

Contracting Officers Rely on DCAA Instead of Doing Their Jobs

Written by Nick Sanders

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It's not the first time we've asserted that Contracting Officers rely on DCAA to tell them what to do. We've asserted that one FTA Contracting Officer relied on an audit report "like a crutch." (See "The Sad, Yet, Illustrative Case of the PMO Partnership Joint Venture," which can be found on this site in the members-only section.) Indeed, we are not the only ones asserting that point. In 2011, the GAO issued a report that stated DCMA was overly reliant on DCAA—at least with respect to contractor business system oversight. (See our article on the GAO report, [here](#) .)

In a recent decision, the ASBCA essentially said the same thing.

In the matter of Fluor Federal Solutions, Inc. (ASBCA No. [61353](#)), the ASBCA was presented with a government argument that it lacked jurisdiction over Fluor's appeal, asserting that the appeal "was premature because the Navy desired a DCAA audit before issuing a final decision." In other words, the Contracting Officer felt unable to issue a final decision until DCAA issued an audit report.

Fluor disagreed, pointing out that a DCAA report might discuss quantum, but should not address entitlement. (Way back in 2009 we [took umbrage](#) at a DCAA audit report that discussed a contractor's entitlement to omitted employee health and welfare costs.)

Importantly, Judge Clarke, writing for the Board, agreed with Fluor. He wrote—

We agree with Fluor's argument that an audit goes to quantum and is not needed to assess entitlement. We have held that a contracting officer's desire to conduct an audit does not change the status of a contractor's claim. *Eaton Contract Services, Inc.*, ASBCA Nos. 54054, 54055. We deny the Navy's contention that the appeal is premature.

[Internal citations omitted.]

In other words, a Contracting Officer cannot use the fact that they may be awaiting a DCAA

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audit report as a valid reason for failing to issue a Final Decision within the timeframe specified by the Contract Disputes Act.