



## **Proposed FAR Rule: Changes in CAS and TINA Thresholds**

Applicability thresholds are likely to change for contracts subject to the Cost Accounting Standards and Truth-in-Negotiations Act (TINA) provisions, under a new FAR proposed rule.

The FAR proposed rule, published on December 12, 2005 under case no. 2004-033, will adjust certain acquisition-related threshold amounts to reflect inflationary trends over the preceding five-year period. Among those changes and of particular importance to Government contractors are those revisions that will elevate the threshold levels for CAS and TINA applicability.

The proposed rule will increase the threshold for pricing actions to be subject to certified cost or pricing data provisions from \$550,000 to \$600,000 (FAR 15.403-4).

The proposed rule will also adjust the award threshold amount from \$500,000 to \$550,000 for a contract or subcontract subject to CAS provisions. The threshold for filing a CAS Disclosure Statement and for full CAS coverage (all standards) will increase from \$50 million to \$56.5 million (either single contract award, or awards of CAS covered contracts in preceding fiscal year). This particular FAR proposal also encompasses other CAS thresholds, such as an increase in the "trigger" contract award threshold from the existing \$7.5 million to \$8.5 million.

Where a home office is required to file a disclosure statement, the current rules require a business unit to submit a disclosure statement if in its preceding fiscal



year, its CAS covered contract award value exceeded \$10 million, or that award value exceeded 30% of its total business unit sales for that year. The CAS Board is proposing to elevate the \$10 million criteria to \$11.5 million.

The changes in CAS thresholds will be more clearly defined in a separate FAR rule, identified as case no. 2005-042, yet to be published.

Government contractors should also note that many other acquisition threshold levels contained in FAR will also increase if the proposed rule is adopted. The full text of the FAR case can be found at [www.arnet.gov/far/ProposedRules](http://www.arnet.gov/far/ProposedRules).

## **Federal Acquisition Circular 2005-06 and Effect on Cost Principles**

In case some of you missed the changes implemented into FAR by this circular in September, let's visit three critical changes to FAR Part 31 Cost Principles that were a part of this FAC.

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### **Statistical sampling methods to account for unallowable costs (case no. 2004-006):**

Acceptable statistical sampling techniques may now be used to identify/account for unallowable costs, under FAR 31.201-6. Provided that the statistical sampling methods are acceptable, contractors, particularly those with huge numbers of expense transactions, may now use such techniques to establish a value of unallowable costs, rather than individually tracking each and every expense ledger transaction. Among other provisions of this change, large dollar transactions must be separately identified and removed from statistical sampling, and the sample must be unbiased.

The revision also encourages contractors to enter into advance agreements with contracting officers before implementing a sampling plan. We consider the statistical sampling method most useful for large Government contractors. Smaller companies should continue to identify unallowable costs on an individual transaction basis.

### **Training and education costs (case no. 2001-021):**

Revisions to FAR 31.205-44 cost principles have made it easier to read by more specifically identifying six categories of education costs that are unallowable and eliminating restrictive language on certain

training costs. For example, although the cost principle continues to cite salaries for attending undergraduate college courses tuition as unallowable, the revised principle no longer mentions tuition or books as unallowable.

Further, the 156 hour limit for attending courses on a part-time basis, during working hours, is no longer mentioned. Also noticeably absent from the new verbiage is a previous provision that allowed advance agreements that would establish allowable educational costs above the FAR cost principle limitations.

One must conclude that, in the absence of the previous language dictating limitations and provisions for advance agreement, the principles of reasonableness (FAR 31.201-3) will now govern allowability.

**Relocation costs (case no. 2003-002):**

The final rule amends FAR 31.205-35 to permit contractors three options for reimbursing employees a flat amount for relocation expenses. These options are (1) costs for finding a new home, (2) costs for temporary lodging, and (3) costs for travel to the new location.

Contractor-established lump-sum amounts for any of the above situations must be supported by individual elements (i.e., transportation, lodging, meals, etc.).

**Termination Proposals – Tips on Getting Started**

Losing a Government contract via a termination notice can be difficult because of the loss of revenue. But, failing to prepare a solid, compliant termination proposal to ensure that the company recovers all allowable costs incurred, plus profit and wind-down costs, will only add misery to the loss of business and delay settlement with your customer.

Should you lose a contract due to termination, keep in mind the following best practices to avert potential problems in getting an equitable settlement:

- Assemble a team of knowledgeable professionals to begin the proposal process; include an attorney familiar with Government contracts at least in the initial discussions to interpret your rights under the contract
- Become familiar with FAR Part 49 and the cost principles of FAR 31.205-42; determine if your proposal should be prepared using the "Inventory" or "Total Cost" method before structuring your proposal and assembling your cost data
- If you have subcontractors, notify them of the need for a termination proposal if applicable
- Begin capturing all employee time/wages and other costs specifically identifiable to the termination effort in a separate job code; many of these settlement cost items will be allowable in your proposal
- Identify other costs that will continue to be incurred, specifically due to the termination, such as leased equipment, inventory storage, etc. that can not automatically be discontinued upon termination
- Fully engage your accounting, contracts, and program management staff throughout the entire termination proposal preparation process

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