

# Government Contracting Alert

---

2<sup>nd</sup> Quarter 2015

## Treatment of Delinquent Final Indirect Rate Proposals

In the Memorandum for Regional Directors (MRD) numbered 15-PPD-002(R) DCAA announced further audit guidance on how to treat delinquent final indirect rate proposals (CFYs ending in 2013 or earlier).

### **DCAA and DCMA Responsibilities:**

During February 2015 each DCAA Field Audit Office (FAO) was required to review the list of delinquent proposals and confirm accuracy of the list.

In May 2015 DCAA will send letters to Contracting Officers (COs) about DCAA's intention to close out Incurred Cost Proposals which are 12 months or more overdue; this list hopefully accounts for any valid extensions that have not expired.

DCMA has one month to notify DCAA as to why a particular proposal should not be closed. If DCMA does not respond to DCAA by June 30, 2015, DCAA's intent will be to close the overdue incurred cost proposal if it is 12 months overdue.

DCMA has a choice of either obtaining an adequate proposal (e.g., within 30 days) or unilaterally setting the rates as per FAR 42.703-2(c)(1) and FAR 42.705(c)(1). If the CO chooses to unilaterally set the final indirect rates, then he/she needs to determine the decrement factor based on relevant historical questioned costs or as a last resort, applying a "total contract cost" decrement factor when no relevant history exists. This rate, provided by Headquarters Policy, is currently 16.2%, based on an Agency-wide analysis. Audit teams should provide support to assist the CO with applying a unilateral contract cost decrement.

### **So what does this mean to you, the contractor?**

First, make sure that if you are on the list, that it is accurate. Did you have a requirement to file a proposal for that year? If not, did you notify the Government? You may have had a requirement to file for prior years and DCAA is assuming that one is required for a current year(s). It is a good idea to notify DCAA and CO that you do not have a requirement to file a proposal in cases where you had to file for prior years. This eliminates the chance of showing up on the overdue list for a particular year.

Second, have you, in fact, provided DCAA and/or CO with your ICS for that particular year? If so, let them know. You should provide them with the date and recipient of the original submission along with any additional correspondence related to the original submission.

Third, if you are truly delinquent, determine if you can submit an adequate proposal within 30 days. If you can submit the proposal within the 30 days, let the CO know that it is coming and obtain written confirmation that the CO is in agreement with the delivery schedule. Use the adequacy checklist to ensure that the proposal will be deemed adequate.

Fourth, if you know that you will be unable to submit the proposal within 30 days, first and foremost, do everything in your power to get the proposal started immediately; communicate with your CO and ask for a reasonable extension. You may not get the extension but it does not hurt to ask.

Other things that you should consider if you are **on** the list:

- Order of magnitude of costs involved. Are the overall amounts insignificant? If so, then you may be okay with the CO unilaterally applying a cost decrement. It may be cheaper than the cost to prepare the proposal.
- If a contractor was granted a *valid* extension and it has not expired, they should confirm that DCAA has reflected that in its list.
- If a contractor has submitted its ICS to another audit agency within the Federal Government, it should notify the CO and DCAA. The contractor should provide them with the date and recipient of the original submission along with any additional correspondents related to the original submission.
- In the event of M&A activity, DCAA and the CO should be informed if the contractor that was purchased will no longer submit a separate ICS but will instead be included in the acquiring contractor's ICS.

Other things that you should consider if you are **not** on the list:

- Should you be on the list? You should confirm that you have submitted all of your proposals in the timeframe required. If you have not submitted the proposal(s), do so immediately.
- Do you have incurred costs proposals for classified contracts, i.e., Field Detachment (FD)? If so, make sure that the proposals have been submitted since FD has its own process in place to follow up on overdue proposals.

This MRD applies to DCMA. In the coming months, DCAA Headquarters Policy will send each non-DoD Agency their respective list of overdue proposals and request that they obtain the overdue proposals or unilaterally establish contract costs.

In conclusion, contractors that do have an ICS that is overdue should immediately submit the ICS to mitigate the chances of the CO unilaterally setting the final indirect rates for that year and avoiding the risk of being non-responsive to an RFP that requires offeror's ICS to be up to date.