

## DCMA Reinforces Contracting Officer Authority While Industry Criticizes DCAA

Written by Nick Sanders

Wednesday, 25 May 2011 06:10

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We are looking at the new DFARS “business systems” rule and we’ll have some things to say about it in the near future. To provide context, though, we want to note two recent events.

First, we came into possession of a May 12, 2011 letter from Charlie Williams, Jr. (Director, DCMA) to all DCMA Administrative Contracting Officers (ACOs), entitled “Expectations for Contracting Officers”. The memo starts out by acknowledging that DCMA has been criticized in recent times—by many, including Apogee Consulting, Inc.—for ceding FAR-mandated authority to DCAA auditors. The memo discusses the importance of the ACO role, stating—

At contractor locations where we have determined it is in the government’s interest to establish forward pricing rates, we should be continuously evaluating the rates and the individual pool and base elements that comprise them. In other words, I expect you to be as knowledgeable if not more so than anyone else with respect to the contractor’s rate structures and methodologies so you can provide expert advice based on fact. ...

Working closely with DCAA auditors is a critical factor in your ability to be successful in the final outcomes that result from your rate decisions. ... it is our policy that when you receive an audit report from DCAA, you should use the audited rates as the single government forward pricing rate recommendation. While this is policy, you will not find anything that states, ACOs should ignore common sense or relinquish their discretion in promulgating FPRRs. So simply put, it is my expectation that ACOs should always apply judgment and well informed thought prior to making any decision. I fully expect that there will be times when the contracting officer determines, in his or her judgment, that the rates contained in the audit may not be the best representation of future projections. When that judgment is well informed by fact and data, you must not be reticent or feel constrained in communicating your views with the auditors and if necessary requesting a Board of Review to elevate real differences.

Well. The above is nicely worded but (as they say) we’ll believe it when we see it. And from our experience, ACOs and other Contracting Officers are *not* walking that particular walk at the moment.

Before we move on, we also want to note a recent letter sent by the Aerospace Industries Association (AIA) to Patrick Fitzgerald, Director of DCAA, expressing “concerns with the current audit environment”. The letter tells Mr. Fitzgerald that the AIA is “greatly concerned that

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DCAA's audits have now virtually eliminated materiality and risk assessments in planning and performing audits." The AIA letter asserts that, as a result of the DCAA audit issues, "audits now take considerably longer to complete and consume considerably more resources."

Attached to the AIA letter is a list of 54 audit issues experienced by AIA members. The audit issues range from the serious to the relatively trivial. Here are some examples—

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Branch Manager claims that contractor's systems with an 'adequate' determination do not reduce risk nor decrease the amount of transaction testing required.

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Audit started in April 2009, then was reassigned to another auditor in September 2009, and then reassigned to another auditor in April 2010. Since April 2009, the DCAA has only requested information for their risk assessment... DACO requested that give [the audit] a high priority and requested a report by November 2010. Current due date is March 2011.

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The Contractor is unable to reach an FPRA with the USG because the DCMA cannot negotiate without first having a DCAA FPRP audit report. As no FPRP audit report has been issued during 2010, this has resulted in difficult and protracted contract negotiations for both the Contractor and DCMA.

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Entrance conference held February 2009. Received verbal notification November 2009 of 'no findings'. Received notification December 2010 the audit was to be cancelled due to test data being over 9 months old ....

These two events share a commonality. They indicate a disconnect between theory and practice. This disconnect will feature prominently in our upcoming discussion of the DFARS "business systems" rule.

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Stay tuned for that article, out soon.