

Ramping Up for Your FY 2007 Incurred Cost Proposal

Government contractors whose fiscal year ends December 31, 2007 should begin contemplating preparing your incurred cost proposal (ICP) soon after the year end. Proposals are required for all contractors who have billed costs to the Government under contracts/subcontracts with requirements for submitting final indirect rates and must be submitted no later than six months after fiscal year-end, i.e., June 30, 2007.

Getting a jump start on this task now will head off later headaches by putting it off, and then discovering you either do not have the people to perform this task, or you learn that there are significant problems in extracting data from your accounting system that must go in this proposal.

After year-end, we recommend that at a minimum you begin the tasks of:

- Assigning a knowledgeable person to head up this task
- Extracting preliminary final year-end



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- indirect rate information
- Determining which contracts / subcontracts are affected by this requirement
- Assembling billing data (amounts billed during 2007) for affected contracts
- Summarizing any Time and Material/Labor Hour billed hours into Sch. K of the DCAA sample ICP presentation
- Scrubbing any indirect accounts for unallowable costs, if this task has not been accomplished throughout the 2007

Related to the FY2007 Incurred Cost Proposal, government contractors should take note of the fact that DCAA issued a Memorandum for Regional Directors (MRD), 07-PPD-033(R), dated October 5, 2007. Within that MRD, DCAA reminded its auditors of DCAA's interpretation of an adequate incurred cost proposal including the fact that FAR subpart 42.705-1(b) refers to the "Model Incurred Cost Proposal" in Chapter 6 of the DCAA Pamphlet No. 7641.90 as to what "generally constitutes an adequate final indirect cost rate proposal". Although the MRD stated that "auditors should use this model as a guide", experience

has shown that auditors use this model as if it were an express requirement of the FAR (if for no other reason, there isn't any other "model incurred cost proposal" to be found). Rather than debate the issue of what is or is not actually required by the FAR, it's probably more expedient to develop an incurred cost proposal which satisfies all or most of the criteria within the model.

Professional and Consulting Fees Under FAR 31.205-33; When Fair and Reasonable Isn't Exactly "Fair"

FAR 31.205-33 has the distinction of being one of the few provisions of 31.205 which expands upon the general documentation requirements within FAR 31.201-2(d) (that costs have been incurred, are allocable and comply with applicable cost principles). As it pertains to 31.205-33(f), "comply with applicable principles" includes very specific (and when applied very literally) inflexible requirements. Fees for consultant services rendered must be supported by a detailed agreement

(engagement letter), sufficiently detailed invoices including time expended and nature of the services provided, and consultant work product. Unlike the big leagues, where 2 for 3 is a phenomenal hit rate, there is no acceptable compliance rate other than 100% or 3 for 3 with respect to the specific criteria. Nothing compares to the frustration of incurring costs which are by any measure allowable, allocable and reasonable, but nonetheless challenged because some component of 31.205-33(f) is missing or incomplete.

Although it is always preferred to have everything in its place before an audit, the fact is that either the invoice details and/or the consultant work product could be provided after the fact assuming that supporting or corroborating documentation already exists. In contrast, only an "eternal optimist" would place great faith that an auditor would accept a work product which is created after-the-fact to resolve a FAR 31.205-33(f) issue.

In summary, within the FAR, fair and reasonable is only measured in the



context of compliance with regulations including 31.205-33(f). Its specificity is the result of historical misuse of

"consultants"; some whom were agents facilitating contracting in a foreign environment and the fees were in some cases commissions, in other cases bribes.

Although invoices from your CPA for tax advice may clearly be "tax advice" based upon the detailed billings and the final work product (2 of 3 criteria), you simply don't want the risk and the potential hassle of dealing with an issue simply because you overlooked criteria 1 (an agreement or engagement letter). Government contract compliance may seem to be unduly complicated, but as they say "it is what it is".

Training Opportunities

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Future Newsletters

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