

## In Which a Question on Cost Allowability is Answered

Written by Nick Sanders  
Monday, 27 April 2015 00:00

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Not every contractor is an uber-sophisticated business, chock-full of accountants, lawyers, and internal auditors who review every single accounting transaction for cost allowability. Not every contractor can afford the kind of dedicated indirect staff to review every single transaction before it is recorded to ensure it's being recorded properly, then check it again as it's being recorded, and then check it one more time after it's been recorded—just to make sure. It's simply not feasible even for the biggest DoD contractors; and it's well-nigh impossible for the smaller ones.

So companies muddle through, somehow. They do stat samples and they look at risky accounts, and they hope that not too many unallowable costs slipped through the cracks. They hire one or two ex-DCAA auditors and they send a couple of people to a seminar every other year. Those folks become the SMEs that the rest of the company turns to in order to make the proper call regarding cost allowability.

And when DCAA questions a transaction and those company SMEs can't figure out what the company's position should be, then they turn to outside consultants for help.

*Hello, pleased to meet you.*

Recently we received a question on cost allowability. We answered it. The company didn't offer to pay us and we didn't bill them. As a result we gave them a quick-and-dirty, two sentence answer. But there was a longer answer that we might have given, had we been under a consulting contract. We thought we would publish the longer answer here.

Why didn't we give this longer answer to the person who emailed us the question? Not likely. They got the answer they paid for. It's not like we charged 'em for it.

Here is the question:

The DAR Council said that if the cheapest ticket is non-refundable (NR) then that is the ticket

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to be booked. Well of course NR tickets are the cheapest so that's what we book. But say we don't take the flight for whatever reason? Is the cost/expense of the ticket still an allowable and billable cost? My resident DCAA office has always been of the opinion that if the flight isn't taken then the cost cannot be billed to the Government. The Federal Register announcement of the January 2010 update discussed allowability of change fees but not of NR tickets that aren't used.

What are your thoughts on the allowability of unused NR tickets?

Before we share our thoughts on the question, what are *your* thoughts? Is the resident DCAA office correct that “if the flight isn’t taken then the cost cannot be billed to the Government”? Yes or no? Please support your answer.

Giving the longer, consultant-type, answer required a bit of analysis. To that end, let's unpack the airfare allowability requirement a little bit.

Federal Acquisition Circular (FAC) 2005-38, published December 10, 2009, contained a [final rule](#) implementing FAR Case 2006-024, which revised Cost Principle 31.205-46 (Travel Costs). At the time, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the FAR Councils) provided the following rationale for the revision—

The travel cost principle at FAR 31.205-46(b) currently limits allowable contractor airfare costs to ‘the lowest customary standard, coach, or equivalent airfare offered during normal business hours.’ The Councils are aware that this limitation is being interpreted inconsistently, either as lowest coach fare available to the contractor or lowest coach fare available to the general public, and these inconsistent interpretations can lead to confusion regarding what costs are allowable.

The Councils believe that the reasonable standard to apply in determining the allowability of airfares is the lowest priced airfare available to the contractor. It is not prudent to allow the costs of the lowest priced airfares available to the general public when contractors have obtained lower priced airfares as a result of direct negotiation.

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As required, the FAR Councils solicited, considered and responded to public input. Here are some relevant portions of the public comments, and responses thereto, published along with the final rule.

Comment: Does 'lowest priced coach class' mean the cost of 'non-refundable' tickets when they are available and their cost is lower than refundable tickets?

Response: If the lowest available airfare is a non-refundable ticket then it is the allowable cost unless one of the exceptions in FAR 31.205-46(b) applies.

Comment: Please address whether or not costs associated with cancelling or changing restricted tickets will be allowable; alternatively, insert the word 'unrestricted' into the phrase, i.e., 'lowest priced coach class unrestricted or equivalent airfare available to the contractor.'

Response: The Councils believe that the revision does not impact the allowability of costs associated with cancelling or changing restricted tickets or a forfeiture of air travel tickets purchased in good faith but later determined to be unsuitable to the mission requirements. To answer the Commenter's questions, the costs before and after the revised cost principle should be allowable.

As can be seen from the foregoing, the original question we received was not entirely factually accurate. First of all, it was not the DAR Council that issued the rule revision, it was both of the Councils that were publishing the rule and "saying" what the rule meant. Second, the FAR was published in December, 2009 – not January, 2010 – though it had a January, 2010 effective date, so maybe that's a bit nitpicky.

But the biggest error was in the comment that the FAC discussed the allowability of change fees but not the allowability of tickets not used. As can plainly be seen, the FAR Councils absolutely discussed both situations and clearly stated that both "should be allowable." That's half the answer.

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Now on to DCAA and its erroneous interpretation of the Cost Principle. Assuming the interlocutor accurately conveyed the essence of the DCAA position, we note that the position would conflict with DCAA's own [audit guidance](#) on the Cost Principle revision.

The MRD that provided guidance to DCAA auditors on the rule change stated—

*Costs associated with cancelling or changing restricted or non-refundable tickets should be considered an ordinary and necessary business expense unless the contractor's data show the costs are the result of a history of inadequate advance travel planning procedures.*

The DCAA audit guidance, quoted above, clearly shows that the costs of non-refundable tickets that are not used are allowable – unless the contractor has been negligent in its travel planning. Therefore, not only is there support in the promulgating comments for the contractor's position, there is also support in the DCAA audit guidance.

QED

That's not to say that we entirely agree with every aspect of that piece of DCAA audit guidance. As is unfortunately too often the case, it has some wonky stuff that DCAA seems to have created out of nothing; certainly from nothing found in the FAC.

For example, take a look at the foregoing –

To comply with the revised rule, the contractor's policies and procedures should provide for advance planning of travel to assure that the lowest priced airfare available to the contractor for flights during normal business hours is documented and utilized as the baseline allowable airfare cost. To determine the lowest airfare available to the contractor for flights during normal business hours, the contractor must now consider nonrefundable airfares and lower airfares negotiated with airlines, travel service providers, credit card companies, etc. ...

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Ordinarily, with adequate advance planning, documentation substantiating the lowest airfare available takes the form of quotations from competing airlines or travel service providers from which the lowest priced airfare can be selected, giving proper consideration to any potential discounts or credits to the contractor's cost. There may be instances where only one flight is available for a given mission need and, therefore, only one quote is obtained, in which case the one quotation would substantiate the lowest priced airfare available. However, auditors observing frequent instances in which a single quotation is obtained to support the airfare should assess whether the design or execution of the contractor's policies and procedures results in unreasonable airfare costs.

As you can see, from the December, 2009 FAC, the DCAA policy folks created a number of checklist items out of whole cloth. For example, all of a sudden a contractor must obtain "quotations from competing airlines or travel service providers" in order to substantiate that it chose the lowest available airfare. From that imaginary requirement comes the likely questioning of air fares for which the contractor did not obtain quotations.

Seems kind of silly to us.

But that being said, a contractor's travel policy should absolutely require advance travel planning, as well as the booking of airfare at the earliest feasible time, in order to obtain the best fare and also to prevent travelers from gaming the system by booking full fares just before travel in order to get the free upgrades airlines often offer in such circumstances. But all that other stuff is hokum. Pick the schedule, pick the lowest fare for the schedule, and document the other possible fares. Done. You have now substantiated the allowability of the airfare.

Similarly, if you book a non-refundable airfare (and you should) and you end up cancelling the flight, then the cost is allowable. But remember to have the employee process an expense report – as if the flight was actually taken – documenting business purpose as well as the reason the trip was cancelled. If you don't do those things then you might well find DCAA questioning the airfare; not because it was a non-refundable trip that wasn't taken, but because you failed to provide the business purpose for the trip. Two different things.

So there you go. Here's a real consulting-type answer to the question, one reserved for when clients actually engage Apogee Consulting, Inc., and pay us for our time.