GCA Report

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NEW DEVELOPMENTS

DCAA Issues New Audit Plan

The Defense Contract Audit Agency has issued its Fiscal 2017 Staff Allocation and Future Plan Guidance (known as Program Plan). The Plan calls for about 5,000 work years (auditors and support staff) and anticipates funding from both DOD and other civilian agencies for reimbursable audits. The Plan emphasizes providing timely audits to its customers for demand audits (bid proposals, rate proposals, termination settlement proposals) and progress on auditing its backlog of incurred cost proposals. The Guidance praises DCAA's timeliness by citing statistics on duration of time to conduct its audits. Its audit priorities are relatively unchanged from prior Plans but includes changes to accommodate its recent geographic reorganization of three regions (down from five) plus its field detachment.

The Plan does include a shift of audit resources to such high priority areas as audits of business systems and post award audits (known as defective pricing). Of the six business system audits the government reviews, DCAA is tasked with three – accounting systems, estimating and material management accounting systems (MMAS). Other high priority areas will be labor system audits and employee compensation. The labor audits include such areas as internal controls, timekeeping and floor checks. Compensation reviews, which used to focus only on five top executives, will include both executives and non-executive employees where employers will be providing data on sick leave and vacation, executive bonuses, deferred compensation, cash dividends, retention bonuses, 401(k) company matching contributions and stock options. Despite two recent cases disparaging DCAA long time approach of using averaging methods of benchmarking compensation it has prepared a 14 page legal response to these cases emphasizing its traditional approach will be continued.

Details Emerge Over the New Mentor-Protégé Program

In light of advantages offered by the recently passed final rule for a new government-wide mentor-protégé program there have been many clarifying articles written on the final rule. The rule expands eligibility from only 8(a) firms to all small businesses. The new program allows SBA approved mentors to provide assistance to qualified small businesses primarily in the form of financing arrangements, technical training and mentorship, and access to business systems and back office assistance. For size purposes the small business will not be considered to be affiliated with the large business mentor where the real benefit for both companies is to have the opportunity to form joint ventures to pursue small business set aside contracts. Small businesses without technical experience or past performance records will now be competitive and more attractive to customers when paired with the mentor's experience and past performance while mentors now become eligible for expanded small business set-aside contracts.

Both large and small businesses are being encouraged to explore the possibility of entering into a mentor-protégé arrangement and submitting applications as soon as possible. A mentor will usually have only one protégé at one time though the SBA may authorize more than one if the mentor can show neither protégé will be adversely affected. Though a protégé will usually have only one mentor more than one can be added if there is no conflict with assistance. The new rules require a written mentor-protégé agreement be approved by the SBA where it is to last for three years with a second three year term available if the protégé is receiving agreed-upon assistance. The agreement must set forth the protégé's needs and provide a detailed description and timeline for assistance. Once approved, the protégé is required to file an annual report where the elements are spelled out. A protégé may sell up to 40 percent ownership to the mentor for purposes of raising capital where the combined firm will not be considered affiliated for size determinations. In considering the joint ventures' capabilities and past performance the

procuring agency will consider the individual partners of the venture rather than the venture itself. For evaluation purposes, contracting agencies will provide incentives for the mentor to provide "significant" subcontracting opportunities for the protégé in the form of evaluation credits or points. While the joint venture may populate itself with separate partners' employees for administration functions, performance of actual work of the venture must be done by employees of the joint venture itself. Such an arrangement disallows so called "populated joint ventures" where partners choose to send their employees to the venture where protégé employees would be denied the benefit of developing their own expertise, experience and past performance. The mentor-protégé relationship will also apply to HUBZone set-asides. Finally, since the new rules apply government-wide, separate agency mentor-protégé programs will be superseded by the new program unless the SBA approves them.

DOD Proposes Steps to Streamline Technology Awards

The Defense Department is proposing a change to the DFARS to create an exception to the requirement for certified cost or pricing data for contracts worth less than $7.5 million to small businesses or nontraditional defense contractors. Non-traditional contractors are considered those who have no contracts fully covered by all the cost accounting standards within the last year. The rule would apply to awarded contracts either under the SBIR program or a broad agency announcement with "technical, merit based selection criteria" *(Fed. Reg. 595940).*

DARPA is also taking steps to entice new contractors. The Defense Advanced Research Agency's Microsystems Technology Office (MTO) is stressing an approach that will use Other Transaction authority to provide alternatives to FAR contracting that will craft customized, mutually beneficial agreements and will negotiate more flexible accounting and reporting requirements found in the commercial world. MTO is stating it wants to partner with firms to (a) commercially develop internet of things sensor technologies (b) wireless technologies to optimize increasing congested electromagnetic spectrum and (c) electronic capabilities to enhance hardware and software opportunities.

DOJ and FTC Issue Guidance for HR Personnel to Avoid Anti-Trust Activity

The Department of Justice and the Federal Trade Commission released a joint guidance on October 20 warning human resource personnel that some common practices may be in violation of certain anti-trust rules. Two "illegal" policies include (1) agreement among employers not to recruit or hire (poach) certain employees and (2) collaborative agreements, either explicit or implied, to compare and contrast salaries even when such actions are part of membership in an association. The guidance recommends employees avoid sharing sensitive information with competitors where sharing of salary or other terms of employment may be seen as an "implicit agreement" to fix compensation. The guidance suggests that DOJ or the FTC be contacted if someone becomes aware of an HR policy that violates anti-trust laws.

Final Rule to Disclose Labor Law Violations is Passed; An Injunction is Issued

As we have been reporting a final rule to the Federal Acquisition Regulation was passed to require federal contractors to disclose violations of certain labor laws and require contracting officers to consider them when making responsibility determinations. Following extensive comments the final rule will be phased in and will now require subcontractors to make similar disclosures to the Department of Labor rather than the prime contractors as originally proposed *(Fed. Reg. 58562).* There has been an avalanche of opposition by industry representatives to both the proposal and the final rule including threats of litigation.

A federal judge in Texas has issued a preliminary injunction which enjoins the government from enforcing parts of the executive order, in particular, the new reporting and disclosure requirements of labor law violations. The injunction notes disclosure would be inappropriate where a long list of violations are often still being processed and actions sought are unresolved where they are frequently dismissed or settled without finding fault so reporting on them would be inappropriate.

Five Trends Shaping Federal Contracting in 2017

Bloomberg Government has identified some key trends that will define 2017 contracting. They include:

1. Consolidation through category management. Since first identifying desktops and laptops as pilot programs, additional markets ("categories") will shift to a small number of existing multiple award contracts (MACs) where the government will rely on a few of these MACs as category management takes shape. The Office of

Federal Procurement Policy Oct 7 released an OMB Circular to describe category management initiatives.

2. Increased compliance and accountability. Both contractors and the government will be grappling with new compliance standards. Contractors will need to submit various data points to the government on a monthly basis as a result of a new transactional data reporting rule getting implemented. Agencies will need to standardize their reports to comply with the new Digital Accountability and Transparency Act (DATA Act).

3. Increased agency use of simplified acquisitions. Though federal spending has shrunk, use of simplified acquisition procedures (SAP) has grown. Rule changes have revised thresholds amounts and agencies are relying on SAP to reduce protest delays. Contractors should be happy about these developments.

4. Agencies will pay for innovative technologies and IT support in unconventional ways. Agencies are seeking ways to engage the private sector to put forth new innovations to help the government solve problems (see article above about DOD initiatives as examples). New uses of Other Transaction authority contract vehicles and "hack-a-thons" at the White House and DOD are examples of new ways to entice new innovative firms.

5. Mergers and divestitures will increase. Companies will need to find new ways to protect profits while the government is aggressively seeking lower margin initiatives such as strategic sourcing, lowest price/ technically acceptable (LPTA) bid proposal evaluations and aggressive use of lower cost smaller companies. Larger companies will need to continue separating lower-margin services from higher margin entities working, for example, on weapons systems while other entities will need to merge to improve capabilities and increase opportunities.

Also mentioned is that the share of DOD contracts is declining and the mid-tier is shrinking where though the share of spending captured by the mid-tier firms has remained steady, the average company size is decreasing.

Contracting Opportunities

Several significant contracting opportunities have been identified in our readings. Some include:

The Army outlined four small business contract opportunities recently, two of which are over $1 billion. First, is a 10 year, $4.8 billion Special Operations Forces Global Logistics Support Service (SOFGLSS). About 35% of the contract work will go to subcontracted small business. Second is the $2 billion Special Operations Forces Information Technology Enterprise Contract 11 (SITEC 11) which will be using the GSA's Alliant contract instead of a unique contract. Third is a $150 million set-aside Exercise Support Contract and fourth is a $45 million single award small business set-aside for the Global Research and Assessment program.

Japan is expected to soon reveal its fifth straight annual defense budget which will be $51 billion for FY 2017, a 2.5% increase from the prior year. It is anticipated the request will benefit US defense contractors including a $1 billion upgrade to the PAC-3 missile system made by Lockheed, acquisition of the Standard Missile 3 system made by Raytheon and purchase of 42 F-35 jet fighters also made by Lockheed. Commentators state tensions in the South China Sea are expected to continue which will continue representing a growing market for American firms.

In addition to Japan, Lockheed will be selling F-16 jets to India where Sec. of Defense Carter met with his Indian counterpart to discuss working together on jets, aircraft carriers and other military projects. South Korea is also increasing its current defense budget by 4 percent (representing 2.5 percent of its GDP) where among other projects it will be deploying is Lockheed Martin's Terminal High Altitude Area Defense missile to counter Chinese and North Korea threats.

The Army is about the break up an $11 billion single award contract to Raytheon under the Warfighter Field Operations Customer Support (FOCUS) program providing support services to the Army's live, virtual and constructive training systems and will split the work into 10 programs worth $19 billion. The two biggest vehicles, to be awarded in 2017, will be the $3.5 billion Army TADSS Maintenance Program (ATMP)I and the $2.4 billion Enterprise Training Services Contract (ETSC).

NASA has identified 36 opportunities each worth more than $100 million that it will compete by the end of 2019. Examples of 2017 projects include (a) a recompete of the Joint Operations and Integrated Systems Technology (JOIST) that has generated $1.4 billion since 2009 (b) a recompete for facilities operations, maintenance, repair, design and construction services at Johnson Center Space Center in Huston (c) a recompete of the Glenn Engineering and Research Support (GESS-3).

DCAA Revises Guidance on Auditing Non-DOD Agencies; Issues FAR Cost Principles Guidebook

Effective Oct. 1, 2016 DCAA may again provide full audit support for non-Defense agencies. Earlier guidance eliminating such support is now superseded because DCAA has met the requirements to have less than 18 months of incurred cost inventory. Some agencies may contract for DCAA to conduct their audits while others seem to have made other plans (e.g. NASA has contracted with private CPA firms to conduct their contract audits.) *(16-PPD-008(R).*

DCAA has recently published its cost allowability guidebook which contains 75 chapters known as the FAR Cost Principles. Some commentators have pointed out examples of where the guidebook assertions do not square with appropriate interpretations of the cost principles. You can download a copy of the guidebook at www.dcaa.mil/SelectAreasCost.

Final Rule on Barring Tax Cheats and Felons

A Sept. 30 final rule will bar corporations with felony convictions or outstanding tax liabilities from being awarded government contracts. The rule, applicable to DOD, GSA and NASA prohibits the awarding of contracts to corporations with a tax liability or felony conviction unless the agency has considered suspension or debarment and made a determination that this further action is unnecessary to protect US interests.

CRS Survey Exceptions to Buy America Act and Other Restrictions

The Congressional Research Service has stated that Buy America Act and other domestic content restrictions such as the Trade Agreements Act (TAA) and the Berry Amendment are "less stringent than they might first appear." The Buy America Act and others generally require the government to purchase domestic end products and construction materials on contracts above the micropurchase threshold. As implemented in the FAR, the Act is associated with a price preference scheme that requires that when the low offer does not involve a domestic end product, procuring agencies are to add a certain percentage to the low offeror's price – ranging from six percent when the lowest offer is from a large firm to 12 percent when it is from a small business or 50 percent for DOD procurements. The survey notes that the FAR includes many exceptions to the Buy America Act (e.g. unavailability of domestic products, unreasonable domestic prices, commercial IT items, purchases below simplified acquisition procedures, use is outside the US). In addition, under the TAA, waivers to the Buy American Act exist when purchases are made from "designated countries" (e.g. World Trade Organization, certain designated poor countries and Caribbean basin countries). Though the Berry Amendment generally requires higher domestic content levels exceptions to it include when domestic quality or quantity does not exist, items purchased for combat operations and noncompliant metals are necessary to national security.

Foreign Contractors Get Tax Relief on US Payments

Under a new IRS rule Code Section 5000C, most foreign subcontractors will not be required to pay the 2 percent tax on US government payments that prime foreign contractors are required to pay. A second development will also exempt the 2 percent bill on prime "personal service contracts" (where an individual is called to provide services) worth less than the $150,000 simplified acquisition procedures threshold. A third change will exempt the 2 percent charge on all contracts with the US Agency for International Development.

Higher Dollar Threshold for Audits of Termination Proposals

A proposed change to the FAR will raise the threshold for the audit of prime contract and subcontract termination settlement proposals from $100,000 to $750,000. The higher threshold will match the criterion for certifying pricing data and is being well received in contracting circles indicating they will reduce the number of small businesses subject to such audits.

GSA Issues Free iBook Version of FAR

Under a GSA blog post the FAR is now being offered in an e-book version for the first time. The free iBook is accessible on iPhones, iPads and Apple laptops.

CASES/DECISIONS

Cost Impact of an Accounting Change Must Be Material to be Paid

In 2007, Raytheon revised its cost accounting disclosure statement to make three accounting changes where three years later it provided the government with a

general dollar magnitude (GDM) of the change. After a DCAA audit and some revisions it was determined the cost impact of the changes on all of its contracts was $36,000. The issue at hand was whether Raytheon owed the government the GDM amount which hinged on whether the regulations required such a payment only if it was material and if so, how materiality is determined. Though certain CAS related provisions do state that any negative impact related to a voluntary accounting change should be paid, the Court focused on FAR Subpart 30.6 which governs CAS administration. These regulations specify the steps a CO must follow when a voluntary accounting change occurs and requires no contract cost adjustments if the cost impact is "immaterial." In determining the meaning of materiality the court pointed to FAR 30.602(a) which lists several factors that must be considered "where appropriate" such as the absolute dollar amount, amount of contract cost compared to amount being considered and the cost of administrative processing of a contract price adjustment. Even though the CO is allowed considerable discretion the Board rejected the CO's approach that considered only the first criterion of materiality, the absolute amount, and not other relevant factors. Noting that Raytheon's annual contract base during 2004-2007 exceeded $3 billion the cost impact would be less than 0.002 percent. Moreover, since the cost impact would impact thousands of contracts the cost impact per contract would be $36 assuming 1,000 contracts which would not justify the administrative costs of adjusting these contracts *(Raytheon Co. Space and Airborne Sys., ASBCA No. 58068).*

Use of Estimates Does Not Invalidate "Sum Certain" Requirements

Government Services submitted a certified claim for $100,000 based on assertions of bad faith by the government in evaluating its past performance record. When the CO requested records substantiating the $100,000 Government Services responded in writing saying it was a "numerical calculation" of estimated administrative and legal costs related to the need to provide responses to the estimated amount of future bids that considered past performance due to the government's bad faith actions. In rejecting the claim the government asserted Government Services had failed to include a mathematical basis for any portion of the $100,000 amount and that the "estimate" was a term that implied a qualification of the amount claimed. The Board sided with Government Services first stating that it is well established that the Contract Disputes Act does not require a detailed cost breakdown nor cost-related documents but rather only a submittal, in writing, providing "a clear and unequivocal statement that gives the CO adequate notice of the basis and amount of the claim." As for the word "estimate" the Board stated the claim itself did not use qualifying language. The Board noted that in cases presented by the government that attempted to show the word "estimate" really constituted qualifying language making the claims improper the operative fact was not that underlying elements included estimates and approximations but rather the contractor failed to provide an overall sum certain which is not the case here *(Government Svcs,., ASBCA No. 60367).*

CAS 404 Applies Only to Capital Leases Not Operating Leases

The government asserted Exelis overcharged the government by charging costs of its building's operating lease rather than the costs related to a capital lease. The government said the contractor violated CAS 404, Capitalization of tangible capital assets where it should have followed generally accepted accounting principles (GAAP) and computed the costs of ownership such as depreciation, maintenance, repairs, taxes in accordance with CAS 404. Exelis argued CAS 404 did not apply since by its name it applies to only tangible capital assets while its operating lease is an intangible lease. The Board rejected the government's assertion that to permit Exelis to treat the building lease as an operating lease would violate the purpose of CAS 404 and sided with Exelis saying CAS 404 applied only to tangible assets. It ruled the government's position failed to distinguish between an operating and a capital lease where the preamble to CAS 404 allowed contractors to determine whether a lease should be treated as a capital or an operating lease and that CAS 404 would apply only to capital leases. The Board also stated that reliance on GAAP lacked merit stating that for government contract accounting purposes CAS and FAR took precedence *(Exelis Corp., ASBCA No. 60131).*

REA Costs are Allowable

The following case addresses whether consulting costs related to a request for a price adjustment due to differing site conditions are allowable and whether the "measured mile method" is appropriate for computing the amount. The Board noted that costs of preparing an REA are unallowable when they are incurred in connection with the prosecution of a claim (FAR 31.205-47) or if they are contingent on recovery of the costs from the government. Here, the Board ruled, the consulting costs were allowable because they were incurred in furthering a resolution through negotiation, not prosecuting a claim.

In determining the quantum due, the Board selected the measure mile method which compares the productivity achieved by a contractor where there is a no site change versus one after the site change is considered. The Board ruled the method had the advantage of using actual data from the project to measure the cost difference between work performed under normal conditions and under changed conditions. Also, since the responsibility of the changed conditions was not clear the Board ruled it was not essential to identify the costs with "mathematical precision" *(Optimum Services, ASBCA No 59952).*

Reimbursement of Clean Up Costs through Indirect Rates Does Not Preclude a CERCLA Claim

Lockheed Martin had been allocating estimated clean up costs to its indirect rates for several years. After federal and state agencies discovered soil and groundwater contamination at three facilities, Lockheed brought a CERCLA action against the government as a responsible party. Though no parties disputed the government's liability the government rejected Lockheed's claim stating it had already reimbursed Lockheed through the indirect cost rates applied on its contracts so to pay for the CERCLA action would be double paying it. The Court disagreed that double paying would occur citing FAR 31.205-5, Credits and an environmental agreement between Lockheed and the government that required Lockheed to reimburse the government for any previously reimbursed costs that it recovers from CERCLA *(Lockheed Martin Corp. v US WL 4409354).*

NEW/SMALL CONTRACTORS

Screening Unallowable Costs

Proper screening of unallowable costs is a key area for audit scrutiny. The following can provide a useful reminder to veteran employees, highlight the basics for new employees and provide some essential checkpoints for preparing written policies for screening unallowable costs, an essential element for "adequate" internal controls.

A government contractor must, at some point, demonstrate its accounting system can identify and exclude – screen - unallowable costs from proposals, billings and incurred cost submittals. FAR 31.201-6 and CAS 405 are the guiding regulations for screening and accounting for unallowable costs. A determination of inadequacy in this area can range from a recommendation to make improvements to the conclusion the contractor's accounting system is inadequate for government contracting purposes. This determination, in turn, can result in failure to award a contract until adequacy is demonstrated, suspension of progress payments and vouchers and/or inability to obtain government work in the future.

Unallowable costs include:

1) *Costs Identified by Pertinent Laws and Regulations.* These are the costs identified by FAR 31.205 cost principles and separate agencies' cost principles which are continuously being interpreted by court and board decisions, expert opinion and the Defense Contract Audit Agency.

2) *Contract Specific Costs.* Contracts often specify criteria that must be met for a cost to be allowable or that may express a ceiling limitation. Common examples include travel and subcontracting costs must be approved, overtime over a specific level is not reimbursed and indirect cost rates are capped.

3) *Advanced Agreement.* These agreements are commonly negotiated with Administrative Contracting Officers to affect one or more types of costs.

4) *Directly Associated Costs.* These normally allowable costs are unallowable because they would not have occurred had not the unallowable cost been incurred. For example, reasonable travel costs associated with attending a golf event are unallowable.

The following areas are commonly scrutinized by government auditors:

1) **General policies and procedures.** These should be in writing and should provide that direct and indirect costs are properly classified as allowable or unallowable (including associated costs). The policies and procedures should demonstrate that unallowable costs are identified and segregated from contract costing, billing and pricing when the contract amount is not completely based on commercial item pricing. These written procedures should address, at a minimum:

a. General ledger accounts for unallowable costs. One account is acceptable for a very small business but other separate accounts should be created where cost categories may contain significant unallowable costs (e.g. travel, legal, advertising etc.).

b. List of unallowable costs. All unallowable costs should be identified with relevant FAR references. A brief discussion of conditions that make an unallowable cost allowable (e.g. product or service advertising is unallowable while advertising for employees is allowable) should be included since written policies provide a strong basis to justify the allowability of costs when challenges are expected.

c. Internal controls. Normal internal controls for financial accounting should be included in efforts to screen unallowable cost. A list of duties by position, management review evidenced by signature requirements, independent management assessments, separation of duties to ensure unallowables "don't slip through" and flowchart or narrative of the screening process.

d. Communication and training. Describe how appropriate personnel are informed and what, if any, training is provided. For example, do traveling employees and their supervisors know about travel and entertainment rules and are key accounting and contracts personnel knowledgeable about all relevant cost principles?

e. Adequate documentation and record keeping. Do procedures exist on how to brief a contract, document reasons why a specific cost is allowable, and identify relevant forms (e.g. travel expenses with space for purpose of travel and excess travel costs)?

2) **Attention to "Hot" Areas.** Though they change depending on areas highlighted by GAO reports and media attention, we find auditors currently seem to be focusing on the following areas:

a. Entertainment (FAR 31.205-14). Distinctions contractors make between unallowable entertainment costs and allowable costs such as certain travel, public relations, employee morale and health, etc.

b. Independent Research and Development and Bid and Proposal (FAR 31.205-18 and CAS 420).

c. Legislative Lobbying (FAR 31.205-22).

d. Professional and Consultant Services (FAR 31.205-33).

e. Relocation Costs (FAR 31.205-35).

f. Selling Costs (FAR 31.205-38). Are selling costs distinguishable from bid and proposal costs and are they properly segregated by class of customer (e.g. government, foreign, commercial)?

g. Travel (FAR 31.205-46). Excess travel and associated costs of unallowable activity.

h. Trade, Business, Technical and Professional Activities. Procedures should be in place that adequately describe the business purpose of the meetings or conferences.

i. Excess Compensation (FAR 31.205-6).

j. Bonuses and Deferred Compensation (FAR 31.205-6).

k. Selected Fringe Benefits such as severance, 401(k) and insurance costs (various FAR sections).

Though government auditors can be expected to focus on the areas described above, contractors should be alert to other potential areas. These are most likely to include high cost categories as well as "favorite" areas each auditor tends to have.

3) **Point of Entry Screening.** The organization should screen for unallowable costs up front rather than after the fact when cumbersome and expensive screening is required for certification or incurred cost submittals. Individuals incurring the expense and reporting it on a document should identify the unallowable cost. Personnel reviewing expense reports and vendor invoices should clearly identify the unallowable cost on the document and enter the cost into the appropriate account in the general ledger. These point of entry practices not only save time and money but can reduce the perception of your organization being considered a high audit risk requiring extensive transaction testing.

QUESTIONS & ANSWERS

Q. One of the suppliers we are considering using informed us there would be a $5 drop in unit prices they had previously quoted for a key component after we submitted our proposal but before we have negotiated a price with the government. Must we divulge this to the government?

A. I assume you are concerned about defective pricing. First, it depends whether the contract is covered by the Truth in Negotiations Act (e.g. does the contract require submission of *certified* cost and pricing data, does it exceed $750,000). Many contracts are not covered by TINA and hence there is no requirement to divulge this information. If TINA covered, you most likely have to divulge the information if it is factual, relevant to negotiations and would have a significant impact on price. Failure to do so means you did not submit the most current, accurate and complete cost or pricing data as of

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the date of price agreement which makes the contract subject to a defective pricing reduction. However, even if covered by TINA, you may not have to divulge the information if it does not meet the definition of cost or pricing data (an area we plan to explore soon) or you do not intend to use the supplier because, for example, there are quality or delivery schedule problems.

Q. We are a Subchapter S corporation and want to wait until the end of the year to pay our principles to conserve cash. We are working on two cost type contracts where the principles are charged at quite a high billing rate. If we are not paying them can the invoices be rejected for not reflecting actual costs?

A. If the billed rates reflect their actual salaries then the fact you are waiting to actually pay them should not result in problems with the invoices. If at the end of the period the salaries were not paid or compensation to the principles look like a "distribution of profits" rather than salaries, you are likely in for a fight. If you plan on paying the principles in a later period, make sure you establish a liability for their salaries during the year.

Q. We have always charged facilities and equipment costs to our overhead pool. We have just won a contract where these costs will be substantial and we can charge them direct to the job. Do we need to remove all the other facilities and equipment costs from our overhead pool to remain consistent?

A. Not necessarily. Even though you are not CAS covered, CAS 402 provides instructive guidance. It requires all like costs incurred for the same purpose to be treated consistently. If the facilities and equipment costs meet this definition then, yes, the costs should be deleted from the overhead pool; if they do not, then they may be treated differently. CAS 402 provides an interesting illustration of a "like" cost not incurred for the same purpose: a contract requiring three full time firemen assigned to a fixed post could be charged directly while firemen responsible for serving the entire area of multiple buildings could continue to be charged indirect.

Q. If an employee does not complete their timesheets (they are sometimes out of the office unable to complete their timesheets on time) before we submit payroll we are told we have to input time for them in order for them to be paid (it's a state law). However inputting time for employees would be a violation of government timekeeping policies. What should we do?

A. One solution that comes to mind is to create a "dummy" account where the hours are identified for payroll purposes and the costs are reflected as an overhead "job" account. When the employee can, he will credit the "dummy" hours from the timesheet and charge the appropriate hours. There, of course, must be an adequate audit trail to track these transactions.

Q. Are your publications an overhead or G&A expense?

A. Like many other costs, you have a wide latitude unless your established practices limit you (e.g. all publications are charged to only one indirect cost pool). Generally, firms' definitions of overhead and G&A are sufficiently broad to allow either interpretation. For example, like many other categories of expense, the publications could be considered overhead to the extent they help you manage contracts or G&A because they help manage the company as a whole.

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