

Federal Acquisition Regulation

29.402-2

leasing property. *Services* includes activities performed by a person for its members of shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. *Services* also includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. Such tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. However, sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property.

(b) *Contract clause.* The contracting officer shall insert the clause at 52.229-10, State of New Mexico Gross Receipts and Compensating Tax, in solicitations and contracts issued by the agencies identified in paragraph (c) of this subsection when all three of the following conditions exist:

(1) The contractor will be performing a cost-reimbursement contract.

(2) The contract directs or authorizes the contractor to acquire tangible personal property as a direct cost under a contract and title to such property passes directly to and vests in the United States upon delivery of the property by the vendor.

(3) The contract will be for services to be performed in whole or in part within the State of New Mexico.

(c) *Participating agencies.* (1) The agencies listed below have entered into an agreement with the State of New Mexico to eliminate the double taxation of Government cost-reimbursement contracts when contractors and their subcontractors purchase tangible personal property to be used in performing services in whole or in part in the State of New Mexico and for which title to such property will pass to the United States upon delivery of the property to the contractor and its subcontractors by the vendor. Therefore, the clause applies only to solicitations and contracts issued by the—

United States Defense Threat Reduction Agency;
United States Department of Agriculture;
United States Department of the Air Force;
United States Department of the Army;
United States Department of Energy;
United States Department of Health and Human Services;
United States Department of Interior;
United States Department of Labor;
United States Department of the Navy;
United States Department of Transportation;
United States General Services Administration;
United States Missile Defense Agency; and
United States National Aeronautics and Space Administration.

(2) Any other Federal agency which expects to award cost-reimbursement contracts to be performed in New Mexico should contact the New Mexico Taxation and Revenue Department to execute a similar agreement.

[53 FR 34228, Sept. 2, 1988, as amended at 55 FR 3883, Feb. 5, 1990; 55 FR 38517, Sept. 18, 1990; 62 FR 64930, Dec. 9, 1997. Redesignated at 68 FR 13205, Mar. 18, 2003; 69 FR 17770, Apr. 5, 2004]

29.402 Foreign contracts.

29.402-1 Foreign fixed-price contracts.

(a) The contracting officer shall insert the clause at 52.229-6, Taxes—Foreign Fixed-Price Contracts, in solicitations and contracts expected to exceed the simplified acquisition threshold when a fixed-price contract is contemplated and the contract is to be performed wholly or partly in a foreign country, unless it is contemplated that the contract will be with a foreign government.

(b) The contracting officer shall insert the clause at 52.229-7, Taxes—Fixed-Price Contracts With Foreign Governments, in solicitations and contracts that exceed the simplified acquisition threshold when a fixed-price contract with a foreign government is contemplated.

[48 FR 42293, Sept. 19, 1983, as amended at 55 FR 52793, Dec. 21, 1990; 61 FR 39198, July 26, 1996]

29.402-2 Foreign cost-reimbursement contracts.

(a) The contracting officer shall insert the clause at 52.229-8, Taxes—Foreign Cost-Reimbursement Contracts, in

solicitations and contracts when a cost-reimbursement contract is contemplated and the contract is to be performed wholly or partly in a foreign country, unless it is contemplated that the contract will be with a foreign government.

(b) The contracting officer shall insert the clause at 52.229-9, Taxes—Cost-Reimbursement Contracts with Foreign Governments, in solicitations and contracts when a cost-reimbursement contract with a foreign government is contemplated.

PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

Sec.

- 30.000 Scope of part.
- 30.001 Definitions.

Subpart 30.1—General

- 30.101 Cost Accounting Standards.
- 30.102 Cost Accounting Standards Board publication.

Subpart 30.2—CAS Program Requirements

- 30.201 Contract requirements.
 - 30.201-1 CAS applicability.
 - 30.201-2 Types of CAS coverage.
 - 30.201-3 Solicitation provisions.
 - 30.201-4 Contract clauses.
 - 30.201-5 Waiver.
 - 30.201-6 Findings.
 - 30.201-7 Cognizant Federal agency responsibilities.
- 30.202 Disclosure requirements.
 - 30.202-1 General requirements.
 - 30.202-2 Impracticality of submission.
 - 30.202-3 Amendments and revisions.
 - 30.202-4 Privileged and confidential information.
 - 30.202-5 Filing disclosure statements.
 - 30.202-6 Responsibilities.
 - 30.202-7 Determinations.
 - 30.202-8 Subcontractor disclosure statements.

Subpart 30.3—CAS Rules and Regulations [Reserved]

Subpart 30.4—Cost Accounting Standards [Reserved]

Subpart 30.5—Cost Accounting Standards for Educational Institutions [Reserved]

Subpart 30.6—CAS Administration

- 30.601 Responsibility.
- 30.602 Materiality.

- 30.603 Changes to disclosed or established cost accounting practices.
 - 30.603-1 Required changes.
 - 30.603-2 Unilateral and desirable changes.
- 30.604 Processing changes to disclosed or established cost accounting practices.
- 30.605 Processing noncompliances.
- 30.606 Resolving cost impacts.
- 30.607 Subcontract administration.

AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 57 FR 39587, Aug. 31, 1992, unless otherwise noted.

30.000 Scope of part.

This part describes policies and procedures for applying the Cost Accounting Standards Board (CASB) rules and regulations (48 CFR chapter 99 (FAR appendix)) to negotiated contracts and subcontracts. This part does not apply to sealed bid contracts or to any contract with a small business concern (see 48 CFR 9903.201-1(b) (FAR appendix) for these and other exemptions).

[57 FR 39587, Aug. 31, 1992, as amended at 61 FR 18916, Apr. 29, 1996; 62 FR 40237, July 25, 1997]

30.001 Definitions.

As used in this part—

Affected CAS-covered contract or subcontract means a contract or subcontract subject to Cost Accounting Standards (CAS) rules and regulations for which a contractor or subcontractor—

(1) Used one cost accounting practice to estimate costs and a changed cost accounting practice to accumulate and report costs under the contract or subcontract; or

(2) Used a noncompliant practice for purposes of estimating or accumulating and reporting costs under the contract or subcontract.

Cognizant Federal agency official (CFAO) means the contracting officer assigned by the cognizant Federal agency to administer CAS.

Desirable change means a unilateral change to a contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is, therefore, not subject to the no increased cost prohibition provisions of CAS-covered contracts and subcontracts affected by the change.