

Quick Close-Outs

Written by Nick Sanders
Monday, 24 August 2020 00:00

Currently, DCAA must perform its audits of contractor proposals to establish final billing rates and issue the associated audit report to a contracting officer for action within one year of receiving the contractor's proposal. That's the law.

It didn't use to be that way, though.

Back in the old days of, say, about three years ago, DCAA would take years and years to get around to performing those audits. And the audits would go on for years and years. At last measurement point, it was taking DCAA an average of three years to audit one year's worth of incurred costs. (See, for example, [this blog post](#) from 2015.)

But that was then and this is now.

Now, things move more swiftly—or, at least, they are supposed to. And mostly, they do. So that's good.

Back in the slow ol' days, contractors that didn't have final audited and negotiated and settled indirect cost rates had a FAR-approved work around. FAR 42.708 provided that certain prime contracts could be "quick-closed" under certain conditions. For example, if the amount of "unsettled" direct and indirect costs associated with the contract was valued at less than \$1,000,000 or less than 10% of the total contract value, then contracting officers and contractors could negotiate the final contract costs and close-out that contract, removing it from everybody's books. And that final negotiated value was final—which is to say that it was no longer subject to DCAA audit. It was a win-win!

Unfortunately, the circumstances in which the quick-close methodology could be applied were limited. If you were dealing with one of the bigger contractors, especially if there was a big backlog of unsettled final rate proposals (as there almost always was), then the FAR circumstances in which quick-close procedures could be used would almost never be met. For instance, let's say Contractor A had a billion dollars of indirect costs annually, and let's say that Contractor A had five open years for which DCAA had not yet completed its required audits. That would mean that Contractor A had \$5 billion of unsettled indirect costs that were allocated

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to its contracts. Thus, the average contract would have far more than \$1 million in “unsettled” indirect costs allocated to it (not to mention who knows how much “unsettled” direct costs), and a contracting officer would be prohibited from using the FAR 42.708 quick-close procedures. It was simply not applicable to Contractor A’s situation.

But DCMA found a way to get around that FAR limitation. It did so by issuing a series of Class Deviations that waived the FAR requirements and, instead, permitted contracting officers to use their business judgment to determine when to use quick-close procedures. We reported on the DCMA Class Deviations when they came to our attention. ([See](#) , for example, this blog post from 2017.)

Okay, now you have the context for the announcement that on May 3, 2019, the Defense Pricing & Contracting Directorate issued its own Class Deviation (2019-00009). The DPC Class Deviation:

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Authorizes DoD contracting officers to deviate from the FAR 42.708 requirements and states that the contracting officers may use the quick-close procedures when the total unsettled direct and indirect costs to be allocated to any one contract, task order, or delivery order do not exceed \$2 million (in lieu of the 42.708 thresholds

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Incorporates DCMA Quick-Closeout Procedure Class Deviation (DCMA Memo 17-142, dated 15 Aug 2017), stating that DCMA ACOs are further authorized to deviate from FAR 42.708(a)(2) and negotiate the settlement of direct and indirect costs for a specific contract, task order, or delivery order to be closed in advance of the determination of final direct costs and indirect rates set forth in FAR 42.705 **regardless of the dollar value or percent of unsettled direct or indirect costs allocable to the contract**

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Thus, as of May, 2019, contracting officers using the discretion provided by the DCMA Memo should, instead, cite to the new DPC Class Deviation. Why are we writing about it now?

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Because it was just brought to our attention.

Here's [a link](#) to the 2019 DPC Class Deviation.