

DOD Pays Pension Cost Impacts

Written by Nick Sanders

Monday, 22 August 2016 00:00



Ten years later, the piper is being paid. Liabilities created in 2006, which DOD refused to budget for at that time and, indeed, through most of the past ten years, are now coming due. We are talking about the cost impacts associated with contractors' defined benefit pension plans.

It's been quite a while since we had anything substantive to report on the issue. The most salient blog article is [this one](#). There are others, some dating back to 2010. In other words, this is not a new issue. But the impacts are being felt in the current government fiscal year.

Legislative changes to pension plan accounting enacted in 2006 created ripple effects with respect to compliance with CAS 412 and 413. CAS-covered contractors with defined benefit pension plans claimed entitlement to the cost impacts associated with those ripple effects. DOD knew about the cost impacts, and at first did nothing but later issued some fairly bizarre guidance that contractors were sure to challenge. Meanwhile, the large defense contractors calculated their cost impacts, submitted them for audit and eventual negotiation, and prepared to file claims if the DOD failed to pay up.

And now the [first payment](#) (that we know of) has been made. Buried in the lower middle of the August 12, 2016 Defense Department's list of daily contract awards is the following notice:

Boeing Co., Seattle, Washington, has been awarded a \$22,598,000.00 contract action modification (P00100) to previously awarded contract FA8625-11-C-6600 to account for the impact of The Pension Protection Act of 2006, Pub. L. 109-280; Moving Ahead for Progress in

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the 21st Century Act, Pub. L. 112-14; the Highway and Transportation Funding Act of 2014, Pub. L. 113-159; and the Bipartisan Budget Act of 2015, Pub. L. 114-74, as identified in accordance with the terms of the settlement agreement: The Boeing Company Request For Equitable Adjustment And Claim For Pension Protection Act Cost Impact, Amendment 01, dated July 5, 2016. This modification funds a portion of the equitable adjustment for costs incurred related to engineering and manufacturing development. Fiscal 2015 research, development, test and evaluation funds in the amount of \$22,598,000.00 are being obligated at time of award. The Air Force Life Cycle Management Center, Wright-Patterson Air Force Base, Ohio, is the contracting activity.

Obviously we don't know the details of the agreement with Boeing. We don't know if this is the entirety of the adjustment to be paid to the contractor, or perhaps simply one of many. For example, it is conceivable that DoD would make one payment per affected military service (i.e., one for USAF, one for Army, one for Navy, etc.). The FAR gives the Cognizant Federal Agency Official (CFAO) discretion and wide latitude regarding how to reflect equitable adjustments stemming from CAS-related cost impacts. Still, \$22.6 million is a decent chunk of change. Even if this represents 100 percent of the equitable adjustment, it's not bad. Not bad at all.

And remember, Boeing is just one of the affected contractors. Other large contractors have also submitted REAs and claims for their calculated cost impacts. Any CAS-covered contractor with a defined benefit pension plan is a candidate for an equitable adjustment. So we don't know the total bill to be paid with current DoD appropriated funds. But based on this figure, it's going to be a fairly large figure. (Well, unless you are used to dealing with billions of dollars. In which case, it will be a small blip on the financial radar screen.)

Left out in the cold while the large contractors negotiate their claims with DoD are the smaller contractors, the ones that have defined benefit pension plans and cost-type contracts, but which are not fully CAS-covered. As we [told](#) readers, those contractors (whomever they are) have to comply with CAS 412 and 413 because there is a FAR Part 31 cost principle that requires them to do so. However, since they are not subject to CAS outside of the cost principle, the rules on changes to cost accounting practice don't apply to them.

We wrote at the time—

We have long argued that it makes little sense to exempt contractors from the burdensome

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requirements of CAS coverage, only to condition cost allowability on compliance with certain aspects of the Standards. And now, once again, we see the inequity of that situation.

Sorry guys, you're out of luck on this one.

And we think that assessment still holds true today.

In any case, while the little guys are getting shafted, the big guys are doing their negotiation dance with DoD and making bank. This was all foreseen ten years ago, and the can was deliberately kicked down the decade-long road so that it could be made somebody else's problem – and that "somebody else" is today's CFAO at Boeing and the Air Force program team and all the other current DoD employees impacted by these long-simmering claims. Sorry guys, but you're out of luck on this one, as well.