

prior to January 1, 1996, and award is made prior to the established disclosure statement due date.

[57 FR 14153, Apr. 17, 1992; 57 FR 34167, Aug. 3, 1992, as amended at 58 FR 58802, Nov. 4, 1993; 59 FR 55756, Nov. 8, 1994; 65 FR 36770, June 9, 2000]

**9903.202-2 Impracticality of submission.**

The agency head may determine that it is impractical to secure the Disclosure Statement, although submission is required, and authorize contract award without obtaining the Statement. He shall, within 30 days of having done so, submit a report to the Cost Accounting Standards Board setting forth all material facts. This authority may not be delegated.

**9903.202-3 Amendments and revisions.**

Contractors and subcontractors are responsible for maintaining accurate Disclosure Statements and complying with disclosed practices. Amendments and revisions to Disclosure Statements may be submitted at any time and may be proposed by either the contractor or the Government. Resubmission of complete, updated, Disclosure Statements is discouraged except when extensive changes require it to assist the review process.

**9903.202-4 Privileged and confidential information.**

If the offeror or contractor notifies the contracting officer that the Disclosure Statement contains trade secrets and commercial or financial information, which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside the Government.

**9903.202-5 Filing Disclosure Statements.**

(a) Disclosure must be on Form Number CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant Federal agency (cognizant ACO or cognizant Federal agency official authorized to act in that capacity) or from the looseleaf version of the Federal Acquisition Regulation. When requested in advance by a contractor, the cognizant Federal agency may authorize contractor disclosure based on

computer generated reproductions of the applicable Disclosure Statement Form.

(b) Offerors are required to file Disclosure Statements as follows:

(1) Original and one copy with the cognizant ACO or cognizant Federal agency official acting in that capacity, as applicable; and

(2) One copy with the cognizant Federal auditor.

(c) Amendments and revisions shall be submitted to the ACO or agency official acting in that capacity, as applicable, and the Federal auditor of the currently cognizant Federal agency.

[59 FR 55757, Nov. 8, 1994]

**9903.202-6 Adequacy of Disclosure Statement.**

Federal agencies shall prescribe regulations and establish internal procedures by which each will promptly determine on behalf of the Government, when serving as the cognizant Federal agency for a particular contractor location, that a Disclosure Statement has adequately disclosed the practices required to be disclosed by the Cost Accounting Standards Board's rules, regulations and Standards. The determination of adequacy shall be distributed to all affected agencies. Agencies are urged to coordinate on the development of such regulations.

[59 FR 55757, Nov. 8, 1994]

**9903.202-7 [Reserved]**

**9903.202-8 Subcontractor Disclosure Statements.**

(a) The contractor or higher tier subcontractor is responsible for administering the CAS requirements contained in subcontracts.

(b) If the subcontractor has previously furnished a Disclosure Statement to an ACO, the subcontractor may satisfy the submission requirement by identifying to the contractor or higher tier subcontractor the ACO to whom it was submitted.

(c)(1) If the subcontractor considers the Disclosure Statement (or other similar information) privileged or confidential, the subcontractor may submit it directly to the ACO and auditor

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cognizant of the subcontractor, notifying the contractor or higher tier subcontractor. A preaward determination of adequacy is not required in such cases. Instead, the ACO cognizant of the subcontractor shall

(i) Notify the auditor that the adequacy review will be performed during the postaward compliance review and, upon completion,

(ii) Notify the subcontractor, the contractor or higher tier subcontractor, and the cognizant ACOs of the findings.

(2) Even though a Disclosure Statement is not required, a subcontractor may

(i) Claim that CAS-related reviews by contractors or higher tier subcontractors would reveal proprietary data or jeopardize the subcontractor's competitive position and

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(ii) Request that the Government perform the required reviews.

(d) When the Government requires determinations of adequacy or inadequacy, the ACO cognizant of the subcontractor shall make such recommendation to the ACO cognizant of the prime contractor or next higher tier subcontractor. ACOs cognizant of higher tier subcontractors or prime contractors shall not reverse the determination of the ACO cognizant of the subcontractor.

**9903.202-9 Illustration of Disclosure Statement Form, CASB-DS-1.**

The data which are required to be disclosed are set forth in detail in the Disclosure Statement Form, CASB-DS-1, which is illustrated below: