

Traditional vs. Nontraditional Defense Contractor

Academic Institutions

Definition of Nontraditional Defense Contractor, 10 U.S. Code § 2302(9):

An entity that is not currently performing and has not performed, for at least the one-year period preceding the solicitation of sources by the Department of Defense for the procurement or transaction, any contract or subcontract for the Department of Defense that is subject to full coverage under the cost accounting standards (CAS) prescribed pursuant to section 1502 of title 41 and the regulations implementing such section.

Applicability of full CAS to Academic Institutions:

- Before 1995, there were no separate Standards for educational institutions so universities were subject to the same CAS standards as industry. Some educational institutions were performing contracts subject to full CAS coverage while others may have been subject to modified or no CAS coverage, depending on the amount of Federal Acquisition Regulation (FAR) contracts they received.
- Full CAS coverage requires compliance with 19 CAS standards (see FAR clause 52.230-2) while modified coverage requires compliance with only four standards (see FAR clause 52.230-3).
- In 1995, the CAS Board first prescribed separate cost accounting standards for educational institutions (see FAR clause 52.230-5). The Cost Accounting Standards for educational institutions – CAS 501, 502, 505 and 506 – are equivalent to the four standards that apply when a commercial entity is subject to modified CAS-coverage. Because there are only four CAS for educational institutions, there really isn't a distinction between "full" and "modified" CAS-coverage.
- However, the CAS Board regulations also provided that where an existing contract awarded to an educational institution incorporated full CAS coverage (in other words, the 19 Cost Accounting Standards specified in 48 C.F.R. part 9904 for commercial entities), the contracting officer may continue to apply full CAS-coverage in future awards made to the same educational institution. See 48 C.F.R. § 9903.201-2(c)(6).
- Since the CAS for educational institutions have now been in effect for more than 20 years, it is unlikely that many educational institutions are still performing contracts subject to full CAS-coverage.
- Like any other MTEC Offeror, academic institutions are responsible for certifying whether or not they qualify as a Nontraditional Defense Contractor at time of proposal submission in their Warranties and Representations.
- Academic institutions should consult their accounting and finance departments who should be able to verify whether or not they are complying with full CAS (19 standards) or just four standards.