

**SUPPORTING STATEMENT FOR INFORMATION COLLECTION
OMB CONTROL NO. 9000-0129,
COST ACCOUNTING STANDARDS ADMINISTRATION**

A. Justification.

1. **Administrative requirements.** FAR 30.6 and 52.230-6 contain pertinent rules and regulations related to the Cost Accounting Standards (CAS) along with necessary administrative policies and procedures. These require companies performing CAS-covered contracts to submit notifications and descriptions of certain cost accounting practice changes, including revisions to their Disclosure Statements, if applicable. Often these descriptions are quite complex.
2. **Uses of information.** The information is used by contracting officers for ascertaining compliance with the CAS.
3. **Consideration of information technology.** We use improved information technology to the maximum extent practicable. Where both the Government agency and contractors are capable of electronic interchange, the contractors may submit this information collection requirement electronically.
4. **Efforts to identify duplication.** This requirement is issued under the Federal Acquisition Regulation (FAR), developed to standardize Federal procurement practices and eliminate unnecessary duplication. Although the Department of Defense is the primary user of Cost Accounting Standards information, civilian-agency contractors are also subject to CAS coverage, in accordance with the Code of Federal Regulations (CFR) 9903.201-1.
5. **If the collection of information impacts small businesses or other entities, describe methods used to minimize burden.** There is no burden applied to small businesses, as small businesses are exempt from CAS coverage (CFR 9903.201-1(b)(3)) .
6. **Describe consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently.** Similar information is not already available to the contracting officer or buyer.
7. **Special circumstances for collection.** Collection of information on a basis other than that prescribed by this regulation is not practical. Collection is consistent with guidelines in 5 CFR 1320.6.
8. **Efforts to consult with persons outside the agency.** A 60-day notice was published in the *Federal Register* at 81 FR 7343 on February 11, 2016. One respondent submitted public comments on the extension of the previously approved information collection. The respondent offered numerous comments, organized topically, and analyzed below:

Comment on number of DoD respondents: The respondent posited that the Government's estimate of 740 Respondents [working under CAS-covered contracts] for the Department of Defense (DoD) was overstated, as the estimate was derived from 740 unique DUNS numbers,

which equates to fewer respondents – likely closer to 500 contractor Business Units and Segments, plus 150 contractor Home Offices. These adjustments result in a DoD respondent estimate of 650.

With respect to this estimate of DoD Respondents, the respondent [also] noted that Defense Contract Audit Agency (DCAA) receives approximately 6,000 Final Indirect Cost Rate Proposals annually from contractor Business Units, Segments, and Home Offices that allocate indirect costs to cost-reimbursable contracts containing FAR 52.216-7, Allowable Cost and Payment. Since cost-reimbursable contracts are commonly covered by CAS (if not otherwise exempt), it is reasonable to estimate that 650 of these annual proposals contain CAS-covered cost-reimbursable contracts.

Response: The Government estimate of 840 entities was based on data from DCAA’s Management Information System, which shows 740 active contractors (615 with full CAS coverage, 125 with modified CAS coverage). Given the increased granularity your members have provided vis-à-vis Business Units, Segments, and contractor Home Offices, the Government has incorporated the 650 figure in its revised estimate of the number of DoD respondents.

Comment on number of civilian agency respondents: The respondent stated that the initial Government estimate of 100 additional contractors under civilian-agency cognizance was significantly understated. Based on informal data gathering, the respondent estimated that the Department of Homeland Security, the U.S. Agency for International Development, the Department of Energy, and all other civilian agencies combined were serving as Cognizant Federal Agency for at least 100 respondents apiece (i.e., a total of 400 Business Units, Segments, and Home Offices).

Response: The Government estimate of the number of respondents working under CAS-covered contracts *not* overseen by DCAA was based on expert judgment, indicating that DCAA has cognizance over nearly 90% of the CAS-covered contractors, and noting that some contractors overseen by DCAA also have civilian agency contracts. Considering the above estimate of some 400 additional contractors with CAS-covered contracts, the Government extracted a random sample from five years of Federal Procurement Data System (FPDS) records on potentially CAS-covered contractors. Of that sample, 70% were identified as DoD contractors and 30% were identified as civilian-agency contractors. The subset of civilian-agency contractors and the list of DCAA-overseen contractors overlapped only slightly (i.e., 2% of the civilian-agency contractors in the random sample were overseen by DCAA). Therefore, starting with the 650 DoD respondents (72% of the total), the Government estimates that the total number of respondents is 903, leaving 253 under other-than-DCAA cognizance.

Comment on number of responses: Defining a “response” to mean a contractor’s formal written submission to the Government pursuant to the terms of FAR 52.230-6, the respondent noted that the clause requires the following significant types of responses: (a) Advance notifications or requests for retroactive application of cost accounting practice changes (FAR 52.230-6(b)); (b) Revised Cost Accounting Standards Board (CASB) Disclosure Statements (FAR 52.230-6(b)), including transmittal letter, revision summary; (c) Adequacy review/walkthrough and support; (d) General Dollar Magnitude (GDM) proposals (FAR 52.230-

6(c)(1)), including periodic updates as may be requested by the Government, Audit walkthroughs, data requests, and other audit support, Responses to audit reports, Negotiations; (e) Detailed Cost Impacts (DCI) proposals (FAR 52.230-6(c)(2)), including periodic updates as may be requested by the Government; audit walkthroughs, data requests, and other audit support; responses to audit reports; negotiations; (f) Requests for Desirable Changes (FAR 52.230-6(c)(3)&(4)), including requests for additional data and requests for additional analysis.

Discussions among the respondent's members indicate that they commonly provide the first three items above annually. Many of these members noted that DoD often also requests Detailed Cost Impact Proposals, which may bring annual responses to four. Some members noted that they have experienced as many as six to eight responses annually, but this was not common. Therefore, the respondent's assessment suggests the Government's initial estimate of 2.27 responses per respondent per year is low. An estimate of 3.5 Responses per year reasonably aligns with our members' experience.

Response: Based upon the data collected from the respondent's members (primarily DoD contractors), the number of responses should fall between 3 and 4 annually. Based upon the assessment of the Government expert of all contractors with CAS-covered contracts, the number of responses should fall between 2 and 2.5 annually. Given that there are significantly more DoD respondents, the revised Government estimate uses a weighted average of the two assessments: 3 responses annually per respondent.

Comment on average burden hours per response: Of the three factors bearing upon the Government's estimate, this factor is the most difficult to reckon. Of the types of Responses listed above, some are more time intensive than others. Notifications and Disclosure Statement revisions, although cumbersome, require much less time than General Dollar Magnitude, Detailed Cost Impact, and Desirable Change proposals. Some circumstances that significantly influence burden per response include: (a) The type of cost accounting practice change (i.e., required, unilateral, correction of noncompliance); (b) The nature of the cost accounting practice change (e.g., change in direct vs. indirect, changes in the composition of cost pools, change in the nature or composition of allocation bases, changes in how costs are measured, etc.); (c) the number of cost accounting practice changes that become effective; Whether the cost accounting practice change occurs within a Business Unit/Segment or at the Home office (which impacts all associated Segments); (d) The number of proposal updates/revisions requested by the Government after initial submission; (e) The passage of time between initial submission and audit; and (f) The timing, duration, depth, and quality of audit.

Many of the respondent's members were characterized as stating that 175 hours understated the effort necessary to prepare certain types of responses (e.g., GDMs, DCIs), but acknowledged that notifications and Disclosure Statement revisions generally took less time to prepare. Although the respondent suggested that the Government's estimate of hours per response was low, there was insufficient quantitative basis to recommend an alternative estimate.

Response: The 175-hour estimate is representative of the average level of effort for the most commonly needed artifacts, according to a Government subject matter expert.

The respondent offered several recommendations aimed at reducing the number of responses and the average hours per response, while also reducing the Government's burdens without any increase in financial risk. While the respondent generally affirmed the necessity of collecting this information, they commented on *when*, *how*, and *how often* this information is collected rather than *what* is collected.

Comment on the 60-day advance notice of cost accounting practice changes (FAR 52.230-6(b)). Cost accounting practice changes are not subject to the Government's prospective review and approval (see FAR 30.603-2(a)(1)). The Government reviews the adequacy of new cost accounting practices and evaluates them for compliance with the Standards. Because there is no approval process, the FAR 52.230-6(b) advance notification (60 days) requirement lacks practical utility.

To the extent the Government needs to know about a contractor's cost accounting practices for contract price negotiations, the Truth in Negotiations Act (TINA) requires contractors to maintain a current, accurate, and complete Disclosure Statement because it is "cost or pricing data." TINA provides remedies for defective data if the Government relies on a non-current cost accounting disclosure to its detriment.

Additionally, if TINA does not apply to a negotiated award (as is the case with competitively awarded cost-type contracts) but the Government nevertheless relies to its detriment on a contractor's non-current cost accounting disclosures, then FAR 30.603-2(c)(2) allows the Government to assert a CAS 401 non-compliance. FAR 52.230-6(g) prescribes the process for resolving non-compliances.

Comment on retroactive cost accounting practice changes (FAR 52.230-6(b)(3)). Retroactive cost accounting practice changes (only within a contractor's current fiscal year) are subject to Government review and approval (see FAR 30.603-2(d)). This requirement has no practical utility because the process to measure the cost impact of cost accounting practice changes includes all "affected" CAS-covered contracts regardless of whether a change is prospective, retroactive, or both. Additionally, it makes no sense that retroactive unilateral cost accounting changes require Government approval but prospective changes and corrections of non-compliances do not.

Moreover, if a contractor priced and negotiated a CAS-covered contract using a cost accounting practice that it contemplated changing (and ultimately did change) retroactively during the fiscal year, then the remedies provided by CAS and TINA are the same – a price/cost reduction. Thus, the existence of a Government approval process has no bearing on these statutory remedies.

Response: Thank you for this analysis. The Government will take it for discussion at an upcoming FAR Team meeting, and will consult with the Cost Accounting Standards Board, as well as with you on this matter.

Comment on estimates of future cost impacts in GDM and DCI proposals (FAR 52.230-6(f)). Estimating the cost impact of cost accounting practice changes on affected CAS-covered contracts for future periods aligns with the CAS prohibition against the Government paying

“increased costs in the aggregate” relative to certain types of changes. However, these estimates are difficult and time consuming, and this seemingly logical requirement has little or no practical utility because the Government rarely resolves cost impact proposals until most (or all) actual costs have been incurred. The respondent speculated that this situation occurs for two primary reasons: (1) estimates are notoriously difficult for the Government to evaluate and negotiate, and (2) the Government lacks the resources (and a regulatory mandate) to resolve cost impact proposals timely. Making the utility of these forward-looking estimates even less practical, the respondent’s members reported that the Government routinely requests updates to previously-submitted GDMs and DCIs until nearly all estimates have become actuals due to the passage of time.

Response: Thank you for this perspective. The Government will take it for discussion at an upcoming FAR Team meeting, and will consult with the Cost Accounting Standards Board, as well as with you on this matter.

The respondent also commented on ways to improve the quality, utility, and clarity of the information collection, including the use of information technology to ease the collection burden, as detailed below.

Comment on streamlining the notification protocol. The respondent, while maintaining that the current protocol for notifying the Government of cost accounting practice changes lacks practical utility, agreed that contractors must notify the Government about changes in cost accounting

practices. Because contractors should be free to change accounting practices prospectively, retroactively within the current accounting period, and retroactively as needed to correct a noncompliance, the respondent stressed that advance notice is wholly unnecessary, and suggested a protocol that will reduce the annual burden on both contractors and the Government because it dovetails with other existing regulatory requirements:

1. Contractors must notify the Government of prospective cost accounting practice changes on or before the effective date of the change. For retroactive changes within the cost accounting period and corrections of non-compliances, contractors must provide notice on or before the date of implementing the change. We do not recommend modification to the current notification format or to the evaluation of cost impacts (including materiality).

2. Contractors also summarize all changes effective or implemented within the cost accounting period in their annual Final Indirect Cost Rate Proposals. This is an existing requirement for most Respondents pursuant to FAR 52.216-7(d)(2)(iii)(M). For those respondents that do not perform contracts containing FAR 52.216-7, add a requirement in FAR 52.230-6 that contractors nevertheless must report all cost accounting practice changes annually, no later than 6 months after the end of the contractor’s cost accounting period.

3. For cost accounting practice changes that occur during the cost accounting period, contractors must update their CASB Disclosure Statements at least once annually (within 90 days after the end of the cost accounting period), or no later than the first Certificate of Current Cost or Pricing Data after the changes become effective (often be in connection with Forward

Pricing Rate Proposals). Non-disclosure of cost accounting practice changes at the time of a price negotiation based on Cost Analysis (see FAR 15.404-1(c)) may constitute a CAS 401 non-compliance at the contracting officer's discretion.

Response: Thank you for this analysis. The Government will take it for discussion at an upcoming FAR Team meeting, and will consult with the Cost Accounting Standards Board, as well as with you on this matter.

Comment on providing a regulatory option (or preference) for evaluating and negotiating cost impacts in arrears. The current regulatory protocol for measuring and resolving cost impacts implicitly prefers promptness after notification. But as noted above, actual practice essentially negates the utility of this approach. The respondent's members welcome the prompt resolution of cost accounting practice changes in return for the significant burden of preparing forward-looking cost impact estimates. However, if the Government is either unwilling or unable to resolve cost impacts promptly, the parties would both benefit from either a preference for, or an explicit election of, resolving cost impacts in arrears. For example:

1. Allow contractors to prepare cost impact proposals annually, to include all cost accounting practice changes summarized on Schedule M of each Respondent's Final Indirect Cost Rate Proposal. Cost impact proposals (either GDM or DCI, at the Government's request) would be due within nine months (or other mutually agreeable period) after the end of each cost accounting period (if changes occurred).

2. Modify the current cost impact protocol to establish an explicit period (e.g., 180 days) for the Government to evaluate and negotiate after the initial receipt of a contractor's GDM or DCI proposal. If the Government does not act during this period, the cost impact proposal automatically becomes subject to negotiation in arrears (i.e., once substantially all costs have been incurred on affected contracts). This requirement would significantly reduce contractors' burden with periodically updating their proposals, as well as the Government's burden of auditing estimates that become stale as time passes.

3. Allow the Government and the contractor to elect to resolve cost impacts in arrears.

4. Contractors and the Government can use, without significant modification, the existing annual Final Indirect Cost Rate Proposal process (FAR 52.216-7(d)) to track both cost accounting practice changes and CAS-covered contracts affected by the change(s). Contractors who do not submit annual Final Indirect Cost Rate Proposals will nevertheless be required to report changes annually (see recommendation above).

Response: Thank you for this analysis. The Government will take it for discussion at an upcoming FAR Team meeting, and will consult with the Cost Accounting Standards Board, as well as with you on this matter.

Comment on streamlining the cost impact resolution protocol at FAR 30.606(a)(3). Of all the changes to FAR Part 30 in 2005, the prohibitions against "combining" the impacts of certain changes established in FAR 30.606(a)(3)(i)&(ii) not only add significant burden on contractors, but also create significant inequity. When contractors make multiple simultaneous cost accounting practice changes (very common), these cumbersome and onerous rules require contractors to measure each change separately. Therefore, a single GDM or DCI proposal becomes multiple proposals – one for each change. This is unnecessary given that the spirit of

the statutory CAS cost impact process is merely to prevent the Government from paying increased costs in the aggregate.

In this regard, for both unilateral changes and corrections of non-compliances, the CAS administration regulations at CFR 9903.201-1(b)&(d) provide that (1) the Contracting Officer shall make a finding that the contemplated contract price and cost adjustments will protect the United States from payment of increased costs, in the aggregate and (2) that the net effect of the adjustments being made does not result in the recovery of more than the estimated amount of such increased costs. The distinctions created in FAR 30.606(a)(3) are inconsistent with these CAS regulations, create significant unnecessary burden for both parties, and cause significant negotiation challenges as the Government often attempts to recover more than increased costs in the aggregate as contemplated by the CAS regulations. To relieve the unnecessary burden FAR 30.606(a)(3) places on preparing and evaluating GDM and DCI proposals, and to foster equitable resolutions, the respondent recommended:

1. Allow required changes, unilateral changes, and desirable changes to be combined.

2. Allow prospective corrections of non-compliances to be combined with other types of changes if made simultaneously. (The respondent noted that retroactive corrections of noncompliances that impact prior cost accounting periods cannot be combined with other types of changes because unilateral changes can only be made retroactively to the beginning of the current cost accounting period.) This topic is discussed in a recent Armed Services Board of Contract Appeals matter. In the Appeal of Raytheon (ASBCA Nos. 57801, 57803, 58068), the Board provides a history of how combinations were once permitted.

Response: Thank you for this comment. The Government will take it for discussion at an upcoming FAR Team meeting, and will consult with the Cost Accounting Standards Board, as well as with you on this matter.

Comment on eliminating the Government's ability to double-recover costs under FAR 30.604(h). The current construct of FAR 30.604(h) defines an "increased cost to the Government" as either: An increase in costs allocated to cost-reimbursable contracts, or a decrease in costs allocated to fixed price contracts. "Increased cost in the aggregate" is determined by adding these two amounts. While this provision seems to make sense at first glance, practical experience often yields inequitable results. For example, if a contractor changes a cost accounting practice that shifts \$10 away from a fixed price contract (i.e., costs decrease) and onto a cost-reimbursable contract (i.e., costs increase), the regulatory regime at FAR 30.604(h) concludes that "increased costs in the aggregate" is \$20. Of course, this is simply not true; \$10 has not magically become \$20 and regulations that create this kind windfall to the Government should be modified to curtail it. In the Appeal of Raytheon (ASBCA Nos. 57801, 57803, 58068), the Board agreed that this regulatory construct may create a windfall for the Government. Addressing this inequity will reduce the burden on contractors and the Government by improving the speed at which cost impacts are negotiated. Our members report that many Contracting Officers recognize the inequity created by the FAR 30.604(h) cost impact calculation process, but they are bound by the rules nevertheless. As a consequence, many cost impacts languish unsettled because doing nothing seems more reasonable than proceeding under the rules. To resolve this logjam, we recommend adding a simple provision to FAR 30.604(h),

the essence of which is from CFR 9903.201-1(b), that states “The CFAO is responsible for (1) ensuring the cost impact calculation will protect the United States from payment of increased costs in the aggregate and (2) that the net effect of any contract price or cost adjustments does not result in the recovery of more than the estimated amount of such increased costs. Care must be taken to ensure costs are not double-recovered through both contract price adjustments and cost limitations.”

Response: Thank you for this comment. The Government will take it for discussion at an upcoming FAR Team meeting, and will consult with the Cost Accounting Standards Board, as well as with you on this matter.

Comment on converting the current Disclosure Statement from paper to an online, secure database. The respondent’s final recommendation was that the Government provide a centralized, secure, on-line means of disclosing cost accounting practices. This could be done similarly to, or in conjunction with, the Government’s centralized System for Award Management (SAM). Taking this important step would greatly improve the contractor disclosure process and reduce burden for both contractors and the Government in the following ways:

1. No more cumbersome Microsoft Word document that takes more time to format than to complete;
2. An electronic database would automatically track all changes made by contactors, which would make review easier for both contractors and the Government;
3. Because this system would include the contractor’s cognizant contracting officer(s), it could automatically notify them of Disclosure Statement revisions;
4. The system could be used for notifications so that even if Disclosure Statements have not been updated, the Government is aware of all new cost accounting practices;
5. Government auditors could easily verify the sufficiency of contractors’ annual disclosure of cost accounting practice changes;
6. On-line tracking of cost accounting practice changes would improve visibility into and status of cost impact proposals and resolutions;
7. Government-wide centralized access would allow PCOs to verify the status of Disclosure Statement submissions and adequacy determinations.

Response: Thank you for these comments, analyses, and recommendations. The Government will take these for discussion at an upcoming FAR Team meeting, and will consult with the Cost Accounting Standards Board, as well as with you on this matter.

A 30-day notice was published in the *Federal Register* at 81 FR 45160 on July 12, 2016. No comments were received.

9. Explanation of any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees. Not applicable.

10. Describe assurance of confidentially provided to respondents. This information is disclosed only to the extent consistent with prudent business practices and current regulations.

11. **Additional justification for questions of a sensitive nature.** No sensitive questions are involved.

Annual Reporting and Recordkeeping Burden

12 & 13. **Estimated total annual public hour and cost burden.**

# Respondents	903
Responses per Respondent	<u>3</u>
Total Responses	2,709
Hours per Response	<u>175</u>
Total Hours	474,075
Average Wages per Hour	<u>\$56.60</u>
Total Reporting Cost	\$26,832,426

The estimated cost per response is \$9,904.91.

14. **Estimated cost to the Government.** It is estimated that it takes approximately 120 hours per proposal for the Government to review.

Review Time/Hrs.....	120
Total Responses.....	2,709
Total Review Time/Hrs.....	325,080
Average Wages Per Hr.....	\$56.60
Total Government Cost	\$18,399,378

Recordkeeping burden is estimated at zero hours per respondent. The records maintained to provide this information are no more than required by normal business practice.

15. **Explain reasons for program changes or adjustments reported in Item 13 or 14.** This submission reflects an adjustment to the applicable average hourly rate: It has increased to \$56.60 (the current GS-12 Step 5 rate plus 36% in fringe benefits). Additionally, this submission reflects a slight change to the number of companies currently performing CAS-covered contracts (whether as prime or subcontractors), based on consultations with both DCAA and DCMA. See the foregoing discussion. Accordingly, the total number of entities with CAS-covered contracts has decreased to an estimated 903. Also driven by the input from the member organization providing the public comments, the number of responses per year was changed from 2.27 responses to 3 responses annually.

16. **Outline plans for published results of information collections.** Results will not be tabulated or published.

17. **Approval not to display expiration date.** Not applicable.

18. **Explanation of exception to certification statement.** Not applicable.

B. Collection of Information Employing Statistical Methods.

Statistical methods are not used in this information collection.