



USAID
FROM THE AMERICAN PEOPLE

09 USAID
Rec'd 05/28/09 8:40 AM

May 19, 2009

Executive Office of the President
ATTN.: Lesley Field, Acting Chair,
Cost Accounting Standards Board
Office of Management and Budget
Washington, DC 20503

Dear Ms. Field:

The information that you solicited from the United States Agency for International Development (USAID) regarding the overseas exemption from the Cost Accounting Standards (CAS) provided for in 48 CFR 9903.201-1(b)(14) is presented in the following paragraphs. USAID responses are keyed to the questions set forth in your April 24, 2009 letter.

Question 1: What is your experience with the overseas exemption?

USAID is a procuring entity awarding contracts.

Question 2: How often (number of actions, dollar amounts, by fiscal year) has the overseas exemption been claimed?

USAID contracting officers identified two recent actions involving the overseas exemption as summarized in the following table:

Period	Award Value
2006	\$23.5 Million
2007	\$1.4 Billion

Question 3: If the overseas exemption is eliminated, what problems will that cause you?

The elimination of the overseas exemption will not create a problem for USAID in awarding its negotiated contracts.

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Question 4: How does the overseas exemption help, or not help, to implement the CASB's mandate "to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to contracts with the United States?"

USAID is of the opinion that the overseas exemption does not help the CASB's mandate "to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to contracts with the United States ..." as illustrated in the following examples:

- USAID is concerned that there is a negative connotation with the overseas exemption with respect to contractors' compliance with the Federal Acquisition Regulations in general. For example, by executing and performing contracts outside of the United States, its territories, and its possessions contractors' do not have to abide by these codified standards, rules, and regulations for those contracts.
- USAID is concerned that the overseas exemption provides contractors a mechanism to circumvent the consistency principle of accounting and might result in established practices overseas that are not comparable to the practices established within the United States. Although the financial performance might be outside of the United States, its territories, and its possession, the contractors' are transferring the financial data resulting from the use of those practices for recordation into its corporate financial management system located within the United States. Thus, combining the financial results from practices that might or might not be consistent with the financial results of practices within the United States.
- USAID is concerned that this exemption has the appearance of supporting contractors' perception that there is an added burden of having to comply with the administrative provisions of the CAS for contracts executed and performed outside of the United States from those executed and performed within the United States. Thus, the overseas exemption might serve to support the contractors' perception of the CAS and its implementation on CAS covered contracts and subcontracts. Specifically, the cost

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accounting practices that the contractors establish for the universe of CAS covered contracts within the United States differ significantly from the practices that it establishes for its universe of CAS covered contracts executed and performed outside of the United States. USAID is of the opinion that whether the contract is CAS covered or not the contractors' established practices should result in an equitable assignment, measurement, and allocation of costs on all cost objectives regardless of the place of performance.

- USAID is concerned that the retention of the overseas exemption has the appearance of substantiating contractors' perception that it needs to maintain dual accounting practices upon receipt of a CAS covered contract and/or subcontract, for CAS and non-CAS covered contracts. Generally contractors' establish practices that apply to all awards and do not adopt separate practices that apply to non-CAS covered and CAS-covered awards. USAID is of the opinion that the overall objective for achieving uniformity and consistency in the cost accounting standards governing the measurement, assignment, and allocation of costs is to ensure that contracts, regardless of the place of performance, receive its equitable share of direct and indirect costs.

Question 5: What are the arguments for, and against, the requirement in the overseas exemption to require execution of the contract overseas?

If the CASB determines that the overseas exemption helps it to implement its mandate "to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to contracts within the United States..." and thus retains it, USAID is of the opinion that the CASB consider the value added, if any, by requiring that the contract be executed (signed) outside of the United States. For example, in some instances, the contractors' expend funds to transport its representatives outside of the United States to execute (sign) the contracts in order to adhere to this requirement.

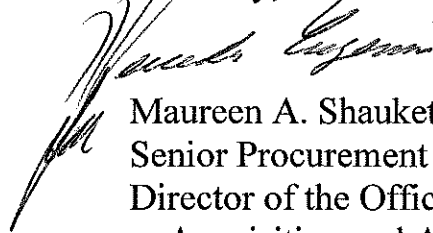
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Question 6: What are the arguments for, and against, the requirement in the overseas exemption to require performance of the contract overseas?

USAID is of the opinion that if the CASB decides to retain the overseas exemption it should continue to require that contracts and subcontracts be performed entirely overseas. The language in this exemption should clearly state that "performance" includes both direct and indirect costs up to and including General and Administrative expenses when incurred within the United States, its territories, and its possessions. The majority of the firms that USAID is contracting with are U.S. based companies and it might not be reasonable to conclude that the work or the cost is incurred entirely outside the U.S., when the Executive Management that oversees the performance or the company is located in the U.S. along with support functions and backstop positions. Notwithstanding the above comments pertaining to the elimination of the overseas exemption USAID recognizes that other respondents might express a different view than the one it articulates in this response.

Thank you for this opportunity for USAID to submit its concerns, views, and opinions pertaining to the overseas exemption provided for in 48 CFR 9903.201-1(b)(14).

Sincerely,



Maureen A. Shauket,
Senior Procurement Executive
Director of the Office of
Acquisition and Assistance,
Bureau for Management