of Directors, along with recommendations, to inform the Corporation's interpretation of the presence requirement and to provide the basis for any remedial action, such as a rulemaking or a request for legislative action by the Congress.

DATES: Comments and requests to provide oral testimony should be received by the Corporation on or before March 22, 1999.

ADDRESSES: Comments and requests should be submitted to the Office of the General Counsel, Legal Services Corporation, 750 First St. NE., 11th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Suzanne B. Glasow, Office of the General Counsel, 202–336–8817.

SUPPLEMENTARY INFORMATION: The Corporation's appropriations act prohibits LSC-funded recipients from providing legal assistance to an alien unless the alien is present in the United States and falls into certain delineated categories. See Section 504(a)(11) of Pub. L. 104–134, incorporated by reference in Pub. L. 105–277. Although there is general agreement that present in the United States means to be physically in the United States, it is not clear when an alien must be present. One interpretation of the language would require an alien to be physically present in the United States any time the alien is provided legal assistance from an LSC recipient. Another is that the alien must be physically present only when legal representation is commenced. A third is that the alien must be physically present only when the cause of action for which the recipient provides legal assistance occurs.

Although the presence requirement applies to all categories of aliens listed in the Corporation's appropriations act, the aliens most affected are the seasonal agricultural workers, which would include H–2A workers, Special Agricultural Workers (SAWS), and permanent resident aliens who perform seasonal agricultural work. For example, H–2A workers, as a rule, are not in the United States long enough for the resolution of many of their legal matters, making effective representation for this class of aliens questionable. Similarly, it is not uncommon for permanent resident aliens who are farm workers to temporarily leave the United States at the end of the agricultural season while their legal matters are still pending.

On November 16, 1998, the Corporation's Board of Directors (''Board'') voted to confer on the Board Chairman the authority to establish a special panel to study the issue and make a report to the Board with recommendations to inform the Corporation's interpretation of the presence requirement. See LSC Board Resolution 98–011. Subsequently, a Commission was established and the Commission held an organizational meeting at the Corporation on February 2, 1999. Members of the Commission are John N. Erlenborn, Chairman (member of the LSC Board); Professor T. Alexander Aleinikoff, Georgetown University Law Center; Gilbert F. Casellas, Esquire, The Swarthmore Group; Professor Sarah H. Cleveland, University of Texas School of Law; Professor Nancy H. Rogers, Ohio State University College of Law (member of the LSC Board). Serving as the reporter for the Commission is Professor Enid Trucios-Haynes, Louis D. Brandeis School of Law, University of Louisville.

Public Comment

The Commission seeks public comment on the facts and circumstances surrounding the representation of aliens who are affected by the presence requirement, with a particular emphasis on seasonal agricultural workers. Comments are specifically requested on the following questions. How long are seasonal agricultural workers typically in the United States? When does the seasonal agricultural worker normally seek legal representation? What are the common claims of seasonal agricultural workers seeking legal representation? When do the claims of seasonal agricultural workers generally ripen? How long does it typically take to resolve a seasonal agricultural worker's legal claims? What is the established practice of LSC recipients in representing seasonal agricultural aliens? What is the likelihood that private counsel is available to represent aliens who are in the United States under temporary visas or who may temporarily leave the United States? Under what circumstances do seasonal agricultural workers commonly leave the United States? What are the implications of the presence requirement on recipient attorneys' professional obligations to their clients?

Oral testimony

Oral testimony at the public hearings will be at the invitation of the Commission. Any person interested in providing oral testimony may submit a written request to do so in the written public comments or in a separate correspondence.

Public Hearings

Two public hearings will be held by the Commission. The two hearings are scheduled for March 27, 1999, and April 10, 1999. Additional information on the hearings will be noticed in the **Federal Register**.

Dated: February 12, 1999.

Victor M. Fortuno,

General Counsel.

[FR Doc. 99–3981 Filed 2–17–99; 8:45 am]

BILLING CODE 7050–01–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Cost Accounting Standards Board; Notice

AGENCY: Cost Accounting Standards Board, Officer of Federal Procurement Policy, OMB.

ACTION: None.

SUMMARY: The Cost Accounting Standards Board (CASB) hereby extends an invitation for interested parties to provide comments on the following letter sent to organizations that responded to the Staff Discussion Paper (61 FR 49533, 9/20/96) on the treatment of the costs under government contracts for post-retirement benefit (PRB) plans. While a consensus emerged on many of the issues, the topics relating to the validity (compellability) of the post-retirement benefit obligation as a prerequisite for use of accrual accounting and the need, if any, to substantiate accruals by funding, engendered forceful, diverse, and often irreconcilable arguments. To promote a fuller dialogue and understanding of the issues before the Board, the Board is asking individuals to consider and comment on the opposing viewpoints discussed in the letter and to possibly expand on their own comments, if any.

DATES: Comments must be in writing, including an electronic copy of your comments in WordPerfect 6.1 or ASCII format, and must be received by March 15, 1999.

ADDRESSES: Comments should be addressed to the Cost Accounting Standards Board, Office of Federal Procurement Policy, 725 17th Street, NW, Room 9013, Washington, D.C. 20503. Attn: CASB Docket No. 96–02.

FOR FURTHER INFORMATION CONTACT: Rein Abel, Director of Research, Cost

Accounting Standards Board (telephone: 202–395–3254).

Richard C. Loeb,

Executive Secretary; Cost Accounting Standards Board.

Executive Office of the President, Office of Management and Budget, Washington, D.C. 20503

January 12, 1999.

Cost Accounting Standards Board

SUBJECT: Costs of Post-Retirement Benefit Plans, CASB Docket No. 96–02.

To Members of the Government contracting community:

Your organization responded to the Staff Discussion Paper (61 *Fed. Reg.* 49533; 9/20/96) of the treatment of the costs under government contracts for post-retirement benefit (PRB) plans. While a consensus emerged on many of the issues, the topics relating to the validity (compellability) of the post-retirement benefit obligation as a prerequisite for accrual accounting (Topic C) and the need, if any, to substantiate accruals by funding (Topic G) engendered forceful, diverse, and often irreconcilable arguments. To promote a fuller dialogue and understanding of the issues before the Board, is asking you to consider and comment on the opposing viewpoints discussed in this letter and to possibly expand on your own comments. The Board intends to widely distribute this letter and to invite other interested parties to also provide comments on these topics.

The Board is considering the adoption of Financial Accounting Standards Board Statement 106 (SFAS 106), ''Employer's Accounting for Postretirement Benefits Other Than Pensions,'' as the basis for the measurement of post-retirement benefit costs and assignment of those costs to cost accounting periods. Under SFAS 106, it is the ''substantive plan'' that creates a liability warranting its recognition for financial statement purposes. However, corporations often downplay the firmness of this liability in the footnotes to their financial statements. For instance, General Motors (GM) repetitively included reservations about the nature of these liabilities in its Financial Statements, e.g., Note 5 of GM's 1993 Financial Statement stated:

> The Corporation has disclosed in the financial statements certain amounts associated with estimated future post retirement benefits other than pensions and characterized such amounts as 'accumulated post retirement benefit obligations', 'liabilities', or 'obligations.' Notwithstanding the recording of such amounts and the use of these terms, the Corporation does not admit or otherwise acknowledge that such amounts or existing post retirement benefit plans of the Corporation (other than pensions) represent legally enforceable liabilities of the Corporation.

The perception, particularly among Government commenters, the any PRB liability recognized in the financial statements might be a ''soft'' liability has led to proposals that funding should be used as a tool in validating these liabilities.

Requiring Funding To Substantiate the Post-Retirement Benefit Cost Accrual

In Standards previously promulgated by the CAS Board dealing with pension and insurance costs, the applicable Standards required that pension and retiree insurance costs be funded. Therefore, it could be argued that to maintain consistency with the promulgations of the original CAS Board and amendments promulgated by the current Board, the Board will have to consider funding as a prerequisite for the use of accrual accounting for the costs of post-retirement benefit costs.

Industry representatives have pointed out the difference between the basis for the funding requirements in the pension Standards and the basis for a potential funding requirement under the post-retirement benefits case. The Aerospace Industries Association made the point as follows:

> Public policy, as articulated in the tax code, has long encouraged pension plan sponsors to fund their programs at an adequate level. While industry does not agree that funding has any place in the Cost Accounting Standards, the addition of a funding requirement in the recent changes to CAS 412, as well as explicit recognition of tax deductible limits, did not create tension between public policies as expressed in the Internal Revenue Code and the Cost Accounting Standards.
>
> In contrast, however, Congress has intentionally discouraged prefunding of post-retirement medical benefits. It would be inconsistent for the Cost Accounting Standards Board to in essence force contractors to fund these post-retirement benefit costs.

In general, industry commenters argued against any funding requirement. The following comments made by General Electric capture the essence of the industry arguments:

> The CASB and staff need to recognize that funding, per se, does not prove or disprove the validity of the PRB liability. The Staff Discussion Paper appears to have a bias toward funding. Although funding may be an important business consideration, the Board needs to first address the appropriate accounting method absent the ''funding'' issue. There are many reasons for funding or not funding a PRB liability but these reasons generally deal with cash flow consequences and income tax considerations. The Board needs to focus on the proper method of measuring, assigning and allocating PRB costs based on the existence of the liability rather than on the existence of funding. Funding is an allowability issue which is already addressed in FAR 31.205–6(o).

Boeing also expressed the belief that funding does not necessarily substantiate the liability, but suggested that more restrictive measures of the accrual or cash accounting be used where the contractual rights to a benefit are lacking. Boeing commented that:

> The Government's concern is that accrual accounting will result in reimbursing a contractor for costs the contractor has not expended. This concern should not structure proper accounting. The accounting must be based upon the likelihood that the contractor will liquidate the liability. If the likelihood is in some doubt or remote then the costs should be recognized on more limited accrual basis, i.e., terminal funding or those vested, or if not appropriate on a cash basis. Otherwise the costs must be recognized on an accrual basis over the period of time the benefit is earned.

The American Bar Association (ABA) noted, for financial accounting purposes, the threshold for recognition is met by a probability that an obligation exists. But rather than suggesting the use of more restrictive accounting or actuarial methods, the American Bar Association (ABA) indicated there are situations when the funding of the annual accrual can serve a legitimate purpose. The ABA wrote:

> * * * Certainly, the FASB considered this issue and determined that some estimate of future expenditures was preferable to no estimate at all.
>
> * * * * *
>
> Require funding of PRB costs only if payment cannot be compelled, or if research discloses a significant incidence of contractors, defaulting on PRB obligations. The Discussion Paper asks whether funding should be required to ''substantiate'' accrued PRB costs. We believe that a valid accrual does not need to be ''substantiated'' through funding for accounting purposes. This principle applies to pension costs as well as to PRBs. Funding requirements are, at bottom, a matter of procurement policy and not a cost accounting.
>
> We do, however, agree that contractors should not be permitted to accrue costs without funding them in cases where the payment cannot be compelled. In such cases, no valid liability has been incurred unless the liability is funded. Additionally, if circumstances indicate that a contractor is likely to default on its PRB obligations, accrual without funding should not be allowed.

The National Defense Industrial Association also acknowledged that funding could be one means to

substantiate (validate) the obligation when it commented.

If it can be determined that there is a valid obligation to pay, determining an annual estimate of the cost of that liability is feasible. Once an obligation to pay is established, there are two limitations the CASB needs to establish. The first is delineating the methods for arriving at a reasonable estimate of the cost of the liability. The second task is to provide for subsequent period adjustments as circumstances change. It is clear that funding validates a liability. It is also clear that funding does not match cost with products. It is also clear that the use of funding (or any other cash payment) as a determinant of cost incurrence decreases uniformity and consistency in accounting.

On the other hand, the comments from the Office of the Under Secretary of Defense for Acquisition and Technology (OUSD) articulate the concern of some members of the Government procurement community that any potential risk that the liability may not be liquidated is unacceptable. The OUSD unequivocally stated:

Yes, funding is necessary to substantiate accrual of costs. The level of funding necessary is 100 percent of the maximum amount of possible funding in accordance with the contractor's funding vehicle. Permitting funding at less than 100 percent of the cost accrual results in a potential risk that the liabilities for which the Government has paid its fair share might never be liquidated. A 100 percent funding requirement assures the Government that the money will be available when the liability must be paid. If there are valid reasons to accrue the liabilities, the accruals should be fully funded. Permitting less than 100 percent funding effectively results in the Government providing a long-term interest free loan to contractors. Permitting funding at less than 100 percent of the cost accrual would require that earnings on the unfunded amounts be imputed each year to preclude increased costs to the Government resulting from lost earnings on the unfunded amounts.

CAS Board Concerns Currently Under Consideration:

The CAS Board's concern is that SFAS 106 recognition of the obligation for the ''substantive plan'' is inappropriate for Government contract cost accounting. In fact, the Board is concerned that the mere existence of a written description of the plan does not ensure that there is a contractual and enforceable, that is, compellable, obligation to pay the promised benefit.

The Board is particularly concerned about he eventual settlement of (i.e., disbursement for) the liability accrued for post-retirement benefit costs. Under SFAS 106, there is an intentional and notable lack of this concern in that there is no control over (i) an entity's having accrued post-retirement benefit costs for any number of years under its extant substantive post-retirement benefit plan, (ii) then subsequently abrogating the plan in whole or in part, and (iii) recognizing a ''gain'' on the reversal of the prior accruals. Indeed, pre- and post- SFAS 106, there have been instances of companies taking just such actions. Comparing the case of post-retirement benefit costs to that of pensions this respect is even more instructive in that pensions have funding (and vesting) requirements imposed by other authorities (e.g., the Internal Revenue Code, the Employee Retirement Income Security Act) which bolster the notion that the cost accrued for pensions will lead to an actual disbursement in the future. Despite this collateral support for pension accrual, the Board included a funding requirement in its rules for both qualified and nonqualified pension plans. As it deliberates on the issue of post-retirement benefit costs, a natural extension of its funding requirement for pension costs would be to incorporate a similar requirement for post-retirement benefit costs.

Request for Additional Comments and Rationale

To ensure all facts of this issue are fully considered from all perspectives, the Board would like interested parties that oppose or question the establishment of a funding requirement to suggest alternatives to funding which would provide similar or equivalent support for the compellability of the post-retirement benefit obligation as that which is provided by a funding requirement. In addition, if you believe that accrual of post-retirement benefit costs solely in accordance with SFAS 106 criteria, without any further validation of the ensuing liability, is an adequate method for recognizing PRD costs for contract costing purposes, then the Board request that you provide arguments for accepting the ''substantive plan'' as the basis for contract cost measurement.

Conversely, for those that believe that there is no realistic alternative to a funding requirement, the Board asks that you set forth the arguments in favor of funding.

Submission of Comments

Comments regarding this request should be addressed to the Cost Accounting Standards Board, Office of Federal Procurement Policy, 725 17th Street, N.W., Room 9001, Washington, D.C. 20503, Attn: CASB Docket No. 96–02. It is requested that your comments be provided no later than March 15, 1999 in order to receive full consideration. Please include an electronic copy of your comments in Word Perfect 6.1 or ASCII format.

For further information, please contact Rein Abel, Director of Research, Cost Accounting Standards Board (telephone: 202–395–3254).

Sincerely,

Richard C. Lomb,

Executive Secretary.

[FR Dos. 99–3955 Filed 2–17–99; 8:45 am]

BILLING CODE 3110–01–M

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Conference Call

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming conference call for NCD's advisory committee—International Watch. Notice of this meeting is required under Section 10 (a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

INTERNATIONAL WATCH: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's International Committee on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans With Disabilities Act.

DATES: March 17, 1999, 12:00 noon–1:00 p.m. est.

FOR INTERNATIONAL WATCH INFORMATION, CONTACT: Lois T. Keck, Ph.D., Research Specialist, National Council on Disability, 1331 F Street NW., Suite 1050, Washington, DC 20004–1107; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), lkeck@ncd.gov (e-mail).

AGENCY MISSION: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.