

CAS Board – 70th Meeting
October 5, 2011

Chairman Daniel Gordon, the Administrator of the Office of Federal Procurement Policy (OFPP), convened the 70th meeting of the Cost Accounting Standards (CAS) Board (CASB) on October 5, 2011 at 01:10 pm EST. The meeting was held in the Eisenhower Executive Office Building in Washington, DC. Board Members Patrick Fitzgerald, Kathleen Turco, Bruce Timman and Richard Wall were in attendance. Also attending the meeting were Raymond Wong, CASB Director; and Eric Shipley, CASB Staff.

Agenda Items:

CAS Pension Harmonization Rule

Mr. Shipley briefed the CASB on the status of the draft responses prepared by the Staff to agency comments received from the interagency review of the draft *Federal Register* Notice as part of the routine administrative clearance process for the rule prior to publication in the FR. The CASB discussed the concerns raised by the agencies and considered various options to address those concerns. At the conclusion of its discussion, the CASB reached a consensus on how to address them. The CASB directed the Staff to revise the draft *Federal Register* Notice accordingly, and ensure that the CAS Pension Harmonization Rule is internally consistent for the CASB's consideration. Next, the CASB discussed potential options to familiarize the public with the CAS Pension Harmonization Rule once it is published. The CASB directed the Staff to prepare some FAQs and a lined-in-lined-out version of the CAS Pension Harmonization Rule.

Congressional Interest on Pension Costs

Mr. Shipley and Mr. Wong briefed the CASB on the interest expressed by Senator Rand Paul on the Government's, e.g. the Department of Defense's, potential liability for the costs of its contractors' pensions and postretirement benefits. That interest has been fueled by a Government Accountability Office Report (GAO-11-378, April 2011) on the Department of Energy's reported liability for the costs of DOE contractors' postretirement benefits and pensions.

CAS (b)(6) Commercial Item Exemption

Mr. Wall briefed the CASB on the latest draft *Federal Register* Notice of the proposed rule on whether to amend the CAS (b)(6) commercial item exemption to clarify the exact coverage of the exemption. After some discussion, the CASB approved the FR Notice for publication, and directed the Staff to prepare the FR Notice for the routine administrative clearance process prior to publication.

CAS Applicability Threshold (TINA)

Mr. Wong briefed the CASB on the two comments received in response to the *Federal Register* Notice of interim rule on the CAS Applicability Threshold (76 FR 40817, July 12, 2011). The interim rule revised the CAS Applicability Threshold, and made future changes to the CAS Applicability Threshold automatic upon the FAR adoption of any change to the TINA (Truth in Negotiations Act) threshold. The comments submitted by the Aerospace Industries Association, and the Project on Government Oversight are posted on the CASB's website. The CASB discussed the proposed responses to the comments and approved the FR Notice on the final rule for publication, and directed the Staff to prepare the FR Notice for the routine administrative clearance process prior to publication.

Status of Cases

Mr. Wong briefed the CASB on the status of a rulemaking case.

CAS (b)(15) Firm-Fixed-Price Contract Exemption (Cost or Pricing Data): The draft *Federal Register* Notice of proposed rule on whether to amend the CAS (b)(15) firm-fixed-price (FFP) contract exemption to clarify the usage of the phrase "certified cost or pricing data" has been published (76 FR 61660, October 5, 2011). Public comments are due by Dec 5, 2011.

Other Items

CAS (b)(14) Overseas Exemption

Mr. Gordon shared with the CASB an October 5, 2011 letter from the Council of Defense and Space Industry Associations (CODSIA) that he had received earlier in morning. The letter requested a 60 day delay in the effective date (October 11, 2011) of the final rule to eliminate the CAS (b)(14) overseas exemption (76 FR 49365, August 10, 2011), and a meeting to discuss its concerns about the rule before the effective date. In the ensuing discussion, the CASB felt that the CODSIA concerns had been specifically addressed in the FR Notice on the final rule, and concluded that there would be no benefit in delaying the effective date of the final rule. Foreign concerns do not have to implement full CAS coverage because of the availability of the CAS exemption at 48 CFR 9903.201-1(b)(4). This exemption limits the CAS coverage for foreign concerns to CAS 401, Consistency in Estimating, Accumulating and Reporting Costs, and CAS 402, Consistency in Allocating Costs Incurred for the Same Purpose. Conceptually, CAS 401 and 402 are already applicable under the FAR. A response will be sent to CODSIA on the CASB's decision not to delay implementation of the rule.

Adjournment

The CASB Chair, Mr. Gordon, adjourned the meeting at 3:05 pm.

Minutes submitted by Raymond J. M. Wong, October 15, 2011.