

Subcontract Closeout



Redstone
Government Consulting

Helping You Navigate the Maze of Government Contracting



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- Background:
 - USG DoD 1987-2019 (College Intern (GS-4) to Senior Executive (SES))
 - DCAA – Corporate Audit Director, Lockheed Martin; Director Integrity & Quality; Deputy Director of Policy
 - DCMA – Director Cost and Pricing Center
 - BA in Accounting; MBA; CPA; and CISA
- Today:
 - Client Support – Complex FAR & CAS issues, DCAA Issue Resolution, Expert Witness and Litigation Support (why can't people just get along?)
 - Training (Live and Webinars)

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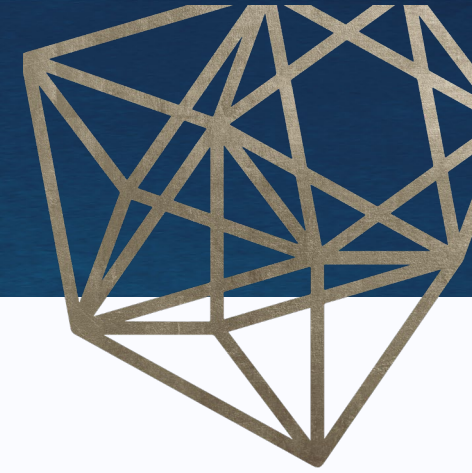
- Background:
 - Worked with small and large businesses supporting:
 - Contract and project management
 - Subcontract management
 - Non-Disclosure Agreements and Teaming Agreements
 - Developing and training subcontractors
 - Certified Supplier Diversity Specialist with experience writing Small Business Participation Plans and Small Business Subcontracting Plans as well as supporting Joint Venture Mentor Protégé awards
- Today:
 - Specialist in subcontract management with an emphasis on assisting small businesses

Our Focus



Cost type Subcontracts under a Cost type Prime Contract

Learning Objectives



- **Review the regulations**
- **Overview of the Government process**
- **Risk Assessments**
- **Best Practice**

FAR 52.216-7, Allowable Cost & Payment



- **Reimbursable Cost - (b)(iii)** The amount of financing payments that have been paid by cash, check, or other forms of payment to subcontractors – **(b)(1)(ii)(A)(2)** Ordinarily within 30 days of the submission of the Contractor’s payment request to the Government
- **Incurred Cost Proposal (d)(2)(iii)(J)** Subcontract information. Listing of subcontracts awarded to companies for which the contractor is the prime or upper-tier contractor (include prime and subcontract numbers; subcontract value and award type; amount claimed during the fiscal year; and the subcontractor name, address, and point of contact information).

FAR 52.216-7, Allowable Cost & Payment



- **(d)(2)(v) The Contractor shall update the billings on all contracts to reflect the final settled rates and update the schedule of cumulative direct and indirect costs claimed and billed, as required in paragraph (d)(2)(iii)(I) of this section, within 60 days after settlement of final indirect cost rates.**
- **(d)(5) Within 120 days (or longer period if approved in writing by the Contracting Officer) after settlement of the final annual indirect cost rates for all years of a physically complete contract, the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates. The completion invoice or voucher shall include settled subcontract amounts and rates. The prime contractor is responsible for settling subcontractor amounts and rates included in the completion invoice or voucher and providing status of subcontractor audits to the contracting officer upon request.**

You must make sure your subcontractors are doing this

FAR 52.244-2, Subcontracts



- **(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination-**
 - (1) Of the acceptability of any subcontract terms or conditions;
 - (2) Of the allowability of any cost under this contract; or
 - (3) To relieve the Contractor of any responsibility for performing this contract.
- **(g) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).**



- **The next two slide come from –**

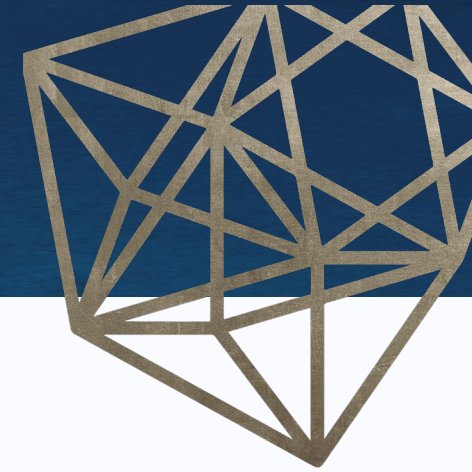
- 3.2.2 Manual Contract Closeout**

- A. Procedures for Manual Contract Closeout**

- iii. Special Contract Requirements or Clauses that need to be Addressed prior to Closeout – Contract Closeout Checklist (DD Form 1597) or equivalent includes but not limited to:**

DoD Contract Closeout Guidebook

Version 1.0 as of October 25th, 2019

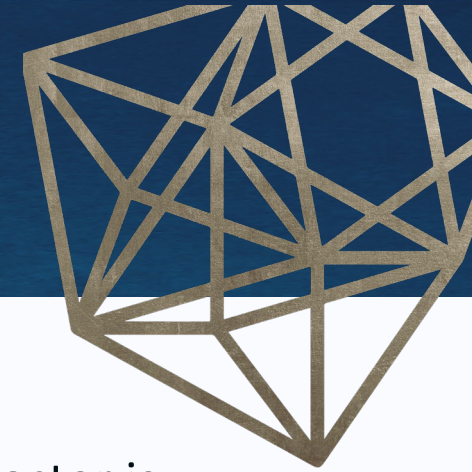


- **g. Subcontract Settlement by the Prime Contractor**

For contracts that are flexibly priced, the prime contractor must go through **procedures** with all subcontractors which are **similar to those used by the Government**. The Contracting Officer must ensure that all the prime's **subcontracts** have been paid and **closed before the prime** contract can be eligible for Contract Closeout.

DoD Contract Closeout Guidebook

Version 1.0 as of October 25th, 2019



▪ h. Indirect Cost Rates Settled

If the contract is subject to FAR 52.216-7, Allowable Cost and Payment Clause, the contractor is required to submit an adequate final indirect cost rate proposal to the Contracting Officer and auditor within the 6-month period following the expiration of each of its fiscal years. Within 120 days after settlement of the final annual indirect cost rates for all years of a physically complete contract, the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates. The completion invoice or voucher shall include settled subcontract amounts and rates. The **prime contractor is responsible for settling subcontractor amounts and rates** included in the completion invoice or voucher and providing status of subcontractor audits to the Contracting Officer upon request. FAR 42.708 encourages the use of **Quick Closeout procedures** described at Appendix C. DFARS Class Deviation 2019-O0009 dated May 2, 2019, authorizes the use of Quick Closeout Procedures if the amount of the unsettled direct and indirect costs to be allocated to the contract (task or delivery order) does not exceed \$2,000,000 (regardless of dollar value for Defense Contract Management Agency (DCMA)).

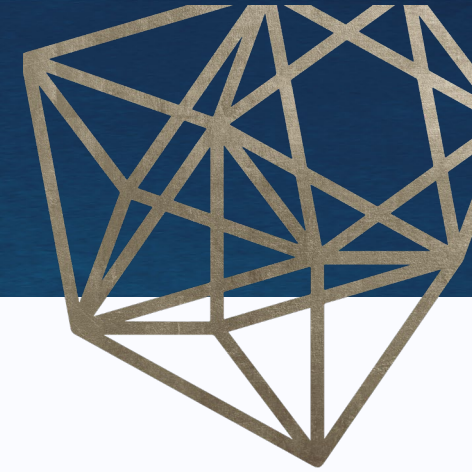
Key Takeaway



**The Government DOES
NOT Audit every Prime
Contract – So a Prime is
not Required to Audit
every Subcontract**

DoD Professional Practice Guide

First Edition January 2019



■ Chapter 1: Risk Assessment

DoD's system of acquisition internal controls is subject to the same economic constraints as those faced in other government agencies, organizations, and corporations.

Accordingly, this Chapter establishes a risk assessment framework intended to **focus DCAA's finite resources** such that DoD's risk is appropriately managed.

DoD Professional Practice Guide

First Edition January 2019



■ Risk Assessment Framework

As annual costs increase, so does the likelihood of being audited. The risk assessment framework provides for three levels, or strata of risk: low, medium, and high.

These levels are based on a contractor business unit's Auditable Dollar Volume (ADV) and consideration of:

- The significance of historic questioned costs.
- The existence of specific Department concerns.
- The status of the business systems.
- The existence of uncorrected system deficiencies (if any).
- The existence of significant accounting or organizational changes (e.g., merger).

DCAA Audit Results & Annual Reports to Congress



DCAA Low risk Sampling of IC

	2020	2021	2022	2023
Inc. Cost Reports	710	594	522	583
Years Completed	3,578	3,339	3,422	3,223
Percent Audited	20%	18%	15%	18%

2023	Dollars Examined	Questioned Cost	Percentage
Incurred Cost	\$186,101,974,000	\$1,125,545,000	0.60%

Key Takeaway



- **Draft a written policy addressing:**
 - How subcontracts are monitored
 - Annual verification of adjustment vouchers
 - Risk assessment process and required documentation
 - Final closeout package/documentation
 - Tracking and notification of ACO

Risk Assessment



- **Pre-award assessment of subcontractor:**
 - Experience of the subcontractor with Government compliance requirements
 - An approved accounting system
 - Dollar Value of subcontract
 - Actual rate history (increasing, decreasing, steady, volatility, etc.)
 - Period of performance
 - Does Subcontractor have DoD Prime contracts

Risk Assessment



- **Annual assessment of subcontract:**
 - Significant issues from on-going monitoring
 - Significant audit issues (i.e., billing and accounting)
 - Any rate changes during the year
 - Significant changes to the Estimate to Complete

Risk Assessment



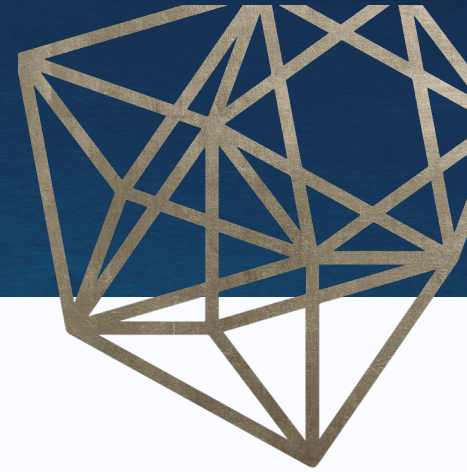
- **Completion assessment of subcontract:**
 - Significant issues during performance
 - Significant audit issues (i.e., billing and accounting)
 - Any rate changes during the period of performance
 - Actual cost at Completion significantly above agreed to pricing
 - Will the Government be performing an audit of the subcontract

Potential Closing Actions



- **Low-risk:**
 - At cost billed or Negotiate a 1% reduction
- **Moderate-risk**
 - Convert to fixed price
 - Have third party or your internal audit review the incurred cost detail – not an audit
- **High-risk**
 - Coordinate with Government for an audit
 - Have subcontractor hirer a third-party to perform an audit

Analysis



- **Perform an annual analysis?**
 - Have all risk assessments been completed and documented
 - How many subcontractors in each strata (i.e., Low, Moderate, & High)
 - Follow-up on any corrective action being worked by subcontractors
 - Any changes to your policy or processes

Best Practices

- Written policies and procedures tied to FAR 52.216-7 and Government process requirements
- Documented risk assessments
- Tracking of all subcontracts
- Annual briefing to the ACO

Questions and Discussion





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