



Federal Regulatory Compliance – Best Practices Washington Technology Webcast

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Assurance ■ Tax ■ Consulting

Agenda

Topic	Minutes
Regulatory compliance overview	5
Major areas of financial compliance risk	15
Best practices to mitigate financial compliance risk	5

Regulatory Compliance Overview

- Public law 93-400 established the Federal Acquisition Regulation System (FARS)
 - The FARS includes the FAR and its agency-specific supplements (DFARS, HSAR, etc.)
 - The Cost Accounting Standards are incorporated into the FAR in Part 30
- The government employs resources to exercise its audit rights
 - The Defense Contract Audit Agency (DCAA) for DoD agencies
 - Although many civilian agencies have their own audit staff, DCAA is frequently contracted to perform compliance audits

Regulatory Compliance Overview (cont'd)

- The FAR has 53 parts (chapters), of which the following are most pertinent financial compliance:
 - Subpart 8.4 – Federal Supply Schedules
 - Part 12 – Acquisition of commercial items
 - Part 15 – Contracting by negotiation
 - Part 16 – Types of contracts
 - Part 19 – Small business programs
 - Part 22 – Application of labor laws to government acquisitions
 - Part 30 – Cost accounting standards administration
 - Part 31 – Contract cost principles and procedures
 - Part 32 – Contract financing
 - Part 42 – Contract administration and audit services
 - Part 52 – Solicitation provisions and contract clauses

Regulatory Compliance Overview (cont'd)

Latest compliance developments:

- DCAA using sampling techniques on “low-risk” incurred cost proposals to address delinquency on issuing final indirect rates
- DHS proposing regulations to require separate prime and subcontractor hourly billing rates on all T&M contracts
 - FAR allows blended rates on non-commercial contracts with adequate price competition
- DCAA issues audit guidance in reaction to DFARS final business system rule (March 2012)
 - Update of audit programs for business system reviews
 - Guidance as to “material” weakness

Major areas of financial compliance risk

Item: Requirement to track discounts provided to “basis of award” customers on Federal Supply Schedules (price reduction clause)

Risk: Refund of excess billings from date of discount

Mitigation: Written policies and procedures to identify and report discounts provided to basis of award customers

Item: Properly report sales on FSS and remit quarterly industrial funding fees (IFF)

Risk: Liability for prior period IFF fees and potential contract termination

Mitigation: Create FSS identifier at contract setup phase in accounting system, allowing for FSS sales reporting

Major areas of financial compliance risk (cont'd)

- Item: Certification of cost or pricing data
- Risk: Defective pricing finding could impose significant financial penalties and/or contract termination
- Mitigation: Written policies and procedures as to how the company ensures its pricing is current, accurate and complete; proper structuring of the accounting system to allow for historical cost reporting to support pricing
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- Item: Allowable cost and payment clause 52.216-7, which addresses requirements for billing on CPFF contracts
- Risk: Improper indirect rate calculation and administration could result in significant financial liabilities; failure of accounting system audit could result in non-award of pending contract
- Mitigation: Written policies and procedures with regard to accounting for actual costs on CPFF contracts; proper setup of the accounting system to segregate direct vs. indirect costs, handle proper timekeeping, exclude unallowable costs from billing, calculate indirect rates, etc.

Major areas of financial compliance risk (cont'd)

Item: Small business reporting

Risk: Large businesses must comply with small-business subcontracting plans or risk contract termination; small businesses must work 51% of the labor on contracts it has been awarded on a set-aside basis (limitation on subcontracting) or risk termination and penalties

Mitigation: Updated small business subcontracting plan should be in place for large businesses. Socioeconomic attributes should be entered in the accounting system during subcontract setup to allow for reporting against goals.

Small business set-asides should be identified in the accounting system on project set-up. Subcontractor invoices can be split between subcontract labor and ODCs in the chart of accounts to track compliance with the limitation on subcontracting clause

Major areas of financial compliance risk (cont'd)

- Item: Service Contract Act Employees FAR 52.222-41
- Risk: Contractors must accurately identify employees covered by the SCA and comply with wage guidelines for minimum wage and benefits. Failure to comply could result in withholding of payments and/or contract termination
- Mitigation: Written policies and procedures for identification and payment of SCA employees; tracking of employee classifications in the accounting system for reporting purposes

Major areas of financial compliance risk (cont'd)

Item: Cost Accounting Standards (FAR 52.230-1)

Risk: Audit findings of non-compliance with CAS resulting in financial penalties; inaccurate preparation of proper cost impact proposals resulting from an accounting change could result in higher than required contract ceiling adjustments

Mitigation: Identify whether a contract award will be subject to or exempt from CAS during proposal stage

Important: Negotiate the removal of the CAS clause from awarded contracts that are exempt

Identify CAS covered contracts in the accounting system project setup process to ensure only these contracts are included in future cost impact proposals

Major areas of financial compliance risk (cont'd)

- Item: Segregation of unallowable costs (FAR Part 31)
- Risk: Failure to identify and segregate unallowable costs from government billings could result in financial penalties and findings of accounting system inadequacy
- Mitigation: Written policies and procedures and training to identify and segregate unallowable costs; set up of specific general ledger accounts for accumulating unallowable costs

Best practices to mitigate financial compliance risk

The practices below should assist your firm in its compliance with financially-based federal contracting regulations:

- 1) Stress the commitment of executive management to a compliant financial system
- 2) Draft policies and procedures covering all major internal control systems (accounting, billing, estimating, etc.)
- 3) Provide training to all employees with regard to the policies and procedures (the existence of 1, 2 and 3 will reduce the DCAA assessment of risk on your firm)
- 4) Use your accounting system to its full potential
 - a) Ensure it complies with the requirements for an adequate accounting system under DFARS 252.242-7006
 - b) Take the time to customize fields in the contract and employee set-up screens to allow for compliance reporting
- 5) Rely on external expertise if necessary to supplement the compliance knowledge of your financial staff