

APPENDIX 'K'

(To be used for all POs and subcontracts subject to modified CAS coverage and issued under a Prime Contract having an effective date prior to 29 April 1996.)

Part I. Disclosure and Consistency of Cost Accounting Practices (NOV 1993) (FAR 52.230-3, Revised to reflect changed parties.)

(a) The Seller, in connection with this Purchase Order, shall--

- (1) Comply with the requirements of 48 CFR, Subpart 9904.401, Consistency in Estimating, Accumulating, and Reporting Costs; 48 CFR, Subpart 9904.402, Consistency in Allocating Costs Incurred for the Same Purpose, 48 CFR, Subpart 9904.405, Accounting for Unallowable Costs; and 48 CFR, Subpart 9904.406, Cost Accounting Period, in effect on the date of award of this Purchase Order as indicated in 48 CFR, Part 9904¹.
- (2) (CAS-covered Subcontracts Only) If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by 48 CFR, Subparts 9903.202-1 through 9903.202-5. If the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be submitted directly to the cognizant Administrative Contracting Officer.
- (3) (i) Follow consistently the Seller's cost accounting practices. A change to such practices may be proposed, however, by either the Government or the Seller, and the Seller agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this Purchase Order, and the Disclosure Statement, if affected, must be amended accordingly.

(ii) The Seller shall, when the Government and the Seller agree to a change to a cost accounting practice and the Contracting Officer has made the finding required in 48 CFR, Subpart 9903.201-6(b), that the change is desirable and not detrimental to the interests of the Government, negotiate an equitable adjustment as provided in the Changes clause of this Purchase Order. In the absence of the required finding, no agreement may be made under this Purchase Order clause that will increase costs paid by the United States and/or the Buyer.

¹ Notwithstanding anything contained in this paragraph, the provisions of 48 CFR Subparts 9904.405 and 9904.406 do not apply to foreign concerns.

- (4) Agree to an adjustment of the Purchase Order price or cost allowance, as appropriate, if the Seller or any of its subcontractors fails to comply with the applicable CAS or to follow any cost accounting practice, and such failure results in any increased costs paid by the United States and/or the Buyer. Such adjustment shall provide for recovery of the increased costs to the United States and/or the Buyer together with interest thereon computed at the annual rate of interest established under the Internal Revenue Code of 1986 (26 U.S.C. 6621), from the time the payment by the United States and/or the Buyer was made to the time the adjustment is effected.
- (b) (Paragraph (b) deleted)
- (c) The Seller shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, and records relating to compliance with the requirements of this clause.
- (d) The Seller shall include in all negotiated subcontractor negotiated subcontracts, which the Seller enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that--
 - (1) If the subcontract is awarded to a business unit which pursuant to 48 CFR, Subpart 9903.201 is required to follow all CAS, the clause entitled "Cost Accounting Standards," set forth in FAR 52.230-2, shall be inserted in lieu of this clause; or
 - (2) This requirement shall apply only to negotiated subcontracts in excess of \$500,000 where the price negotiated is not based on--
 - (i) Established catalog or market prices of commercial items sold in substantial quantities to the general public; or
 - (ii) Price set by law or regulation; or
 - (3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR, Subpart 9903.201-1.

Part II. Administration of Cost Accounting Standards (DEC 1994) (FAR 52.230-5, Revised to reflect changed parties.)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this Purchase Order, the Seller shall take the steps outlined in paragraphs (a) through (g) of this clause:

- (a) Submit to the cognizant Contracting Officer and the Buyer a description of any cost accounting practice change, the total potential impact of the change on contracts

and subcontracts containing a CAS clause, and a general dollar magnitude of the change which identifies the potential shift of costs between CAS-covered contracts by contract type (i.e., firm-fixed-price, incentive, cost-plus-fixed-fee, etc.) and other Seller business activity. As related to CAS-covered contracts, the analysis should identify the potential impact on funds of the various Agencies/Departments (i.e., Department of Energy, National Aeronautics and Space Administration, Army, Navy, Air Force, other Department of Defense, other Government) as follows:

- (1) For any change in cost accounting practices required to comply with a new or modified CAS in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the CAS clause at FAR 52.230-2, within 60 days (or such other date as may be mutually agreed to) after award of a contract requiring this change.
 - (2) For any change in cost accounting practices proposed in accordance with subdivision (a)(4)(ii) or (iii) of the CAS clause at FAR 52.230-2, or with subparagraph (a)(3), of the Disclosure and Consistency of Cost Accounting Practices clause at FAR 52.230-3, not less than 60 days (or such other date as may be mutually agreed to) before the effective date of the proposed change.
 - (3) For any failure to comply with an applicable CAS or to follow a disclosed practice (as contemplated by subparagraph (a)(5) of the CAS clause at FAR 52.230-2, or by subparagraph (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause at FAR 52.230-3):
 - (i) Within 60 days (or such other date as may be mutually agreed to) after the date of agreement with the initial finding of noncompliance, or
 - (ii) In the event of Seller disagreement with the initial finding of noncompliance, within 60 days of the date the Seller is notified by the cognizant Contracting Officer of the determination of non-compliance.
- (b) After an ACO determination of materiality, submit a cost impact proposal in the form and manner specified by the cognizant Contracting Officer within 60 days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to paragraph (a) of this clause. The cost impact proposal shall be in sufficient detail to permit evaluation, determination, and negotiation of the cost impact upon each separate CAS-covered contract and subcontract.
- (1) Cost impact proposals submitted for changes in cost accounting practices required to comply with a new CAS in accordance with subparagraph (a)(3) and subdivision (a)(4)(i) of the CAS clause at FAR 52.230-2, shall identify each additional standard and all contracts and subcontracts containing this

CAS clause which have an award date before the effective date of that standard.

- (2) Cost impact proposals submitted for any change in cost accounting practices proposed in accordance with subdivisions (a)(4)(ii) or (iii) of the CAS clause at FAR 52.230-2, or with subparagraph (a)(3) of the Disclosure and Consistency of Cost Accounting Practices clause at FAR 52.230-3, shall identify all contracts and subcontracts containing the CAS clause and the Disclosure and Consistency of Cost Accounting Practices clause.
 - (3) Cost impact proposals submitted for failure to comply with an applicable CAS or to follow a disclosed practice as contemplated by subparagraph (a)(5) of the CAS clause at FAR 52.230-2, or by subparagraph (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause at FAR 52.230-3, shall identify the cost impact on each separate CAS-covered contract and subcontract from the date of failure to comply until the noncompliance is corrected.
- (c) If the submissions required by paragraphs (a) and (b) of this clause are not submitted within the specified time, or any extension granted by the cognizant Contracting Officer, an amount not to exceed 10 percent of each subsequent amount determined payable related to the Seller's CAS-covered contracts, up to the estimated general dollar magnitude of the cost impact, may be withheld until such time as the required submission has been provided in the form and manner specified by the cognizant Contracting Officer.
- (d) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with subparagraphs (a)(4) and (a)(5) of the CAS clause at FAR 52.230-2 or with subparagraph (a)(3) or (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause at FAR 52.230-3.
- (e) For all subcontracts subject either to the CAS clause or to the Disclosure and Consistency of Cost Accounting Practices clause—
- (1) So state in the body of the subcontract, in the letter of award, or in both (self-deleting clauses shall not be used); and
 - (2) Include the substance of this clause in all negotiated subcontracts. In addition, within 30 days after award of the subcontract, submit the following information to the Seller's cognizant contract administration office for transmittal to the contract administration office cognizant of the subcontractor's facility:
 - (i) Subcontractor's name and subcontract number.
 - (ii) Dollar amount and date of award.

- (iii) Name of Seller making the award.
- (iv) Any changes the subcontractor has made or proposes to make to accounting practices that affect contracts or subcontracts containing the CAS clause or Disclosure and Consistency of Cost Accounting Practices clause, unless these changes have already been reported. If award of the subcontract results in making one or more CAS effective for the first time, this fact shall also be reported.
- (f) Notify the Contracting Officer and the Buyer in writing of any adjustments required to subcontracts under this Purchase Order and agree to an adjustment, based on them, to this Seller's price or estimated cost and fee. This notice is due within 30 days after proposed subcontract adjustments are received and shall include a proposal for adjusting the higher tier subcontract or this Purchase Order appropriately.
- (g) For subcontracts containing the CAS clause, require the subcontractor to comply with all Standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier.

Part III. Communications Procedures and Indemnity

Seller shall communicate and otherwise deal directly with the cognizant Contracting Officer to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with copies of all communications between Seller and the Contracting Officer respecting the clauses of this Appendix "K"; provided, Seller shall not be required to disclose to Buyer such communications containing information which is privileged and confidential to the Seller. Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense if Buyer is subjected to any liability as the result of a failure of the Seller or its subcontractors to comply with the requirements of Parts I. and/or II. of this Appendix 'K'.