

Recommendation 8: Establish statutory time limits for defense oversight activities.

Problem

Financial and business system oversight of DoD's contractors often starts too late and takes too long. These delays cause problems for both contracting officers and defense contractors and reduce the utility of oversight findings. To be effective and efficient, DoD's system of internal controls must operate in a timely manner.

Background

Time limits are commonplace in both private industry and the federal government concerning performance of audits and other forms of advisory engagements. IPAs must complete audits by financial reporting deadlines established by the Securities Exchange Commission.¹

Auditors for federal agencies must complete agency financial statement audits under deadlines established by the Chief Financial Officers Act of 1990.² GAO must also complete congressionally-requested audits and reviews in accordance with statutory due dates.³ These professional service providers both in and out of government complete their work in accordance with professional standards within timeframes established before work begins.

Findings

DCAA's work is untimely, which causes delays in contract awards, as well as other negative effects on the contract life cycle, through and including contract closeout. For example, in FY 2016, DCAA did not begin work on final indirect cost rate proposals until more than 2 years after contractors' submissions.⁴ Contracting officers need DCAA's work to close out flexibly priced contracts.

Conclusions

DoD's system of acquisition internal controls operates most effectively when controls are applied in a timely way. Statutory time limits for various oversight activities will improve their effectiveness. Currently, contractors must submit to DoD a wide variety of reports and other documents in accordance with strict regulatory time limits.⁵ There are fewer time limits for DoD to perform its oversight responsibilities.

¹ Financial Industry Regulatory Authority (FINRA) Information Notice, *2017 and First Quarter 2018 Report Filing Due Dates*, accessed November 17, 2017, http://www.finra.org/sites/default/files/notice_doc_file_ref/Information-Notice-120516.pdf.

² "OMB BULLETIN NO. 98-08 – Audit Requirements for Federal Financial Statements," OMB, accessed November 17, 2017, https://www.whitehouse.gov/omb/bulletins_98-08.

³ For examples of statutory due dates for Comptroller General (GAO) audits and reviews, see sections 147, 224, 235, 238, 536, 578, 751, and 1670 et al. in the FY 2017 NDAA, Pub. L. No. 114-328 (2016). <https://www.congress.gov/114/bills/s2943/BILLS-114s2943enr.pdf>.

⁴ GAO, *Federal Contracting: Additional Management Attention and Action Needed to Close Contracts and Reduce Audit Backlog*, GAO-17-738, 27, accessed November 17, 2017, <https://www.gao.gov/assets/690/687497.pdf>.

⁵ For example, Final indirect costs rates, FAR 42.705 and Contracting officer determination procedure, FAR 42.705-1.

Congress should establish basic statutory oversight time limits for each of the following contractor submissions to accomplish the following:

- Focus on the oversight function’s mission by providing contracting officers what they need to do their jobs in a timely manner.
- Focus on what matters most (i.e., risk management, rather than risk avoidance) by exercising reasonable professional judgment.
- Better manage audits, engagements, and other services.
- Forge more cooperative working relationships among contracting officers, compliance professionals, and contractors. The expectation is that both contractor and government actions will be consistent with the objective of completing audits and advisory services within established time limits.

On-Demand Activities

DoD’s oversight activities, relative to contractor submissions, are either on-demand or predictable. These oversight activities are necessary to provide timely information to a *procuring* contracting officer in connection with awarding or administering a particular contract. To ensure contracting officers can help prioritize work requested of DCAA, time limits should be established during which the activities must be completed.

Table 2-4. On-Demand Oversight Time Limits

Matter for DCAA Review	DCAA Time Limit
Contractor submission of preaward cost proposal	90 days from date of contracting officer request for review
Contractor submission of invoices for direct contract costs	90 days from date of contracting officer request for review
Any other contractor submission in connection with awarding, administering, or terminating a particular contract	180 days from date of contracting officer request for review

Predictable Activities

These oversight activities are necessary to provide timely information to an *administrative* contracting officer in connection with administering compliance requirements that affect contractors’ portfolio of contracts.

Table 2-5. Predictable Oversight Time Limits

Matter for DCAA Review	DCAA Time Limit
Contractor submission of forward pricing rate proposal	90 days from date of contracting officer request for review

Matter for DCAA Review	DCAA Time Limit
Contractor submission of provisional billing rate proposal	30 days from date of receipt of the contractor submission
CAS disclosure statement	If the contracting officer requests DCAA review of the adequacy of the CAS disclosure statement, 60 days from date of contracting officer request for review
Contractor submission of cost accounting practice changes referred to as a General Dollar Magnitude (GDM) proposal	90 days from date of contracting officer request for review
Contractor submission of cost accounting practice changes referred to as a Detailed Cost Impact (DCI) proposal	180 days from date of contracting officer request for review
Contractor compliance with CAS in accordance with the contractor's CAS disclosure statement	90 days from date of contracting officer request for review
Contractor compliance with an CAS	90 days from date of contracting officer request for review
Matter for DCAA review	DCAA time limit

Contracting officers should possess the ability to extend time limits, but extensions should be recorded separately from the original required or agreed-upon time limit. Extensions should be categorized as shown below:

- Contracting officer timing changed
- DCAA/DCMA requested
- Contractor requested/caused

No extensions should be categorized as *contractor requested/caused* without the contractor's express knowledge. If contractors disagree that they caused the delay, their disagreement should be noted. This information will be important in determining certain elements of DCAA's annual report to Congress.

Time limits should become effective October 1, 2019. DCAA and DCMA should be encouraged to adopt these time limits sooner to accommodate engagement, resource staffing, and estimated funding levels for IPA support.

Implementation

Legislative Branch

- In accordance with the requirements of DoD and the Section 809 Panel, set forth in Section 803 (a) of the FY 2018 NDAA, Performance of Incurred Cost Audits, amending 10 U.S.C 2313b (g), establish statutory time limits for audit and advisory services.
- Revise 10 U.S.C. § 2313b(g) to correspond with statutory time limits recommended above.

Executive Branch

- No Executive Branch changes are required.

Implications for Other Agencies

- There are no cross-agency implications for this recommendation.