

Claim and Dispute Support Experience

Written by Administrator

Thursday, 24 September 2009 13:25 -

- Assisted DARPA/Air Force 1st tier subcontractor with preparation of a multi-million dollar Termination for Convenience settlement proposal, including settlement with suppliers and analysis of \$2 million in capital expenditures; also recommended strategy for handling multi-million dollar “investment” (planned contract loss) as well as unplanned contract loss that resulted in significantly more recovery of costs than management had forecasted.
- For a bio-pharmaceutical developer (Project BioShield), led the effort to support Termination for Convenience settlement proposal, including reviewing subcontractor claims in an adversarial litigation environment.
- Assisted military airplane 1st tier subcontractor with preparation of a multi-million dollar Request for Equitable Adjustment associated with Prime Contractor delay and disruption.
- Assisted a multi-billion dollar Department of Energy contractor with transition to cost-plus, CAS-covered environment, including identification of unallowable costs; compliance with FAR, CAS and TINA; preparation of indirect cost rates; and submission of initial Final Indirect Cost Rate proposal. Developed position papers for contentious issues related to restructuring costs, including accounting for mass severance and asset impairments.
- For a bio-pharmaceutical manufacturer (supporting Project BioShield for the Centers of Disease Control and Prevention), led a project to support transition from Fixed-Price to Cost-Reimbursable contracting, including assessment of business practices, development of indirect cost structure and calculation of indirect cost rates, preparation of cost proposals and pricing of equitable adjustments in compliance with TINA and FAR requirements, and generation of policies and procedures to aid in contract compliance (Estimating, Purchasing, Socioeconomic Reporting, Billing).
- Participated in supporting investigations of alleged False Claims Act violations and defective pricing allegations. Primary liaison with DCAA and Naval Criminal Investigative Service (NCIS).
- Supported contract compliance-related hotline investigations under direction of internal Counsel for a multi-billion dollar Engineering/Construction contractor.
- Participated in litigation support to defense team in a commercial dispute that included forensic accounting analysis of three years’ of corporate expenses (including personal transactions of shareholder) and expert testimony regarding reliance damages; also included critique of plaintiff’s claim. Case dismissed with prejudice.
- Participated in a team providing expert testimony for the General Electric Company’s CAS 413 pension case before the U.S. Court of Federal Claims, in which GE’s position was upheld in the Court’s decision and sustained in all particulars in the subsequent appellate Court decision. (Teledyne, 50 Fed. Cl. 155 (2001) and Allegheny Teledyne v. US, 316 F.3d 1366 (Fed. Cir. 2003)).
- Under direction of external counsel defended a small equipment manufacturer in a Federal criminal proceeding, developed alternate damage calculations, which were accepted by the local Assistant U.S. Attorney and judge, and used to establish sanctions under Federal Sentencing Guidelines.
- On behalf of PwC Assurance, monitored and supported SEC regulation “10(a)” investigation into potential returns and allowances manipulation by a US-based subsidiary of a foreign consumer products manufacturer.
- Under direction of external counsel, led the investigation into Government contract cost accounting practices and business controls of a \$150 million Navy equipment manufacturer,

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including review of alleged TINA violations and indirect rate calculation errors.

- Under director of internal and external counsel, led team in support of aviation maintenance contractor's Department of Defense Voluntary Disclosure investigation, which included a forensic accounting analysis of \$50 million in billings, review of internal controls, and assessment of accounting transactions for compliance with applicable statutes, regulations, and contract terms and conditions. Efforts included calculation of Government's loss (quantum), briefing corporate management, and briefings to Army CIC, DCAA investigators, and DoJ attorneys. Project resulted in an acceptable settlement for contractor and allegations of several criminal felonies for Contracting Officer's Technical Representative (COTR).

- Author, "Preparing for Recovery Audits" (Contract Management, Oct. 2003)
- Author, "Determining Final Costs When a Contractor Fails to Submit its Annual Indirect Cost Rate Proposal: A Proposed Alternative to the DCAA/DCMA Approach" (Federal Contracts Report, Vol. 78, No. 20)

- Provided expert testimony on Government cost accounting, contract administration and source evaluation issues, Orange County (California) Superior Court. (Wireless Facilities, Inc. & WFI Government Services, Inc. (WFI) v. Celeris Systems, Inc.)

- Led outsourced internal audit teams at several aerospace & defense entities. Led team evaluating compliance and business practice compliance at the Federal business unit of a multi-billion dollar publicly traded entity. The resulting report, performed under privilege, identified several internal control gaps that exposed the entity to allegations of violation of the Trade Agreements Act and other statutory/regulatory requirements associated with its General Services Administration Multiple Award Contract. Briefed the final report to General Counsel and the Board of Directors.

- Assisted multi-national engineering and environmental remediation contractor with resolution of DCAA audit issues, including determinations of inadequacy related to Disclosure Statement, accounting system, preparation of indirect cost rates, and indirect cost allocation structure. As part of the work, took over audit liaison function with respect to interaction with DCAA and DCMA Administrative Contracting Officer. Also assessed and recommended enhancements/changes to established/disclosed cost accounting practices, policies and procedures, and internal controls.

- Document Retention in the Information Age – National Contract Management Association South Bay Chapter, September 2005

- For an AbilityOne contractor, provided advice and assistance on transition into negotiated cost-reimbursement contracting. Efforts included development of initial cost allocation structure, identification of unallowable costs, indirect cost rate calculations, and assistance in negotiating the new methodology with DOD contracting officers. Also consulted on contract financing opportunities, cash flow enhancement, and resolution of disputes on individual contracts. Also provided support on revenue recognition issues associated with entity's external audit.

- For a publicly traded aerospace/defense contractor, provided SME support to external audit, in connection with revenue recognition under SOP 81-1, analysis of reserves associated with DCAA audit findings and other disputes with the Government, and program management issues. Also provided training to external audit staff in the areas of revenue recognition and testing, EVMS, and applicable CAS and FAR requirements.

- Provided support to litigation team defending Allison Engines in a False Claims action, in which Allison's position was upheld in various rulings up to and included the Supreme Court of the United States. (Allison Engine Co. v. United States ex rel. Sanders, No. 07-214, June

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