



Changes in DHHS Medicare Provider Contracting Regulations

The implementation of the Medicare Modernization Act (MMA), enacted in 2003, will have a significant effect on the way Medicare service providers do business with the government. Section 911 of this statute will essentially require many government contractors, who provide Medicare/Medicaid claims processing services, to abide by sections of the Federal Acquisition Regulations (FAR) and Cost Accounting Standards (CAS) that those contractors were heretofore not required to follow.

Depending on the contracting vehicle, those providers, identified as Medicare Administrative Contractors (MACs), may be subject to provisions of FAR Part 15 Contracting by Negotiation, FAR Part 31 Cost Principles and FAR Part 30 Cost Accounting Standards Administration.

In many cases, MACs must demonstrate that their accounting systems are job cost specific, that is, direct and indirect costs can be identified to individual government contracts and task orders, and that unallowable costs specified in FAR Part 31.205 are excluded from bid proposal and invoiced costs.

If the contracts awarded are cost reimbursable (CPFF, CPAF or T&M), the requirements of the Allowable Cost and Payment contract clause (FAR 52.216-7) will mandate the submission of an Incurred Cost Proposal at the end of each fiscal year and adjustment of interim billings to final year-end indirect rates. And if that isn't enough, some MACs will have to submit a CASB Disclosure Statement that defines the company's cost accounting

practices, and be subject to FAR Part 30 administrative procedures.

Medical service providers who will qualify as Medicare Administrative Contractors should be pro-active in becoming knowledgeable of these requirements and begin exploring contracts administration and accounting adjustments that may be required.

More information on future MAC contracting requirements can be found on the CMS webpage for Medicare Contracting Reform, www.cms.hhs.gov/medicarereform/contractingreform/.

Claiming and Bidding Professional and Consulting Fees

All government contractors incurring professional and consulting fees are reminded to follow FAR 31.205-33 requirements in demonstrating the purpose and reasonableness of those costs. In previous newsletters and articles published by Beason & Nalley, we have reiterated those FAR requirements which include ensuring that adequate consulting documentation is available demonstrating the reasonableness and necessity of those services. Adequate documentation should be obtained from the consultant that clearly specifies the nature and scope of services, evidence that the services were provided, and adequate invoices showing the time spent and type of services performed.

Professional arrangements with consulting firms providing "marketing" or "business development" services will likely draw more scrutiny by auditors, since such services sometimes include lobbying or advertising efforts. The costs of such efforts

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are unallowable. Elevating audit risk are professional service arrangements for which payment terms are based on retainer agreements. Such agreements are sometimes vague in scope, and often invoices submitted by these professionals do not specify the services performed or consultant time expended. When such agreements are vague in scope, and billing documentation provided by the consultant is much too brief, auditors will question these costs as unallowable under the FAR provision noted above, since sufficient documentation to assess reasonableness has not been provided.

Keeping Your Eye on CAS Compliance

Many companies previously exempt from CAS compliance are finding themselves more prone to awards of CAS-covered contracts. This is especially true with companies who were categorized as a small business and are losing, or have lost, that small business designation.

When reviewing solicitations for bid, contractors should be vigilant in ascertaining the appropriate Section K Certifications and

Representations blocks to prepare, indicating to what extent, if any, CAS coverage may be applicable. A couple of tips to keep in mind are that it takes an initial CAS covered contract or subcontract award valued at \$7.5 million or more to trigger CAS coverage for future periods, and certain types of awards, regardless of award amount, are exempt (commercial items, FFP awards made on competitive basis without cost or pricing data, etc.).

If the company is unsure as to whether a potential contract award will be CAS-covered, knowledgeable company contracts personnel should research the regulations, and first determine if an exemption applies before preparing Section K of the solicitation.

Facilities Capital Cost of Money (COM) Rate July – December 2005

The Federal Register has published the COM rate for the July – December 2005 time frame at 4.5%. Government contractors should use this rate for this time frame in calculating COM for forward pricing proposals as well as for year-end actual indirect rate submissions.

Training Opportunities

Professionals of Beason & Nalley, Inc. will provide training sponsored by the Federal Publications Seminars on two occasions prior to the end of 2005.

The course to be provided is, "Government Contract Accounting Systems Compliance", and will be instructed on **November 2 – 3, 2005 in Las Vegas, Nevada**, and **December 13 – 14 in Washington, D.C.**

For more information, go to www.fedpubseminars.com and look under the Government Contracts index tab for this course.

Getting Your Incurred Cost Proposal Done on Time

Government contractors that perform under flexibly-priced contracts or subcontracts are reminded that incurred cost proposals are required, by regulation, within six months after the end of the contractor's preceding fiscal year.

If contracts or subcontracts include the "Allowable Cost and Payment" clause or other verbiage to that effect, the company will be required to prepare and submit a cost presentation to the Government that identifies actual costs incurred for those contracts and subcontracts for each fiscal year. DCAA requires that this presentation include the company's final indirect cost rates, costs and allocation base information supporting those calculated indirect rates, schedules of incurred and billed costs by contract/subcontract, and peripheral financial and contracts data.

If the company's fiscal year ends on June 30, 2005, the incurred cost proposal for the fiscal year ending June 30, 2005 will be due no later than December 31, 2005.

Government contractors facing this requirement should begin preparing for this task as quickly as possible after the end of the fiscal year. Waiting until the last month before the submission deadline will only increase the likelihood that the regulatory due dates will not be met. If the company is likely to miss this deadline, we suggest that a company official contact the ACO in writing and request an extension before the original due date passes.

DCAA is faced with a procurement mandate to complete audits of these proposals within certain periods of time. Preparation of these proposals in a timely manner will facilitate an audit of the incurred cost proposals expeditiously and enable contractors to adjust invoices to

their Government customers timely. Repetitive delays in submitting these proposals on time may foster a perception that the company's accounting and billing procedures are inadequate, and personnel responsible for performing financial and contracts administration functions are ignorant in Government procurement matters.

Future Newsletter Editions

Beason & Nalley welcomes any feedback from the readers of this newsletter. We appreciate any suggestions that you may have as to future content, presentation and format, or interesting developments in the procurement community that would be of interest to our readers. Please provide any feedback or suggestions via our email address at dwalker@beasonnalley.com.

Beason & Nalley, Inc. is an accounting firm with a focus on serving government contractors. With this focus, we go well beyond the bounds of what one would normally consider to be "typical" accounting services. We provide services such as Deltek GCS and Deltek Costpoint consulting, Outsourced Accounting, Government Contract Services, and more. Our goal is to provide the business owner with options for their financially related administrative needs. Our service list is comprehensive. Contact us:

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