

## Cost Accounting Standards Board Increases Applicability Threshold

On July 12, 2011, the Cost Accounting Standards (CAS) Board issued an interim rule (effective August 11, 2011) that would increase the dollar threshold for CAS applicability from contracts and subcontracts in excess of US\$650,000 to US\$700,000.<sup>1</sup> Thereafter, the CAS applicability threshold would be tied to the periodic inflation threshold set for the Truth in Negotiations Act (TINA). Future threshold increases would become self-executing.

The CAS Board explained that the CAS enabling act requires the CAS applicability threshold to be tied to that for TINA. The TINA threshold increased to US\$700,000 effective October 1, 2010; thus, the CAS and TINA thresholds have been out of alignment since. By simply changing the CAS regulations to apply to "Negotiated contracts and subcontracts not in excess of the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B)),<sup>2</sup>" the CAS Board set up a mechanism to synchronize the inflationary increases in the TINA and CAS thresholds. Pursuant to Pub. L.108-375, the threshold is to be increased every five years.

Although the threshold adjustment will not affect contractors already subject to CAS, and some may argue it is unreasonably low even with the inflationary increases, the threshold adjustment will implicate the vast number of companies with limited government business or relatively small government contracts.<sup>3</sup> Comments on the interim rule are due September 12, 2011.

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*If you have any questions about any of the topics discussed in this Advisory, please contact your Arnold & Porter attorney or:*

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<sup>1</sup> 76 Fed. Reg. 40817 (July 12, 2011).

<sup>2</sup> *Id.* at 40819.

<sup>3</sup> Small businesses are separately exempt from CAS coverage. 48 C.F.R. § 9903.201-1(b)(3).

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