds. The threshold in TINA (10 U.S.C. 2306a(a)(1)(A)(i)) for the submission of cost or pricing data is one of the acquisition related thresholds adjusted for inflation by section 807. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) published a final rule in the **Federal Register** on August 30, 2010 (75 FR 53129) amending the FAR to implement section 807, including the TINA threshold at FAR 15.403-4, Requiring cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 3502 [formerly, 41 U.S.C. 254b]). This FAR final rule was effective October 1, 2010, and revised the TINA threshold from \$650,000 to \$700,000.

Statutory Requirement for Threshold for CAS Applicability

Section 26(f)(2)(A) of the OFPP Act (41 U.S.C. 1502(b)(1)(B) [formerly, 41 U.S.C. 422(f)(2)(A)]) addresses the CAS applicability threshold. Section 822 of the 2006 National Defense Authorization Act (Pub. L. 109-163) amended 41 U.S.C. 1502(b)(1)(B) [formerly, 41 U.S.C. 422(f)(2)(A)] to tie the statutory CAS threshold to the threshold for compliance with the TINA requirement to submit cost or pricing data, as set forth in section 2306a(a)(1)(A)(i) of title 10, United States Code. The recent changes to the TINA threshold described above require identical changes to the CAS

applicability threshold (i.e., from \$650,000 to \$700,000). To date, the CAS applicability threshold has been identified in the CAS Board rules as a stated dollar amount. To avoid repeated rulemakings in the future that would update the stated dollar amount, in order to keep the CAS applicability threshold tied to the TINA threshold, the Board is revising the CAS applicability threshold from a stated dollar amount (which has been “\$650,000”) to “the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)).” This revision makes any future changes to the CAS applicability threshold self-executing upon any changes that the FAR makes to the TINA threshold. Thus, because the FAR’s TINA threshold is now \$700,000, the CAS applicability threshold under this interim rule will be \$700,000.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35, Subtitle I) does not apply to this rulemaking because this rule imposes no additional paperwork burden on offerors, affected contractors and subcontractors, or members of the public which requires the approval of OMB under 44 U.S.C. 3501, *et seq.* The records required by this interim rule are those normally maintained by contractors and subcontractors who claim reimbursement of costs under government contracts.

D. Executive Order 12866, the Congressional Review Act, and the Regulatory Flexibility Act

Because the affected contractors and subcontractors are those who are already subject to CAS but for the increase in the CAS applicability threshold, the economic impact of this interim rule on contractors and subcontractors is expected to be minor. As a result, the Board has determined that this interim rule will not result in the promulgation of an “economically significant rule” under the provisions of Executive Order 12866, and that a regulatory impact analysis will not be required. For the same reason, the Administrator of the Office of Information and Regulatory Affairs has determined that this interim rule is not a “major rule” under the Congressional Review Act, 5 U.S.C. Chapter 8. Finally, this interim rule does not have a significant effect on a substantial number of small entities because small businesses are exempt from the application of the Cost Accounting Standards. Therefore, this interim rule

does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980, 5 U.S.C. chapter 6.

E. Public Comments to This Interim Rulemaking

Interested persons are invited to provide input to this interim rule to revise the CAS applicability threshold from “\$650,000” to “the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B))” as a result of the periodic statutory adjustment of the TINA threshold for inflation. Respondents are encouraged to identify, comment and provide information on any issues that they believe are important to the subject. All comments must be in writing, and submitted via facsimile, by e-mail, or by any other means as instructed in the ADDRESSES section.

List of Subjects in 48 CFR Parts 9901 and 9903

Government procurement, cost accounting standards.

Daniel I. Gordon,

Chair, Cost Accounting Standards Boards.

For the reasons set forth in this preamble, Chapter 99 of Title 48 of the Code of Federal Regulations is amended as set forth below:

PART 9901—RULES AND PROCEDURES

■ 1. The authority citation for Part 9901 continues to read as follows:

Authority: Pub. L. 111–350, 124 Stat. 3677, 41 U.S.C. 1502.

■ 2. Revise section 9901.306 to read as follows:

9901.306 Standards applicability.

Cost Accounting Standards promulgated by the Board shall be mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing and administration of, and settlement of disputes concerning, all negotiated prime contract and subcontract procurements with the United States Government in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), other than contracts or subcontracts that have been exempted by the Board’s regulations.

PART 9903—CONTRACT COVERAGE

■ 3. The authority citation for Part 9903 continues to read as follows:

Authority: Pub. L. 111–350, 124 Stat. 3677, 41 U.S.C. 1502.

Subpart 9903.2—CAS Program Requirements

■ 4. Section 9903.201–1 is amended by revising paragraph (b)(2) to read as follows:

9903.201–1 CAS applicability.

* * * * *

(b) * * *

(2) Negotiated contracts and subcontracts not in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)). For purposes of this paragraph (b)(2), an order issued by one segment to another segment shall be treated as a subcontract.

* * * * *

■ 5. Section 9903.201–2 is amended by revising paragraphs (c)(3) and (5) to read as follows:

9903.201–2 Types of CAS coverage.

* * * * *

(c) * * *

(3) *Applicable standards.* Coverage for educational institutions requires that the business unit comply with all of the CAS specified in part 9905 that are in effect on the date of the contract award and with any CAS that become applicable because of later award of a CAS-covered contract. This coverage applies to business units that receive negotiated contracts in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), except for CAS-covered contracts awarded to FFRDCs operated by an educational institution.

* * * * *

(5) *Contract clauses.* The contract clause at 9903.201–4(e) shall be incorporated in each negotiated contract and subcontract awarded to an educational institution when the negotiated contract or subcontract price exceeds the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)). For CAS-covered contracts awarded to an FFRDC operated by an educational institution, however, the full or modified CAS contract clause specified at 9903.201–4(a) or (c), as applicable, shall be incorporated.

* * * * *

■ 6. Section 9903.201–3 is amended in paragraph (a)(2) under the provision heading, “Cost Accounting Standards Notices and Certification”, by revising

the provision date and paragraph (a) of Part I of the provision to read as follows:

9903.201–3 Solicitation provisions.

* * * * *

Cost Accounting Standards Notices and Certification (JUL 2011)

* * * * *

I. Disclosure Statement—Cost Accounting Practices and Certification

(a) Any contract in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), resulting from this solicitation, except for those contracts which are exempt as specified in 9903.201–1.

* * * * *

- 7. Section 9903.201–4 is amended:
 - a. In paragraph (a)(2) under the clause heading, “Cost Accounting Standards”, by revising the clause date and paragraph (d) of the clause.
 - b. By revising paragraph (c)(1); and in paragraph (c)(2) under the clause heading “Disclosure and Consistency of Cost Accounting Practices”, by revising the clause date and paragraph (d)(2) of the clause.
 - c. In paragraph (e)(2) under the clause heading, “Cost Accounting Standards—Educational Institutions”, by revising the clause date and paragraph (d)(2) of the clause; and in paragraph (f)(2) under the clause heading, “Cost Accounting Practices—Foreign Concerns”, by revising the clause date and paragraph (d)(2) of the clause.

9903.201–4 Contract clauses.

- (a) * * *
- (2) * * *

Cost Accounting Standards (JUL 2011)

* * * * *

(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 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. If the subcontract is awarded to a business unit which pursuant to 9903.201–2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in 9903.201–4 shall be inserted. This requirement shall apply only to negotiated subcontracts in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 9903.201–1.

(End of clause)

* * * * *

(c) Disclosure and Consistency of Cost Accounting Practices. (1) The contracting officer shall insert the clause set forth below, Disclosure and Consistency of Cost Accounting Practices, in negotiated contracts when the contract amount is over the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), but less than \$50 million, and the offeror certifies it is eligible for and elects to use modified CAS coverage (see 9903.201-2, unless the clause prescribed in paragraph (d) of this subsection is used).

(2) * * *

Disclosure and Consistency of Cost Accounting Practices (JUL 2011)

* * * * *

(d) * * *

(2) This requirement shall apply only to negotiated subcontracts in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)).

* * * * *

(End of clause)

* * * * *

(e) * * *

(2) * * *

Cost Accounting Standards—Education Institutions (JUL 2011)

* * * * *

(d) * * *

(2) This requirement shall apply only to negotiated subcontracts in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)).

* * * * *

(End of clause)

(f) * * *

(2) * * *

Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns (JUL 2011)

* * * * *

(d) * * *

(2) This requirement shall apply only to negotiated subcontracts in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)).

* * * * *

(End of clause)

* * * * *

■ 8. Section 9903.202-1 is amended by revising paragraphs (c) introductory text, (f)(2)(i), and (f)(3)(i) through (iii) to read as follows:

§ 9903.202-1 General requirements.

* * * * *

(c) When a Disclosure Statement is required, a separate Disclosure Statement must be submitted for each segment whose costs included in the total price of any CAS-covered contract or subcontract exceed the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)) unless

* * * * *

(f) * * *

(2) * * *

(i) Any business unit of an educational institution that is selected to receive a CAS-covered contract or subcontract in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), and is part of a college or university location listed in Exhibit A of Office of Management and Budget (OMB) Circular A-21 shall submit a Disclosure Statement before award. A Disclosure Statement is not required; however, if the listed entity can demonstrate that the net amount of Federal contract and financial assistance awards received during its immediately preceding cost accounting period was less than \$25 million.

* * * * *

(3) * * *

(i) For business units that are selected to receive a CAS-covered contract or subcontract in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), and are part of the first 20 college or university locations (i.e., numbers 1 through 20) listed in Exhibit A of OMB Circular A-21, Disclosure Statements shall be submitted within six months after the date of contract award.

(ii) For business units that are selected to receive a CAS-covered contract or subcontract in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), and are part of a college or university location that is listed as one of the institutions numbered 21 through 50, in Exhibit A of OMB Circular A-21, Disclosure Statements shall be submitted during the six month period ending twelve months after the date of contract award.

(iii) For business units that are selected to receive a CAS-covered contract or subcontract in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)), and are part of a college or university location that is listed as one of the institutions numbered 51 through 99, in Exhibit A of OMB

Circular A-21, Disclosure Statements shall be submitted during the six month period ending eighteen months after the date of contract award.

* * * * *

[FR Doc. 2011-16846 Filed 7-11-11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 190

[Docket No. PHMSA-2011-0161]

Pipeline Safety; Enforcement Proceedings Involving an Informal Hearing

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: General policy statement; informal hearing process.

SUMMARY: PHMSA is issuing this document to notify operators of natural gas and hazardous liquid pipeline facilities of the creation of a dedicated "Presiding Official" for informal pipeline enforcement hearings and the process operators can expect when requesting an informal hearing. Hearings in pipeline safety enforcement cases are conducted by a hearing officer in accordance with certain procedures designed to ensure a fair and impartial decision on the merits. This document explains those procedures and includes a description of the dedicated hearing officer's roles and responsibilities, the process for requesting a hearing, and the manner in which a case will proceed once a hearing has been requested.

FOR FURTHER INFORMATION CONTACT: Sherri Pappas, Deputy Chief Counsel, at 202-366-4400. Information about PHMSA may be found at http://phmsa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal safety statute and regulations for natural gas and hazardous liquid pipeline facilities provide a description of the enforcement authority and sanctions exercised by the Associate Administrator for achieving and maintaining pipeline safety. Pursuant to chapter 601 of Title 49, United States Code, after notice and an opportunity for a hearing, the Associate Administrator may order an operator of a pipeline facility to take necessary corrective action, including revisions to