

DCAA Sought Expanded Subpoena Power

Written by Nick Sanders

Tuesday, 17 January 2012 00:00

Many times we are asked where we source these blog articles. The truth is that we subscribe to many different news services and receive many emails each day regarding government contracting matters. We subscribe to the Department of Defense's email feed. We use Google Alerts. And when a story catches our eye, we save it to a file until we have time to get to it.

Sometimes it takes us a while to get to a story—such as this one, which was reported in July 2011. Yeah, it's been six months since [GovExec](#) and [POGO](#) reported the DCAA's hunger for expanded subpoena power. Sue us.

Conspiracy-minded POGO asked its readers, "Did the Pentagon ignore proposals by the Defense Contract Audit Agency (DCAA) to increase oversight of federal contractors and save taxpayer dollars?" POGO reported that, while under April Stephenson's leadership, the audit agency requested expanded power to obtain contractors' records through issuance of subpoenas. POGO reported that Shay Assad (former Director, Defense Procurement and Acquisition Policy at the Pentagon) did not support DCAA's request, and effectively killed it.

POGO reported DCAA's rationale for its request as follows—

'Because the courts have limited DCAA's access to contractor records under the existing laws, the proposed amendments are needed to provide DCAA with the access required to obtain sufficient evidence to comply with the applicable auditing standards.'

POGO also noted that the Associated Press reported that DCAA has not used its existing subpoena power "in over 20 years." Naturally, one has to wonder what the audit agency would do with expanded subpoena power, since it didn't even try to use its existing power.

Further, one wonders at a rationale that uses judicial rulings as the statement of need, as opposed to factual data regarding contractor denial of access to records—or even anecdotes of such denials. Suffice to say, it seems to be have been better headline material than it was a substantive request. POGO apparently agreed with our assessment, since not much (if any) more has been reported on the subject in the past six months.

GovExec did not have much more to report on the story either, except perhaps for quoting POGO. (Seems a bit incestuous to us, but perhaps that's just how the modern news media works?) GovExec reported—

'If you want an effective and aggressive audit agency that roots out waste in contracting, it needs to have the power to compel contractors to produce internal documents,' said Nick

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Schwellenbach, POGO's director of investigations.

In addition, GovExec quoted Alan Chvotkin, Executive Vice President of the Professional Services Council (PSC) thusly—

On subpoena power, Chvotkin said, the impetus comes from the fact that some 'contractors in the past didn't provide timely access to records, and DCAA views any resistance from contractors as an inappropriate obstruction.' But, he said, DCAA has an 'insatiable appetite for records' and sometimes bullies contractors -- some of the records they seek may involve ongoing investigations or personnel issues, he said.

Chvotkin said Pentagon procurement chief Assad and the Defense inspector general 'to their credit told DCAA 'if you've got that kind of recalcitrant contractor, come to us for the authority we can use,' ' which is an approach PSC supports.

And that would be the end of the story and the end of this article. Except for the comments at the end of the GovExec story, purportedly left by current and former DCAA auditors. We reprint some of them for your edification and amusement, unedited except for length (which is denoted by ellipses).

- Take a look at where the Defense Contract Audit Agency is now. The 'new' director and his pack of SES drones with their boot licking minions have effectively paralyzed the Agency. The ability of the auditors to perform their work has been crippled by extreme and needless 'oversight' and thwarted by the 'misguidance' spewing forth from Headquarters. The 'quality reviews' have spread over the organization like the black plague, killing any initiative or creativity that might possibly help get the mission accomplished. And there are those 'Internal Review Directorate' inquisitions which are spearheaded by one of the finest examples of tyrannical behavior and ineptitude. We can sadly look back now at what might have been or what was. Looking ahead there is nothing but disaster coming straight at DCAA. All brought about by a monstrous failure at the top. (Ben)

- ... And of course, this all begs the question, SO WHAT? Of more immediate concern is that DCAA is years behind at getting incurred costs audits done and cannot audit a forward pricing proposal in anything less than about 90 days. Rumors are flying that all of the work we do for other government agencies is being auctioned off to the private sector (i.e. CPA firms). Most of us long time employees are just holding on hoping to reach retirement before the

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wheels come completely off the bus. (DCAA Supervisor)

- ... DCAA today is completely broken thanks in large part to our new Director who just does not get it. What good is an audit agency that is unable to get out of its own way? We have CIGIE teams creating total havoc. Nothing is acceptable!!! These people are devoid of reason or common sense. What good is an audit if it never sees the light of day or is issued so late as to be useless to an end user? Everyone in DCAA is paralyzed by fear and indecision. We have a Wizard of Oz like culture where Dorothy is lost in Kansas and all she can do is be critical of everything but never offer any solutions on finding our way. It's easy to be critical but until these super stars have any answers to provide value to the taxpayer, what good are they??? ... (Toto)

- Way to go April, those in the field had no idea you made such a bold move in your final days. The subpoena authority has become a moot point under Fitzgerald because we do not perform audits anymore, we just make pretty working papers. (Ed)

- ... The answer is clear, contractors hide information from DCAA to protect unreasonable profits, pure and simple. Let's get real Chvotkin. You know that if the data and records helped contractors, they would gladly provide it to DCAA. (Hummm)

- Blog, blog and blog some more and maybe someone will get it that DCAA is in horrible condition under Fitzgerald. We cancel more assignments than we issue. Our audit hours are spent on endless working papers. We no longer audit, we just tick and tie numbers and write volumes on how we made the tick and how we confirmed the tie. It is very sad that DCAA slipped so quickly under Fitzgerald. ... (Blog Away)

- Boo-hoo to the lot of you. DCAA hasn't changed, no matter who sits in the Director's chair. The issue begins and ends with cultural system in DCAA. Forget about the audit process for moment, and consider the behavior. Arrogant, vicious union officers who are unable to construct an intelligible sentence; auditors in management positions who have no management skills but look good on paper; regional staff (former auditors) with no skills other than being politically connected; and auditors who require an accommodation allowing them to collect a GS12 salary and perform as a GS7. Each and everyone of us in this (expletive)-hole should be looking to ourselves and how we can improve the agency, and it's doubtful that will ever happen, we're just to caught up in ourselves. (A Tisket, A Tasket)

- What will DCAA do when we are nine years behind on performing incurred cost audits and the people who prepared the claims are long gone from the companies? DCMA will do the work and we will still be making GAGAS compliant work papers on contracts that were awarded three months before the report is issued, to satisfy a group of CIGIE internal auditors.

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... (Captain Smith)

- ... Visit my office and I'll tell you about what is really happening in DCAA. Two of five teams in my office do nothing but process vouchers. Second, the only audits we perform are forward pricing. The CIGIE police have gigged my office to death on forward pricing especially FPRAs and we waste hundreds of hours on just working paper documentation. Third, my backlog of incurred cost is growing and I have no hope of ever getting to it. We have not auditing an incurred cost submission since 2009. Lastly, we have lost all credibility with contracting officers and they are awarding contracts and closing contracts without DCAA audits because we are not timely. We want to issue reports on time, but the working paper requirements and the review process is so onerous that we cannot possibly be timely. ...
(Clueless at the Top)

- There are many other comments in the GovExec article, but space (and fear of an allegation of copyright infringement) prevents us from printing any more. Our readers can peruse all 49 comments by following the link posted above.

The comments are hardly representative of the entire DCAA workforce, they probably don't even qualify as an unbiased statistical sample. Nonetheless, several strike us as being very much on point, and worthy of contemplation by DCAA leadership.

We at Apogee Consulting, Inc. work with DCAA auditors frequently—as in, every work day. Generally speaking, we find them to be focused on doing the right thing and on protecting taxpayer funds. Our problems typically are not with the average DCAA auditor or Supervisory Auditor. No, our problems typically stem from the troubling guidance issued by Fort Belvoir, as aided and abetted by equally troubling guidance issued from Fort Lee. We are somewhat gratified that the comments we've posted—which do seem to come from knowledgeable insiders at the audit agency—seem to bear out our perceptions.