



Redstone  
Government Consulting

# Government Contractor Challenges in 2021 Webinar

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REDSTONE GOVERNMENT CONSULTING



**Presenters –**

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# What to Expect in 2021

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- Federal Agency effort to ensure they are not on the wrong side of how Pandemic Relief Funds were sent – GAO & IGs have already started.
- Questions about what contractors are doing to limit the next COVID spike or be prepared for a new Virus – What is it going to Cost?
- Lots of questions (including audits/reviews) to see that Federal Contracts got appropriate credits for the multitude of Pandemic Relief efforts.
- More DCMA/DCAA Business System reviews.
- DCAA continued focus on Compensation Reasonableness and Consultant Costs.
- Increase in employment law regulations, Diversity, Equity & Inclusion Initiatives and DOL investigations/audits.

# Things RGCI Team is Seeing

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- Contractor Purchasing System Reviews (CPSR) and Accounting System:
  - Continued emphasis driven by both DCAA/DCMA priorities as well as contractor demand as a result of point-based proposal evaluations.
  - Followed closely by Property Management System and Estimating/Budget System.
- 2021 looks to be the year of Cybersecurity, though we do not expect this emphasis to change priorities of DCMA/DCAA.
- Incurred Cost Audits are down, however for those selected audits are more challenging.
  - Emphasis on compensation, both incentive and salary.
  - Case of note regarding severance, *DynCorp Int'l LLC*, ASBCA No. 61950 (A.S.B.C.A. Sept. 29, 2020).
- Ongoing guidance and confusion regarding PPP/CARES Act cost charging.
- Price reasonableness and testing of direct materials/ODCs.
- More frequent labor floorchecks.
- Impacts as a result of new GAAP requirements surrounding leases and revenue recognition.
- Renewed interest and emphasis on the use of commercial item/services acquisition.
- Active and ongoing Defective Pricing inquiries and investigations.

# 2021 National Defense Authorization Act

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- Several new reports to Congress:
  - Acquisition Program Technical Risks, including Supply Chain - Cybersecurity, Foreign Control, and Ownership.
  - Software Acquisition Reform - use of agile or iterative development methods – changes to policy, guidance, and practices.
  - Intellectual Property Acquisition and Licensing – Establishment of DoD IP Cdre - DODI 5010.44.
- Authority to acquire innovative commercial products and services using general solicitation competitive procedures – adds the use of Fixed-Price Incentive Fee type contracts – Limited to \$100M unless approved by SecDef with Congressional Notification.

# 2021 National Defense Authorization Act

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- Definition of Business System Deficiency – Significant Deficiency changed to Material Weakness.
  - Material Weakness means a deficiency in internal control related to Government contract compliance, such that there is a reasonable possibility that a material noncompliance will not be prevented, or detected and corrected, on a timely basis. A reasonable possibility exists when the likelihood of an event occurring is either reasonably possible, meaning the chance of the future event occurring is **more than remote but less than likely, or is probable**.

RGC's The Fourth Quarter of 2020 Quarterly Issue of Government Contract Insights has additional discussion of this change.

[Download the Fourth Quarter of 2020 Government Contract Insights \(redstonegci.com\)](https://www.redstonegci.com)

# 2020 DCAA Report to Congress

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- OK – It is really 2019 information (DCAA is not one to be overly timely).
- Auditor Qualifications:
  - 100% Bachelor Degrees, 50% Advanced Degrees, and 22% are CPAs.
- Net Savings of \$3.7B:
  - Mostly from Forward Pricing Audits that DCAA claims 62.5% of Audit Findings are Sustained (Most of these Savings are Timing – Not really Money).
  - For Incurred Cost (Real Money) DCAA examined \$240B with audit finding of \$2B (less than 1%) – DCAA Sustains 29.5% of these findings (\$.6B).

# 2020 DCAA Report to Congress

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- DCAA continuing to expand Business System, Truth in Negotiation Act, Cost Accounting Standards, and real time labor & material reviews.
- DCAA is looking for great access to contractor electronic data – Data Analytics.
- DCAA is moving away from dedicated audit teams and back to the, “every auditor can do every type of audit”.
- New DCAA 2021 to 2025 Strategic Plan focused on Customers and Auditor Workforce – It is all about finding work now that Incurred Cost Backlog is gone – No engagement with Industry.



# MRD 20-PIC-006 Dec. 11, 2020

## COVID-19 Costs and Legislation

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- Identifies and discusses the various Legislative Acts.
- Breaks down audit impacts into Incurred Cost and Forward Pricing.
- FAR 31.201-5, Credits, entitles Federal Contracts to an appropriate reduction in cost for PPP Loan Forgiveness.
  - Fixed Price not addressed, but with rare exception, credits earned subsequent to negotiating a “fixed” price are not credits payable to the Government.
- FAR 31.205-7, Contingencies, should be excluded from cost estimates under the elements of cost, but should be disclosed separately (including the basis upon which the contingency is computed) to facilitate the negotiation of appropriate contractual coverage.

Covered in RGC’s The Fourth Quarter of 2020 Newsletter as well.

# MRD 20-PAS-005 Sep. 29, 2020

## Contractor Information Survey (CIS)

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- CIS is a tool for the Auditor to Document:
  - Information about the contractor to help plan future audits.
  - Assist the audit team in understanding the contractor's organizational structure and business, the overall design of the contractor's accounting system, and basic information related to internal control.
- CIS is not to be used in the risk assessment process or as the basis for documenting an understanding of internal control.
- Auditors should complete the CIS – Charge Code 17742.

# MRD 20-PSP-004 Aug. 20, 2020

## 2019 and 2020 Compensation Caps

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- Issued due to OFPP failure to publish Caps as required by Statue.
- DCAA States “formula allows anyone to compute new cap amounts as soon as the Bureau of Labor Statistics (BLS) releases the applicable Employment Cost Index (ECI) table and prior to OFPP formally publishing the new cap amounts on its website”.
- 1/1/2019 – 12/31/2019 \$540,000
- 1/1/2020 – 12/31/2020 \$555,000
- Current FY Cap Amount = Prior FY Cap Amount x Change in Employment Cost Index for all workers [i.e., BLS Table 4. Compensation (Not Seasonally Adjusted) Employment Cost Index for total compensation, for civilian workers, by occupational group and industry. (Twelve Months Ended September 30)].

Source: <https://www.bls.gov/web/eci/ecicois.pdf>

# MRD 20-PAS-003 Jun. 19, 2020

## GAGAS 2018 Revision

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- Making Inquiries to Contractor Management about Investigations and Legal Proceedings:
  - Requires auditors to ask contractor management if any investigations or legal proceedings.
  - Requires auditors to consider the effect of any investigations or legal proceedings.
- Changes to Requirements to Design Procedures to Detect Instances of Fraud:
  - No longer required to design specific procedures to detect fraud.
  - Still required to assess the risk of fraud and design audit procedures based on risk.
- Requires auditors to consider internal control deficiencies when determining the “cause” of a finding.

# MRD 20-PAS-001 Apr. 10, 2020

## Limited Contractor Access Due to COVID

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- Auditor should continue audits and validate the electronic documents to original records when the Agency and/or contractor resumes normal operations.
- If the audit is issued before validation, assess whether a scope limitations is appropriate.
- Resolve scope limitations within 90 days on normal operations.
- Keep the Contractor and Customer inform of limited access issues.

# DCMA Initiatives

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- Cybersecurity Support to Small Business - DCMA Defense Industrial Base Cybersecurity Assessment Center, or DIBCAC, partnered with Project Spectrum in early May to inform small businesses on their responsibility for information protection. Together, DCMA and Project Spectrum conducted a webinar on protection of controlled unclassified information, or CUI, explaining the agency's role and small businesses' responsibility when performing DoD contracts. Addressing the cybersecurity assessment methodology and requirements; and DFARS, clause 253.204-7012, which covers safeguarding of defense information.
- Virtual Industry Days.
- Continued Focus on Cost Control.

# Paycheck Protection Program

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- DCAA MRD 20-PIC-006(R) Audit Alert on Coronavirus Legislation and Regulation.
- Contract mix matters.
- Accounting treatment matters. AICPA Guidance has been released as well.
- Timing matters. When to apply the credit and impact on indirect rates.
- Forgiveness application will be a guide to application of credits.

**Full webinar on 25-February, so stay tuned!**

# ASC 606- Revenue from Contracts with Customer

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- FASB delayed implementation by one year for private companies.
- If not adopted will have to comply with financial statements issued after December 15, 2020.
- Understand the Five Step Model:
  - Identify the Contract with the Customer.
  - Identify the Performance Obligations in the Contract.
  - Determine the Transaction Price.
  - Allocate the Transaction Price to the Performance Obligation.
  - Recognize Revenue When (or As) the Company Satisfies a Performance Obligation.



# ASC 606- Revenue from Contracts with Customer

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- CFFF and T&M Contract Types Revenue Recognition will not change from the revenue recognition method under ASC 605.
- IDIQ – Each Task Order is a separate contract.
- CPIF, CPAF, and FPIF Contracts – Estimate amount of the incentive or award fee to be received over the life of the contract.
- FFP Contracts require the most analysis under ASC 606.
- Accounting for Losses – Recording an expense for the entire anticipated loss during the period in which the losses are determined.

# ASC 606- Revenue from Contracts with Customer

Contract Type	Statement of Work	Revenue Recognition Method	Satisfaction of Performance Obligation	Method of Measuring Progress toward Satisfaction of Performance Obligation
CPFF	All	RTB	Over-Time	Output: a) Hours of Service Provided; b) Time Elapsed
CPAF/CPIF/FPIF	All	PoC CTC	Over-Time	Input: Cost Incurred
FFP	System Integration/Engineering Services	PoC CTC	Over-Time	Input: Cost Incurred
FFP	Services and Maintenance	RTB	Over-Time	Output: a) Hours of Service Provided; b) Time Elapsed
FFP	Hardware Products	RTB	Point - in-time	Units Delivered
T&M/FPLOE	All	RTB	Over-Time	Output: a) Hours of Service Provided; b) Time Elapsed

# ASC 842 - Leases

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- Private Companies Adoption - Annual periods beginning after December 15, 2021.
- Operating lease arrangements are required to be recorded on the balance sheet as a Right of Use (ROU) Asset.
- Specifically identified assets (Property, plant and equipment) within contract agreements could qualify as an embedded lease (previously not considered leases).
- This challenges companies to identify leases (facility and equipment) and determine whether an arrangement is a service or a lease.
- Short-term leases (12 months or less) exempt from capitalization.
- ASC 842 emphasizes the concept of control.
- ASC 842 Operating Lease Expense is Allowable in accordance with FAR 31.205-36 Rental Costs.

# ASC 842 – Accounting for Operating Leases

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## Expense

- Straight-line expense.
- Based on minimum lease payments.
- Recorded in operating income.
- The imputed interest resulting from the Effective Interest Method is still recorded as rent expense in operating income.

## Lease Liability

- Decreases as lease payments made.
- Portions classified as current and noncurrent.
- Payments made are classified as operating cash flows.

## ROU Asset

- Decreases based on assumed ROU asset amortization (difference between Straight-line lease costs and imputed interest).
- Should not increase unless the lease is modified.
- Only classified as noncurrent.



# ASC 842 - Leases Balance Sheet Classification

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	Financial Statement Line Item
ROU Asset	Operating lease ROU asset
Current Lease Liability	Accounts payable and accrued liability
Noncurrent Lease Liability	Operating lease liabilities

# OFCCP Initiatives

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- OFCCP – *Focused Reviews*
  - Section 503 –Individuals with Disabilities
  - VEVRAA - Veterans
  - Promotional Opportunities and Pay Raises
  - Disability & Religious Accommodations
  - Affirmative Action Plan
- December 7, 2020: Final Rule on *Religious Exemptions* allows a preference for religious federal contractors to employ individuals who share their religion AND to condition employment on acceptance of or adherence to religious tenets.

# OFCCP Initiatives

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- Procedures to Resolve Potential Discrimination – Final Rule issued November 11, 2020.
- Annual AAP Certification
  - OFCCP's September 2020 Notice sought approval for annual certification. If approved, contractors will be required to upload some portion of their AAPs annually for Agency review.
- Anticipate pay disparity issues to intensify.

# Diversity & Inclusion Issues

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• January 20, 2021 – Day One:

- Biden signed “*Executive Order on Advancing Racial Equity & Support for Underserved Communities Through the Federal Government*” which:
  - Revokes Trump’s EO 13950 – Combating Race & Sex Stereotyping
  - States that his Administration’s policy is that “the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color & others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”
  - Directs the OMB to “study methods for assessing whether agency policies and actions create or exacerbate barriers to full & equal participation by all eligible individuals” & to identify opportunities to promote equity in the budget that the President submits to the Congress.”
  - Establishes an Equitable Data Working Group “whose mission is to gather data to measure and advance equity.
- Biden signed “*Executive Order on Preventing & Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*”.
- Employer focus on strengthening diversity & inclusion in the workplace:
  - Mentoring programs, diversity councils, employee resource groups.
  - Diversity scholarships and intern programs.
  - Revamping selection procedures.



# Health & Welfare Issues

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- Aggressive OSHA anticipated by Biden Administration.
- January 20, 2021 – Biden signed “*Executive Order on Protecting Worker Health and Safety*”.
  - Directs OSHA to increase enforcement of existing agency standards and investigation whether a new standard for COVID-19 mitigation is needed. If such a standard is needed, it must be issued by March 15, 2021.
  - Requires OSHA to revise its guidance to employers by February 4, 2021.
  - Mandates that OSHA target enforcement efforts toward larger employers and those with whistleblower complaints.
- COVID Issues:
  - FFCRA expired 12/31/20 BUT tax credits available until March 31, 2021 IF employer voluntarily continues paid leave
  - Vaccines – May /Should Employer mandate?
  - National Standards?
  - More Inspections/Citations
  - Possible federal mandated paid sick/FMLA style law for all employers?
  - EEOC Notice of Proposed Rulemaking - Wellness plans under the ADA & GINA
    - Proposal for limitation of “incentives” to “de minimis value”
  - Marijuana in the Workplace

# Other Employment Law News

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- Final Rule on Independent Contractor Status under FLSA – January 6, 2021
  - Effective Date – March 8, 2021
  - Biden DOL may initiate new rulemaking to rescind it and/or take steps to further expand the definition of “employee.”
- ICE flexibility on I-9 reviews – ends on January 31, 2021 but likely will be extended
- Other Potential Changes:
  - Re-instatement of EO on Non-Displacement of Qualified Workers?
  - Federal minimum wage?
  - Protecting the Right to Organize Act?
  - Reinstatement of Obama’s “Fair Pay & Safe Workplaces Executive Order”?
  - Strengthening of the ACA?



# Questions and Discussion

# About RGCI

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- Redstone Government Consulting is a team of some of the most senior industry veterans complemented by some of the brightest new talent in the industry. Many of our staff members are former director level DCAA, with a strong mix of CPAs and consultants from “big four” accounting firms, Government Agencies, and GovCon industry executives.
- We offer a comprehensive list of government compliance consulting services, contracts administration, HR consulting, and accounting implementation and outsourcing.
  - DCAA Compliant Accounting Systems
  - Incurred Cost Proposals
  - Proposal Pricing and Cost Volume Support
  - Forecasting & Budgeting
  - DCAA Audit Support
  - HR GovCon Consulting/Outsourcing
  - SCA Compliance Consulting
  - Contracts Administration
  - Contract Close Out Support
  - Deltek© Costpoint Implementations
  - DFARS Business Systems Reviews
    - Accounting & Billing Systems
    - Purchasing Systems (CPSR)
    - Estimating Systems
    - Government Property
    - Material Management and Accounting System (MMAS)
    - Earned Value Management System (EVMS) Estimating Systems
  - Litigation Consulting Support
  - REAs, Claims & Terminations
  - Cost Accounting Standards (CAS)
  - Unanet Implementations



# Newsletter and Blogs

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Sign up for our newsletter for information on:

- Current industry trends in Government Contracting, including latest DCAA and DCMA audit issues
- Informative Blogs and Whitepapers on many topics, including:
  - Accounting and FAR Compliance
  - Contracts Administration
  - HR for Government Contractors
  - Project Controls
  - Deltek and Unanet Hot Topics

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