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**COMMITTEE ON BENEFITS FINANCE AND
COMMITTEE ON GOVERNMENT BUSINESS**

November 3, 2008

Cost Accounting Standards Board
Attention: Raymond Wong
Office of Federal Procurement Policy
725 17th Street, NW, Room 9013
Washington, DC 20503
Via e-mail to casb2@omb.eop.gov

Re: CAS Pension Harmonization ANPRM, CAS-2007-02S

Financial Executives International's ("FEI") Committee on Benefits Finance ("CBF") and Committee on Government Business ("CGB") appreciate the opportunity to comment on the CASBs Pension Harmonization Advanced Notice of Public Rulemaking ("ANPRM"). FEI is a leading international organization of senior financial executives. CBF and CGB are technical committees of FEI, which review and respond to research studies, statements, pronouncements, pending legislation, proposals and other documents issued by domestic and international agencies and organizations. This document represents the views of CBF and CGB and not necessarily the views of FEI or its members individually.

We support the CASB's objective to harmonize CAS 412 and 413 with the Pension Protection Act rules. However, we would like to make several recommendations to refine the proposed rules. In general, we support the recommendations and data submitted by the Aerospace Industries Association (AIA) and the National Defense Industrial Association (NDIA). If there are any questions about our comments, we would be more than willing to meet with your or your staff to discuss further and walk through explanatory examples.

ERISA Prepayment Credits

First, we recommend reducing the "minimum required funding" by the ERISA credits. When a contractor voluntarily contributes discretionary funds to the pension trust, these funds create or add to a pre-funding credit for ERISA purposes, because that contribution was not yet required to be made. Such discretionary funding, to the extent it exceeds assignable CAS costs for the period, would be classified as a voluntary prepayment under the ANPRM. In subsequent periods, a minimum required contribution amount is calculated for ERISA without regard to the ERISA credits, and the contractor has the choice to apply a portion of the ERISA credits to fund the requirement or to fund the requirement through new contributions. If the contractor chooses to make a new contribution, the balance of the ERISA credit is unaffected (i.e., continues to be treated as discretionary funding) and the new contribution is applied to satisfy the minimum

required funding as if the ERISA credit did not exist. Unfortunately, in defining the “minimum required funding”, the ANPRM mixes the concepts of required and discretionary funding of both ERISA and CAS. The ANPRM defines the “minimum required funding” as the amount determined in accordance with ERISA, however the ANPRM reduces that amount by the ERISA credits, effectively assuming they are used to fund the required amount. Essentially, this means that for determining the baseline funding required for identifying mandatory prepayments, the ANPRM treats the ERISA credit as if it were applied to fund the minimum requirement regardless of whether it actually is applied for ERISA funding or not. Conversely, the ANPRM continues to treat the voluntary prepayment credit that corresponds with the ERISA credit as unapplied, discretionary funding. Clearly, these treatments in the ANPRM are contradictory to each other. Thus to address this, we recommend a revision to the ANPRM to remove the requirement to reduce the “minimum required funding” by the ERISA credits. This would align CAS with the ERISA calculation for the minimum required funding before the course of funding is applied (e.g., contributions, ERISA credits).

Also, we recommend adjustments to ERISA credits and voluntary prepayment credits necessary for a consistent and equitable result. If the contractor chooses to apply a portion of the ERISA credit to fund the minimum required contribution, that portion is subtracted from the ERISA credits and included with pension assets. The portion of the ERISA credit applied to fund the minimum required contribution is no longer discretionary but is part of required cash outlays by the contractor. Thus, a process exists for ERISA to convert discretionary to required funding. An analogous concept in current CAS is when a portion of the prepayment credit is used to fund CAS pension costs; the prepayment credit is no longer discretionary funding but is required. With the establishment of two different types of prepayments in the ANPRM, there are now two paths to convert discretionary funding to required funding that need to be reflected in the rule. One is the application of voluntary prepayments to fund pension cost. The second is the application of discretionary funding to meet the minimum required contribution, as occurs when ERISA credits are applied. However, as the ANPRM is currently written, the cash outlays originally classified as voluntary prepayment credits when contributed can be converted from discretionary to required only when funding CAS pension cost. In fact, these credits may be used to fund the PPA minimum required funding first. If cash outlays that were previously recorded as voluntary prepayments are subsequently used to fund the minimum required by PPA, by definition these cash outlays are no longer discretionary but have become required and should be treated as mandatory prepayments. The CAS should encourage voluntary payments, not stifle them.

Assignable Cost Limitation

The second area with which we have a concern is the new assignable cost limit (ACL) calculation. While we appreciate the intent of the CAS Board to revise this calculation to reduce the frequency with which plans enter and exit full funding and impact pension costs significantly as a result, we do not believe the ANPRM achieves the desired result nor is aligned with the overarching purpose of this limitation. First, we understand the purpose of the ACL is to prevent an excessive buildup of CAS assets that have funded CAS pension cost. Since pension costs calculated under the ANPRM are based on the greater of the AAL or MAL, it follows that if the ACL is to prevent a buildup of assets that have funded pension cost it too should consider both the AAL and the MAL. We recognize consideration of the MAL would allow for a higher level

of assets, but we believe this is acceptable given that the ANPRM provides for a higher pension cost as well. If the ACL considers only the AAL, as the ANPRM is written, we do not believe that the calculation is aligned with its intended purpose. Instead, we recommend revising the calculation of the ACL to include the greater of 125% of the AAL or 100% of the MAL as measured at the end of the year when the respective normal costs would be part of each liability measure

Interest Rate for Minimum Actuarial Liability and Minimum Normal Cost

Third, refinements with the interest rate used for the minimum actuarial liability and minimum normal cost are needed. We believe the flexibility provided by using “the contractors’ best estimate” for selecting the source of the interest rate used in the calculation of the minimum actuarial liability and minimum normal cost is desirable to achieve a meaningful measure of the resulting pension cost for each contractor. However, we have concerns that the criteria for the acceptable rates as written are sufficiently unclear as to create a significant exposure for interpretive disagreements. For example, we believe that the ANPRM criteria as written allows for the use of a very short term rate or a very long term rate, since either may reflect the rate at which pension benefits could be effectively settled at a current or future period, respectively. We encourage the CAS Board to consider providing additional criteria in the rule for selection of these rates.

Transition Rules and Effective Date

Finally, we recommend modifying the transition rules and the effective date and applicability date. The transition rules must be clear on the method for determining the accumulated value of mandatory prepayment credits from prior years, but the ANPRM did not address this. It is desirable for both the Government and contractors to have a simple, practical method that is readily auditable to avoid any disputes over this one time calculation. We recommend that the accumulated value of mandatory prepayment credits from prior years be measured as the balance of CAS prepayments (amounts contributed in excess of CAS pension cost) as of January 1, 2010 less ERISA credits (amounts funded in excess of ERISA requirements) as of January 1, 2010. Thus, the ERISA credits, which represent discretionary amounts funded in excess of ERISA requirements, are a proxy for voluntary prepayments for CAS. We believe this method is equitable to contractors that have maintained well funded pensions as good corporate citizens prior to or in anticipation of PPA funding mandates.

On the subject of effective/applicability dates, if the final rule is published sufficiently before the end of 2009 that a new contract may be received, the timing as described is ideal. However, we believe there could be an unintended consequence to eligible contractors, as defined by PPA, if publication of the final rule occurs late in 2009. For example, if the final rule is published December 1, 2009 with an immediate effective date and an eligible contractor does not receive a new CAS-covered contract or subcontract until the following year (2010), the new harmonized rules would not be applicable to all the contractor’s CAS covered contracts until January 1, 2011. Unfortunately, Section 106(a) of the PPA mandates that eligible contractors must begin funding under the PPA requirements by the earlier of January 1, 2011 or the plan year beginning on or after the effective date of the CAS harmonization rule. One possible solution for the CAS Board is to revise the effective date of the final rule to be January 2, 2010, which delays triggering the PPA funding requirements for eligible contractors until January 1, 2011.

In addition, we recommend that the language in the ANPRM be clarified to clearly address that the final rules will be applicable prospectively to both existing and new CAS covered contracts performed on or after the applicability date. This avoids any misinterpretation that the final rule is applicable only to new CAS covered contracts of the contractor.

Thank you for the opportunity to comment. We look forward to additional opportunities to help support the harmonization effort in the future. As mentioned, if there are any questions about our comments, we would be more than willing to meet with you or your staff to discuss further and walk through explanatory examples. If you have any questions or need additional information, please contact Cady North at (202) 626-7803 or cnorth@financialexecutives.org.

Sincerely,

Handwritten signature of Andrea Edmonds in cursive script.

Andrea Edmonds
Chair, Committee on Benefits Finance

Handwritten signature of Dale Wallis in cursive script.

Dale Wallis
Chair, Committee on Government Business