

## DCAA Implements Congressionally Mandated Audit Timing

Written by Nick Sanders  
Thursday, 22 February 2018 00:00

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We posted several blog articles about the 2018 National Defense Authorization Act. Interestingly (at least to us), the most popular of those articles was not [the one](#) about mandated changes to how DCAA audits contractors. Nope. The most popular article was about “[acquisition stuff](#).” Go figure.

You, our readers, are a source of constant surprise.

Nonetheless, we are here today to discuss one of the Congressionally mandated changes to how DCAA audits contractors. We are going to discuss [Section 803](#) of the 2018 NDAA (again). Section 803 is a long and somewhat messy provision. It requires a number of changes to be implemented over varying timelines. But § 803(g)—called “Timeliness of Incurred Cost Audits”—is relatively clear and direct. It states—

1.

The Secretary of Defense shall ensure that all incurred cost audits performed by qualified private auditors or the Defense Contract Audit Agency are performed in a timely manner.

2.

The Secretary of Defense shall notify a contractor of the Department of Defense ***within 60 days*** after receipt of an incurred cost submission from the contractor whether the submission is a qualified incurred cost submission.

3.

With respect to qualified incurred cost submissions received on or after the date of the enactment of this section, audit findings shall be issued for an incurred cost audit ***not later than one year after the date of receipt*** of such qualified incurred cost submission.

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Not later than October 1, 2020, and subject to paragraph (5), if audit findings are not issued within one year after the date of receipt of a qualified incurred cost submission, ***the audit shall be considered to be complete and no additional audit work shall be conducted***

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5.

The Under Secretary of Defense (Comptroller) may waive the requirements of paragraph (4) on a case-by-case basis if the Director of the Defense Contract Audit Agency submits a written request. The Director of the Defense Contract Audit Agency shall include in the report required under section 2313a of this title the total number of waivers issued and the reasons for issuing each such waiver.

(Emphasis added.)

Let's ignore the fact that they are not "incurred cost audits" (because they are audits of final billing rate proposals), and summarize the above:

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Effective right now, DCAA has 60 days from the time the contractor submits the incurred cost submission to determine adequacy and notify the contractor of its determination.

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Effective "with enactment of this section," DCAA must issue its audit findings to the contractor within one year after the date of receipt. If it takes DCAA two months to issue the adequacy determination, then the audit agency has 10 months to perform its audit procedures and issue its report.

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DCAA has 36 months to figure out how to meet those Congressionally mandated deadlines, because, effective October 1, 2020, if it cannot issue its audit findings to the contractor within one year after receipt, then it must stop work.

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Now, we've pointed out some issues with reducing those directives into practice. (See our previous article, link in the 2<sup>nd</sup> sentence of the 1<sup>st</sup> paragraph.) Nonetheless, they are what they are. DoD and DCMA and DCAA must take them seriously or risk losing dispute after dispute, as they try to question costs after expiry of the deadlines.

An early indication that, indeed, DCAA is taking the deadlines seriously is issuance of MRD audit guidance on January 29, 2018. MRD No. 18-PIC-001(R), entitled "Audit Alert on 2018 NDAA Section 803 Timeliness Requirement for Incurred Cost Adequacy Reviews and Audits," established that the audit agency is implementing the Congressionally mandated deadlines assuming an effectivity date of December, 17, 2017 (the date the bill was signed into law).

We have a copy of the MRD, but you probably don't, because DCAA hasn't published it on its website yet. Here are some salient quotes for your edification:

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... for any incurred cost submission received since December 12, 2017, the audit team must complete the adequacy review and notify the contractor of the results of the adequacy review within 60 days.

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... completing incurred cost assignments within 12 months of receiving a qualified submission after the date of enactment (December 12, 2017). ... For example, you receive a submission on January 31, 2018 and ... you complete the adequacy checklist on February 15, 2018 and determine the submission is adequate. ... The NDAA requires this example audit to be completed within one year (i.e., by January 31, 2019). The Agency will be providing guidance for complying with the NDAA one-year requirement.

Note, readers, that these deadlines wouldn't have been much of a challenge for the "old"

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(pre-2008) DCAA. Back then, the contracting parties worked to operate to a “6-12-6” cycle, where the contractor had six months from the close of its fiscal year to submit the proposal, DCAA had 12 months to issue its report, and DCMA had six months to negotiate final billing rates. So there’s really nothing new here. In fact, it’s a return to the days of normalcy, before DCAA went insane.

We also want to remind readers that the Section 809 panel had lots to say about DCAA and how it could improve audit procedures to be more efficient and effective. We invite you to review our blog article [here](#) on that topic. Then you should go and read the entire Section 809 report; or at least Section 2 of that report.

For those too busy (or too lazy) to follow those links, here’s a brief taste of what the Section 809 panel had to say about DCAA’s approach to incurred cost audits:

Many of the required elements of an adequate final indirect cost rate proposal have no bearing on calculating, understanding, auditing, and negotiating final indirect cost rates. This collection of unnecessary data has contributed to DCAA losing its focus on the purpose and scope of contractors’ final indirect cost rate proposal and has created unnecessary work for contractors, DCAA, and especially contracting officers. ...

DCAA must refocus on its mission of providing contracting officers with the information they need to do their jobs as prescribed in contracts and by the FAR. DCAA should not be auditing direct contract costs unless requested to do so by the contracting officer as set forth in FAR 52.216-7(g). Several final indirect cost rate proposal schedules that have no bearing on evaluating or settling final indirect cost rates should be removed.

While we cynically doubt that DCAA will listen to the Section 809 Panel’s recommendations, we are heartened to learn the audit agency seems to be listening to Congress. (Such has not always been the case.) If DCAA, as an agency, follows through on its MRD guidance, then life should get easier for all the contracting parties.