

Laurie Schmidgall
ACI DCAA Audits Conference
November 18, 2010

INCURRED COST AUDITS: DETERMINING ALLOWABILITY

Allowability Discussion Topics

- ◆ Pertinent FAR Requirements
- ◆ Supporting documentation
- ◆ The DCAA audit experience
- ◆ Resolving disagreements
- ◆ Evolving environment

FAR Contract Clauses

- ◆ Your contract clauses authorize audit and acceptance of responsibility for providing evidence of compliance
 - ◆ FAR 52.215-2 Audit and Records contract clause
 - ◆ Right to audit books and records as evidence costs claimed incurred and properly recorded
 - ◆ Records, materials, and other evidence shall be made available at all reasonable times
 - ◆ Records includes books, documents, accounting procedures, practices and other data in written, electronic or other form
 - ◆ FAR 52.216-7 Allowable Cost and Payment contract clause
 - ◆ Requested payments only for costs allowable in accordance with FAR Part 31.2 in effect on the date of the contract and contract terms

FAR: Determining Allowability

- ◆ FAR 31.201-2 Determining Allowability
 - ◆ A cost is allowable when reasonable, allocable, compliant with CAS (if applicable), contract terms, and any limitations in FAR 31.2
 - ◆ Contractor responsible for maintaining records to demonstrate costs are
 - ◆ Incurred
 - ◆ Comply with applicable FAR Part 31.2
 - ◆ Allocable to the contract

Supporting Documentation

- ◆ Different types of documentation can be used to meet evidence requirements that costs were incurred
 - ◆ Support typically involves an external party
 - ◆ Documentation that costs were incurred may include:
 - ◆ Vendor invoice (paper copy or electronic)
 - ◆ Receipt of payment from vendor
 - ◆ Cancelled check
 - ◆ Credit card statement
 - ◆ Bank statement
 - ◆ Tax filing (e.g., 1099, W-2, 941, 1120, 1040)
 - ◆ Work product of services provided by a vendor

Supporting Documentation

- ◆ Different types of documentation can be used as evidence costs are compliant with FAR 31.2
 - ◆ Evidence needs to demonstrate the cost is not of an unallowable type based on applicable FAR 31.2 subpart
 - ◆ Identify the applicable FAR subpart(s) to determine what would make the cost unallowable to understand documentation detail necessary
- ◆ Documentation that costs comply with FAR Part 31.2 may include
 - ◆ Vendor invoice with description of cost (paper or EDI)
 - ◆ Payment receipt with description of cost
 - ◆ Internal payment request form with description of cost
 - ◆ Tax filings (e.g., 1099, W-2, 941, 1120, 1040)
 - ◆ Work product of services provided by a vendor
 - ◆ Work product developed internally describing costs or activity
 - ◆ Meeting minutes describing work activities

The DCAA Audit Experience

- ◆ Remember that DCAA has a legitimate job to do, and you accepted this when the contracts with the U.S. Government were signed
- ◆ DCAA and Contractors both rely on the same FAR requirements
 - ◆ You must comply with the regulations, and DCAA audits your compliance
- ◆ DCAA auditors not responsible for understanding your record keeping
 - ◆ Type of records or ease of availability

The DCAA Audit Experience

- ◆ Incurred cost audits may incorporate CAS compliance testing
 - ◆ CAS compliance may be part of allowability determination
 - ◆ Cyclical CAS compliance testing by DCAA may be out of date
- ◆ GAO criticism has influenced DCAA audit activities (GAO-o8-857, GAO-09-468)
 - ◆ Working papers did not support audit opinions
 - ◆ Supervisors dropped audit opinions without adequate evidence
 - ◆ Sufficient work not performed to support audit conclusions and opinions
- ◆ DCAA HQ guidance are directives your local auditors must follow
 - ◆ Established default response period of 5 days as “timely” and defined “denial of access” as not providing the requested records within the DCAA timeframe (12/19/2008, o8-PAS-042(R))

Resolving Disagreements

- ◆ Differences of opinion regarding the adequacy of supporting documentation, method, or timeliness
 - ◆ Actions may be considered by DCAA a denial of access
 - ◆ DCAA may send a letter to contractor CFO or VP
 - ◆ DCAA may pursue a subpoena for the records, possibly through DoDIG
 - ◆ Costs may be challenged by DCAA as unsupported and penalties applied
 - ◆ Litigation may be necessary to recover the costs as allowable
 - ◆ DCAA may pursue a Form 1 withhold of the costs involved
 - ◆ Expiration of funds may become an issue to future recovery

Resolving Disagreements

- ◆ Differences of opinion in interpretation of subsections in FAR 31.2
 - ◆ Which FAR subsection applies to the costs
 - ◆ Interpretations of the criteria for allowability
 - ◆ FAR 31.201-6(a) directly associated costs
 - ◆ FAR 31.201-3 Determining reasonableness

Resolving Disagreements

- ◆ Appealing to DCMA Contracting Officers for help during the DCAA audit
 - ◆ 3/2009 DCAA HQ issues MRD 09-PAS-004(R)
 - ◆ Reporting DCMA Contracting Officers to DoDIG
 - ◆ DoDIG investigative reports issued
 - ◆ 4/2009 Inadequate documentation to support DCMA decisions
 - ◆ 7/2010 DCMA did not provide DCAA sufficient time to audit
- ◆ DCMA Board of Review

Evolving Environment

- ◆ Efficiency initiatives announced in 2010
 - ◆ “Do more without more”, Ashton Carter
 - ◆ Focus on U.S. Government affordability of costs
 - ◆ Cost reduction goals
- ◆ Expect increased emphasis in cost reasonableness
 - ◆ “Should cost” reviews
 - ◆ Potential increase in questioned costs as unreasonable? (FAR 31.201-3)
- ◆ Directives issued by Ashton Carter Sept 2010
 - ◆ DPAP to align DCMA and DCAA processes to ensure work is complementary
 - ◆ DDR&E to develop plan to improve the return on IRAD investments for industry and the government

Useful Resources

- ◆ <http://www.dcaa.mil/>
 - ◆ DCAA HQ audit guidance and audit programs
 - ◆ DCAA Audit Manual
- ◆ http://www.acq.osd.mil/dpap/dars/case_status.html
 - ◆ Open regulatory cases, FAR and DFARS
- ◆ <http://www.gpoaccess.gov/fr/index.html>
 - ◆ Federal Register notices of regulatory changes
- ◆ <http://www.gao.gov/docsearch/repandtest.html>
 - ◆ GAO reports
- ◆ <http://www.dodig.mil/PUBS/index.html>
 - ◆ DoDIG reports