The hard part of any accounting system implementation – especially implementation of an ERP or large-scale accounting system at an entity running a complex business – is not actually implementing the new software. Running the new software may actually be the easiest part of the implementation. The conversion of legacy data is also not likely to be the hard part. Same thing with respect to mapping the old organizational structure to the new org structure. Those tasks are not particularly challenging.

What's the hardest part of a complex ERP implementation? Just ask anybody who's been through one of those multi-month wire brush sessions. They'll almost certainly tell you that the hardest part of their job was change management. We bet they'll tell you that the hardest part of the accounting system implementation was identifying how the entity would operate in its post-implementation "future state" and then selling those changed practices to affected employees.

Change is hard, which is why meeting the CAS-mandated requirement to disclose changes to cost accounting practice 60 days in advance of their effectivity date is such a challenge.[1] For example, say you want to make a prospective voluntary change to cost accounting practice – or what the kids today call a "unilateral change" – and that you want that changed practice to be effective on January 1, which is the start of your new fiscal year. That desired timing means you have to have your revised Disclosure Statement out the door and in the hands of your cognizant Federal Agency Official (CFAO) by not later than November 1.
[2]
Which means, generally, that you have to have your changed practices identified, and the impacts quantified (at a high level), before then—often
well
before then.

You can't disclose what you can't describe, and you can't describe what hasn't been identified and approved. Thus, as a general rule of them you need to have the cost accounting practices you will be using next year decisively determined before the end of this year's Q3. That gives you a month to go from management decision to Disclosure Statement revision and submission.

The problem with the foregoing is that decisions to change cost accounting practices often go hand-in-hand with other budgetary decisions. Frequently, it is an entity's budgetary constraints that drive the need to make changes to the methods used to measure, assign and/or allocate

costs.

From where do an entity's changed cost accounting practices originate? The notions almost always originate from the top of the entity. Management gets a bright idea to make the changes, either to align with the strategic needs of the business or to adapt to changed business conditions … or (more likely) because somebody's budget got cut. Although we would like to be charitable and tell you that these high-level strategic and tactical decisions are made throughout the year -- based on monthly variance analyses and dynamic changes to the business environment -- experience forces us to be honest and to write that these types of decisions are very often made at the last-minute in the heat of budgetary battles. That is to say, typically these issues are raised and decided in late November/early December, and *not* in Q3.

Because the decisions that lead to changes in cost accounting practice are very often made at the last minute, it is unfortunately too often impossible to meet the 60 day advance notification requirement. The regulations assume you have all your financial and accounting ducks in a row, lined up with precision, ready to disclose, on November 1st. But the reality is that, far too often, November 1st comes and goes, and management still hasn't come to an agreement on how the entity will operate on January 1st. Asking the management team to agree, in advance, on future state run rules, often before any budgets have been discussed (let alone issued) or any financial impacts to the entity from the changes have been calculated, is a very difficult task indeed.

And that's just the "business as usual" fiscal planning environment; the typical tension between leadership and compliance that exists in "normal" transitions from one fiscal year to the next. The regulations expect and require a 60 day advance notification of all changes to cost accounting practice, whereas the reality of the business environment is that reaching an internal agreement 60 days in advance of the changes is an extremely difficult undertaking and, in some circumstances, damn near impossible.

Which brings us (perhaps by rather circuitous means) to the discussion of the new DFARS FPRP Adequacy Checklist. Let us start by **linking** to the Federal Register notice. Next, let us remind you that we **told you** this new Checklist was coming, and we invited you to offer comments to the DAR Council regarding its implementation. In that previous article, we offered some mild criticisms of the proposed DFARS rule. We wrote –

This is another example of bureaucrats fixing a problematic process by adding more processes. We discussed that unfortunate phenomenon **right here** . DCMA would be better off, in our view, by training up its contracting workforce to restore the lost expertise, and then giving the trained personnel discretion to enter into FPRAs without the burdensome and time-consuming oversight of the current process. DCAA would be better off, in our view, by admitting that contractor FPRPs are not the same as cost proposals submitted to enter into a priced contract, and permitting auditors more flexibility in audit approach. (Establishing firm deadlines wouldn't hurt either.) Taking an incurred cost audit approach to a SWAG is never going to work out well for either DCAA or the contractor.

The proposed rule is now a final rule and, *effective immediately*, cognizant DoD Administrative Contracting Officers "shall require contractors to comply with the submission items in Table 215.403-1 in order to ensure that their forward pricing rate proposal is submitted in an acceptable form in accordance with FAR 15.403-5(b)(3)." Moreover, the ACO "should request that the proposal be submitted to the Government at least 90 days prior to the proposed effective date of the rates." The ACO "shall request that the contractor complete the Contractor Forward Pricing Rate Proposal Adequacy Checklist at Table 215.403-1 and submit it with the forward pricing rate proposal."

Perhaps some of you read our invitation to offer comments to the DAR Council. Certainly, the rulemakers received public input and discussed it amongst themselves. It seems as if the comments might have actually impacted the final rule in at least one respect, which is always nice even if we believe the final rule is still problematic in some very significant respects that might have been resolved had the Council listened to the imput it received.

As is our wont in such matters, we want to focus less on the final rule and the final Adequacy Checklist and, instead, focus more on the rulemakers' comments about the public comments. Why? Because you can read the FPRP Adequacy Checklist for yourself – we provided a link for you – but a year from now too many readers are going to forget about the comments. Our approach memorializes the rulemakers' comments. (It also provides a better opportunity for us to write snarky stuff about their comments, which is more fun for us!)

As you might have guessed from the long-winded introductory paragraphs, our fundamental issue with the new DFARS requirement is the timing. Indeed, according to the promulgating comments—

… respondents claimed that the proposed rule creates unintended and harmful liabilities for contractors. … Requiring companies to submit forward pricing rates at least 90 days in advance of their effective date directly conflicts with TINA and the False Claims Act. … key bases for estimates such as budgets or sales projections may simply not be available 90 days prior to submission of rate proposals. [*Ed. Note: We think the DAR Council meant 90 days prior to the effective date.*] Beyond that, the budgetary and factual data upon which FPRPs are based (1) may simply not be available 90 days in advance, (2) may be subject to more current data, or (3) may be affected by certain large proposals that may require a resubmission of rates when a contract award would have a significant impact on bases/rates.

The DAR Council pondered those concerns and, with a blasé air typical of those who don't actually have to live with the rules they write, responded as follows –

Submitting FPRPs 90 days in advance of their effective date is reasonable. The parties (Government and contractor) need time to negotiate forward pricing rates prior to their effective date, which is often the start of the contractor's fiscal year. Prior to the start of their fiscal year, contractors have established strategic plans and put budgets in place to manage their business. [With respect to concerns about TINA and FCA compliance] [i]t should be understood by the parties that the proposed rates are based on forecasts and contractors must provide updates whenever the validity of the agreement may be affected.

The DAR Council's position, as expressed in the foregoing paragraph, is ignorant. We don't mean to be unnecessarily disparaging; we mean that the position is *literally based on ignorance* . The individuals espousing the position likely have not ever investigated how the FPRP process works from a contractor's perspective (or, if they did, they have ignored what they learned). As a result, the DAR Council's position is based on ignorance of the challenges inherent in the contractor's process of establishing budgets and it is based on ignorance of the timing of how budgets are turned into forward pricing rates. The position is based on ignorance of the number of iterations and the number of management reviews and the input of the Business Development Marketeers and the impact of forward pricing rates on provisional billing rates and the impact of forward pricing rates on contract Estimates-at-Completion (which impacts revenue recognition). Because the DAR Council members are ignorant of all those things (or seem to be), they have espoused a position in which "submitting FPRPs 90 days in advance of their effective date is reasonable."

No, it is not reasonable. In many cases it is going to be impossible.

And now you may see why we started this article the way we did. We wanted to share just a hint of the challenges involved. Just the tip of the iceberg, so to speak. We didn't even talk about DCAA audits of forward pricing rates and DCMA reviews of next year's Disclosure Statement. Those are governmental processes and, as we've written before, we believe they are broken. No FPRP Adequacy Checklist is going to fix those broken governmental processes.

While we are on the topic of timing, consider this info-nugget: The CAS regulations and the FAR regulations and the CAS clauses require that voluntary/unilateral changes to cost accounting practice must be disclosed at least 60 days in advance of their effectivity date.[3] The intent of that requirement is to give the government sufficient time to review the changed practices and determine whether a cost impact is required. (Let's be clear that nobody really expect the government folks to actually make that determination within 60 days, but that's what the regulations say.) Sixty days is deemed to be sufficient time for DCMA to review, for a DCAA audit to be requested if judged necessary, for DCAA to complete its audit and report back to the CFAO, and for the CFAO to make his/her determination regarding how to proceed.

Sixty days.

Yet, the DAR Council wants the contractor to submit its FPRP 90 days in advance.

Ninety days.

Let's be clear: If the contractor is going to make changes to its cost accounting practices, this new DFARS rule requires the contractor to understand the impact of those changes on its indirect rates at least 30 days before it has to disclose them to the CFAO. It has to know the impact of its management decisions on its cost structure and calculate the resulting indirect cost rates 30 days before it tells the CFAO about them.

And this process seems "reasonable" to the DAR Council.

That's the big one, at least in our minds. There was some other stuff as well.

To the commenter who "stated the rule does not address the issues associated with the DCAA's inability to audit industry submissions in a timely fashion," the DAR Council replied: "Establishment of comment expectations … will promote adequate initial submissions … which will shorten the acquisition cycle making for more efficient negotiations for both contractors and Government."

Way to respond to the comment directly, DAR Council.

To the commenter who "suggested DCAA should begin auditing the most recent incurred cost submission to gain a thorough understanding of the contractor's operations necessary to best opine on contractor forward pricing estimates," the DAR Council replied—

… The Government employs multiple avenues to obtain an appropriate understanding about the contractor's operations. The Government has a responsibility to perform appropriate review of contractor proposals to establish well-supported negotiation positions and to negotiate effectively to wisely use taxpayer money and to ensure that contract prices are fair and reasonable to both the contractor and the Government. Taxpayers receive a direct tangible benefit from the auditing of FPRPs. Meanwhile, DCAA is working to reduce the inventory of incurred costs audits to become current.

We have so many comments about that paragraph – all of them sarcastic and snarky – that we are literally unable to choose which ones to type. So we'll just leave that turd of a response here for posterity. Feel free to make your own sarcastic and snarky comments to yourself.

One commenter stated that "DCAA should conduct better and more accurate transaction testing. … Unable to rely on contractor business systems and coupled with not having audited recent contractor incurred cost submissions, DCAA has made detailed testing of large samples of recent incurred cost transactions a part of their FPRP audit program." Apparently, the thrust of the comment was that, if the DAR Council wanted to make the FPRP negotiation process more efficient and timely, one good place to start would be to have DCAA auditors do "better and more accurate transaction testing" so that the audit cycle time could be reduced. To that cogent suggestion, the DAR Council replied, "… the purpose of the rule is to provide guidance

to contractors for the submittal of FPRPs. DCAA's audit approach is to design cost audits within FPRP audits. DCAA is working to reduce its backlog of incurred cost audits so that the agency can conduct the audits more promptly."

We swear we are not making this stuff up. They really published that in the Federal Register. Go check and see for yourself if you don't believe us.

The problem with the response (or at least the most obvious problem) is that it utterly ignores the role played by DCAA in delaying FPRP negotiations. The problem is not that contractors lack guidance regarding how to prepare nicely formatted SWAGs of future years' costs and indirect rates. No, *the problem is that "DCAA's audit approach is to design cost audits within FPRP audits."* If you fix DCAA's audit approach instead of worrying about the contractor, you will have gone a long way to solving the problems inherent in the process. Check out the plank in your own eye, DoD, before you worry about the speck in the contractor's eye.

To the commenter who "suggested" that the DCAA audit process could be made more efficient by relying on "relevant auditing and analysis by others," such as "the contractor's internal audit department, other Government oversight organizations … or even other DCAA auditors," the DAR Council replied, "In order to comply with [GAGAS], DCAA's audit opinion must be derived from the results of sufficient audit procedures performed on the underlying contractor data." Again, the response ignored the elephant in the room, which is that somebody in authority needs to be asking *whether or not DCAA audits of FPPRs should even be subject to GAGAS*. DoD could take the reasonable and supportable position that such reviews **will not be performed** in accordance with GAGAS requirements, which would be a significant improvement.

On the positive side, the references to FAR Table 15-2 were deleted in the final rule. That's one nice thing to balance out the negatives we have listed herein.

Other comments received and published by the DAR Council addressed concerns with adding more administrative burdens. The DAR Council was not swayed by those comments. We know that Executive Branch leadership is concerned about the complexity of government contracting and how that complexity acts as a barrier to keep out contractors and thus reduce competition. We wrote about efforts to reverse the situation **here** . The new OFPP Administrator called for "opportunities for contractors to provide 'frank, open assessment feedback' to agencies

regarding the agencies' acquisition practices."

Meanwhile, the DAR Council continues to add more complexity to existing processes, to add more administrative burdens to an already burdensome process. The DAR Council continues to ignore the real drivers in the process and, instead, continues to focus on the contractor's role as if that were the sole – or the most impactful – problem.

And while the OFPP calls for "frank, open assessment feedback," the DAR Council continues to cavalierly dismiss public input, to ignore astute suggestions for process improvement, and to engage in hand-waving instead of pursuing the fundamental and quite necessary job of improving the defense acquisition system. If the Executive Branch leadership really desires a "frank" and "open" dialog with industry, one important step to take might be to make sure public comments are listened to and dealt with in a forthright manner. The DAR Council's comments on this final rule are a good – but by no means the only – example of why industry is rightfully cynical of the value of that dialog.

1 Okay. We admittedly kind of fudged that for the general readership. We know that *you* know that the actual requirement, as found in contract clause 52.230-6, is "not less than 60 days (
or such other date as may be mutually agreed to
) before the effective date of the proposed change." We just thought that was too much detail for the article.

2 Unless you are not a CAS-covered contractor -- in which case, you have a lot more freedom to choose your timing.

3 Yeah, we know. See Note 1, above.