The Lost Art of Contract Closeouts

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GC-178
Agenda

• The Importance of Contract Closeouts
• Triggers and Timing
• Trends and Expectations (DCAA/DCMA)
• What’s Required of the Contractor
• What’s Required of the ACO
• Streamline the Process
• Alternatives – i.e., Quick Closeout
• Developing Best Practices
• Now What?
Why Is Contract Closeout So Important?

- Creates Stagnant Cash Flow
- Questionability of Collection/Financial Statement Impact
- Increased Administrative Costs
- Increased Risk
  - FAR 52.233-1 Disputes
  - FAR 4.7 and 4.8 Record Retention
- Government Deobligation of Funds
Contract Closeout Trigger

• Physical Completion
  ▪ Pursuant to FAR 4.804-4, a contract is physically complete when
    ▪ The contractor has completed the required deliveries and the government has inspected and accepted the supplies
    ▪ The contractor has performed all services and the government has accepted these services
    ▪ All option provisions, if any, have expired, or the government has given the contractor notice of contract termination
Closeout Timing

• FAR 4.804-1 Closeout by the Office Administering the Contract
  ▪ Contracts using simplified acquisition regulations should be considered closed when the contracting officer receives evidence of receipt of property and final payment, unless otherwise specified by agency regulations
  ▪ FFP contracts *should* be closed within six months after the date on which the contracting officer receives evidence of physical completion
  ▪ Contracts requiring settlement of indirect cost rates *should* be closed within 36 months of the month in which the contracting officer receives evidence of physical completion
  ▪ All other contracts *should* be closed within 20 months of the month in which the contracting officer receives evidence of physical completion

• Incurred Cost Audit Backlog on the Radar
  ▪ Disallowance of extension requests
  ▪ 12PPD 006R Audit guidance on utilizing multi-year audit techniques for incurred cost audits
MR. FITZGERALD: “Well, Senator Brown, to be very upfront with you, our cost-incurred audits, which are the audits that we do at the end of the contract and many times they're needed to do to close out the contract, that workload -- that backlog has quadrupled over the last 10 years.”
Prepare for Multi-Year Audits

- MRD 12-PPD-006 (R) Multi-Year Audit Techniques
- Allows DCAA to audit 2-5 years with 1 audit report and 1 workpaper package
- Has to be non-major contractors <$100 million and can’t do it if contractor has more than $250M ADV (combined across bundled years)
- Contractor must have similar contracts types throughout the time period, no significant change in business systems, and no significant organizational changes
Dude, I'm Kidding.
DCAA is not coming today.
DCMA’s Trends

• DFARS PGI 204.804-2(2)
  ▪ If the ACO cannot close out a contract within the specified time period (FAR 4.804-1), the ACO shall notify the PCO within 45 days after the expiration of the time period of
    ▪ The reasons for the delay; and
    ▪ The new target date for closeout
DCMA Performance Indicators

• DCMA is making a push in the upcoming year to closeout contracts and is watching two key performance indicators for the agency
  - 046 Contract Closeout Timeliness
  - 047 Contract Closeout Number of Overage Contracts
046 Contract Closeout Timeliness

• 046 Contract Closeout Timeliness
• Indicator Title: AQ--Contract Closeout: Timeliness
• Indicator: Percent of Contracts closed on time per FAR 4.804-1 requirements
• Indicator Rationale: Provide status of timely closeout of contracts that are administered by DCMA
• Performance Standard: Close 90% of contracts within the FAR 4.804-1 time standards
• Date Performance Standard is to be Achieved: End of Fiscal Year (FY)
047 Contract Closeout Number of Overage Contracts

• 047 Contract Closeout: Number of Overage Contracts
• Indicator Title: AQ--Contract Closeout: Number of Overage Contracts
• Indicator: Percent of contracts past overage date
• Performance Standard: Reduce number of contracts past overage date at a 10% annual rate
• Date Performance Standard is to be Achieved: End of Fiscal Year (FY)
Contractor/ACO Requirements

- 4.804-5 Procedures for Closing Out Contract Files
  - Required Items (DD Form 1597)
    - Disposition of classified material is completed
    - Final patent report is cleared
    - Final royalty report is cleared
    - No outstanding value engineering change proposals
    - Plant clearance report is received
    - Property clearance is received
    - All interim or disallowed costs are settled
Contractor/ACO Requirements (Cont’d)

- Required Items, Continued
  - Price revision is completed
  - Subcontracts are settled by the prime
  - Prior year indirect cost rates are settled
  - Termination docket is completed
  - Contract audit is completed
  - Contractor’s closing statement is completed
  - Contractor’s final invoice has been submitted
  - Contract Funds Review is completed and excess funds deobligated
## Contract Closeout Overage Count

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Overage Reason Code 4,666
*Action pending outside DCMA 3942

Less than 16% of the overages are controlled by the ACO 724
ACO Remedies

• FAR 42.705 Final Indirect Cost Rates
  ▪ Contracting Officer determination of amounts due contractor
  ▪ Unilateral modification to the contract
Incurred Cost Submission Holdups

ICE Reporting

- Sch. B, C, and E — Indirect Cost Pools and Bases
- Sch. D — Intermediate Pools
- Sch. H — Direct Costs and Indirect Expenses @ Claimed Rates
- Sch. I — Cumulative Direct and Indirect Claimed and Billed
- Sch. K — Summary of Hours and Amounts on T&M Contracts
Hybrid Contracts or IDIQ (More Trends)

• We’re seeing a trend of more hybrid type contracts which can be complicated to set up and monitor.
• Some hybrid contracts are being inappropriately reported on incurred cost submissions.
• Some contractors are mislead about what type of contract they have.
Streamlining the process

• Complete and Accurate Payment History
• Complete and Accurate “Final” Invoice — Prior Year Rate Adjustments
• Tracking of Payments Subject to Limitation of Funds Clause
• Timely submission of Incurred Costs Proposal
• Is Quick Closeout Available?
Alternatives

• The Quick Closeout Method FAR 42.708
  ▪ Contract physically complete
  ▪ Unsettled indirect costs to be allocated to contracts are relatively insignificant. Indirect cost amounts are considered insignificant if
    ▪ Total unsettled indirect costs to be allocated to any one contract does not exceed $1,000,000
    ▪ Cumulative unsettled indirect costs allocated to one or more contracts in a single fiscal year do not exceed 15% of the estimated total unsettled indirect costs allocable to cost type contracts for that fiscal year. *Contracting officer may waive this*
    ▪ Agreement can be reached on a reasonable estimate of allocable dollars
Work (Negotiate) with your ACO!

• Per DCMA guidance “to the maximum extent possible and where appropriate for all contracts ACOs are to use the quick closeout procedures.”
• DCAA’s Evaluation (no longer Audit) of Final Vouchers.
• DCMA Quick Closeout Class Deviation extended to 9/30/13 authorizes ACOs to close specific contracts prior to the establishment of final indirect rates regardless of dollar value or percent of unsettled indirect costs allocable.
  ▪ ACOs may use either DCAA recommended rates or other rates mutually agreed to by the ACO and the contractor. May also waive audit requirement.
• Subcontractor’s release of claims
• Contractor’s release of claims (every agency has their own)
  ▪ Signed by a corporate officer
  ▪ Corporate seal required
  ▪ Original plus 4 copies accompany the 1034 to DCAA
Best Practices

• Importance of Best Practices
• Closeout To-Do List
  ▪ Timelines and responsibilities
  ▪ Document completion list
• Accounting System Best Practices
  ▪ Contracts in inactive divisions awaiting closeout
  ▪ Deleting closed contract data
Trends We’re NOT Seeing, But Should

• Preparation for the wave of DCAA incurred cost audits:
  
  ▪ A review of contracts that have not been closed out.
  ▪ A closeout team or process in place to review old contracts and determine adequate closeout documentation is in place.
  ▪ A review of old contracts to determine if they are eligible for quick closeout. Why deal with the DCAA if you don’t have to?
  ▪ Contractors review of which contracts require an incurred cost submission and the timely filing thereof.
  ▪ Close out Subcontractor Costs.
From DCAM

• if significant deviations between billing rates and incurred rates occur during the year, or at year-end, adjustments to the billing [should be unilaterally made by the contractor (don’t wait to be requested to do so by the contracting officer)].

• This process ensures that, at year end the amount of indirect costs reimbursed is as close to the certified amount as possible. Incurred cost billings are cumulative and, therefore, should reflect the impact of any of these adjustments as soon as they are known.

• The contractor should have procedures and controls in place to ensure the prompt adjustment of billings to reflect these adjustments in indirect rates and direct costs.
Now What?

I Owe Money, I’m Owed Money?
Conclusion

• Get the Process and Cash Flow Moving
• Avoid Pitfalls of Contract Closeouts
• Utilize Best Practices to Improve Efficiency and Streamline Processes
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Thank You!