

employee of their respective appointing agency. A vacancy on the Board shall be filled in the same manner in which the original appointment was made. A member may be reappointed for a subsequent term(s). Any member appointed to fill an interim vacancy on the Board shall serve for the remainder of the term for which his or her predecessor was appointed.

(g) In the event of the absence or incapacity of the Administrator or during a vacancy in the office, the official of the Office of Federal Procurement Policy, acting as Administrator, shall serve as the Chairman of the Board.

(h) In the event of the absence of any of the other Board members, a representative of that Board member may attend the Board meeting, but shall have no vote, and his or her attendance shall not be counted to establish a quorum.

#### **9901.305 Requirements for standards and interpretive rulings.**

Prior to the promulgation of cost accounting standards and interpretations thereof, the Board shall:

(a) Take into account, after consultation and discussion with the Comptroller General, professional accounting organizations, contractors, government agencies and other interested parties:

(1) The probable costs of implementation, including inflationary effects, if any, compared to the probable benefits;

(2) The advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning, contracts; and

(3) The scope of, and alternatives available to, the action proposed to be taken.

(b) Prepare and publish a report in the FEDERAL REGISTER on issues reviewed under paragraph (a) of this section.

(c) Publish an advance notice of proposed rulemaking in the FEDERAL REGISTER in order to solicit comments on the report prepared pursuant to paragraph (b) of this section, and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments. During this 60-day period, consult with the

Comptroller General and consider any recommendation the Comptroller General may make.

(d) Publish a notice of such proposed rulemaking in the FEDERAL REGISTER and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments.

(e) Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended by the Board, shall have the full force and effect of law and shall become effective within 120 days after publication in the FEDERAL REGISTER in final form, unless the Board determines a longer period is necessary. Implementation dates for contractors and subcontractors shall be determined by the Board, but in no event shall such dates be later than the beginning of the second fiscal year of affected contractors or subcontractors after the standard becomes effective. Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended by the Board shall be accompanied by prefatory comments and by illustrations, if necessary.

(f) The above functions exercised by the Board are excluded from the operations of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

#### **9901.306 Standards applicability.**

Cost Accounting Standards promulgated by the Board shall be mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing and administration of, and settlement of disputes concerning, all negotiated prime contract and subcontract procurements with the United States Government 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)), other than contracts or subcontracts that have been exempted by the Board's regulations.

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#### **9901.307 Exemptions and waivers.**

The Board may exempt classes or categories of contractors and subcontractors from cost accounting