



# Contract Closeout - Cost Reimbursable Contracts

## GOVERNMENT CONTRACT REGULATORY COMPLIANCE

The Administrative Contracting Officer ("ACO") is responsible for initiating the administrative closeout of the contract after receiving evidence that the contract is physically complete. FAR 4.804-4 defines "complete" as when the contractor has completed the required deliverables and the Government has inspected and accepted the supplies, or the services to be provided have been completed and all option provisions, if any, have expired.

In today's environment, it is in the best interest of a contractor to be proactive in this regard. Government contract auditors generally have caught up from their backlog of many years of incomplete incurred cost audits. As such, ACOs are under pressure to settle the direct costs questioned and to negotiate/finalize the indirect cost rates.

The Allowable Cost and Payment clause (FAR 52.216-7(d)(2)(v)) requires that the contractor update the billings on all contracts to reflect the final settled indirect rates and update the schedule of cumulative direct and indirect costs claimed and billed within 60 days after settlement of final indirect cost rates.

In addition, FAR 52.216-7(d)(5) requires that within 120 days after settlement of the final annual indirect cost rates for all years of a physically complete contract, contractors shall submit a completion invoice or voucher to reflect the settled amounts and rates. Prior to closing, the prime contractor must settle subcontractor claimed amounts included in the completion invoice or voucher and provide the status of subcontractor audits to the ACO upon request.

The number of industry-wide orders that are coming due to be closed is staggering, largely because many contractors have not had settled indirect rates for quite some time. As such, the closeout process has become somewhat of a "lost art."

The closeout process requires access to a wide range of historical data that is crucial to the settlement process. The information needed includes, for example: (i) contract and contract modification files; (ii) billing and cash receipts files; (iii) fixed fee retention amounts; (iv) relevant final indirect costs rates for each of the years of costs incurred; (v) settlement documents related to questioned direct costs; (vi) evidence of the closeout of subcontractor costs; (vii) no outstanding Cost Accounting Standards noncompliance matters; and (viii) no unresolved Contracting Officer Final Decisions (COFDs) associated with orders to be closed.

Not only is access to data crucial, but there are other areas integral to the closeout process. They include the disposition of all classified materials (DD Form 254); government acceptance of final patent (DD Form 882) and royalty reports; and the disposition of all government property associated with the order (DD Form 1593). Contractors are to submit a "Release of Claims" document and an "Assignment of Refunds, Rebates, and Credits" document whereby the contractor certifies that the Government is released from all liabilities, demands, obligations, and claims on the contract or order.



An informal survey of our clients revealed that government auditors are indeed catching up with their incurred cost audit backlog. However, there typically remains 1-2 years of unsettled direct and indirect cost audits. The extensive backlog to be settled has resulted in many instances where access to legacy accounting systems (electronic) and associated hard-copy records have been compromised due to organizational changes within a company, staff turnovers, mergers, acquisitions, or divestitures of units, and changes in project accounting coding structures from year-to-year. These actions have resulted in a lack of the expected "paper trail" needed for tracking annual costs incurred.

In many instances, contractors have a stated practice that once the annual incurred cost audit has been completed, the company will update its incurred cost submission Schedule O details and the cumulative allowable cost worksheets. That action is needed in order to tally up the costs incurred, costs invoiced, and subsequently costs paid by the Government. Regrettably, that practice has not been observed in many instances due to the lack of final indirect rates.

Due to frequent changes in technology, it is not uncommon to find that gaining useful access to legacy accounting systems more than a few years old is a very challenging endeavor. Specialists with knowledge of legacy accounting systems are being called upon to gain access to the data within the billing, payment, and cumulative cost incurred data modules. Further complicating matters are the complexities of many billing systems whereby the incurred costs may be captured at one level of detail and billed at a different level of detail.

Chess Consulting has developed a number of viable approaches and procedures that are tailored to support the nuances needed to assess legacy systems in order to prepare and/or update the cumulative allowable cost worksheets and apply the final audited indirect rates via the myriad of indirect cost pools.

Another closeout option available to contractors are "quick closeout" procedures contained in FAR 42.708. These procedures can be used by the cognizant ACO if the contract/order is physically complete, and the total of unsettled indirect costs to be allocated to any one contract does not exceed the lesser of \$1,000,000 or ten percent of the contract amount. On May 3, 2019, the threshold of \$1,000,000 was replaced with an increased threshold of \$2,000,000. Also, the cumulative unsettled indirect costs to be allocated to one or more contracts in a single year does not exceed 15% of the total estimated unsettled indirect costs allocable to cost-type contracts in that same year.



# THE CHESS CONSULTING ADVANTAGE

Our professionals have a track record of success assisting clients throughout the life cycle of a government contract including pre-award, post-award, and dispute-related matters. We bring to each engagement a unique combination of government contracting regulatory expertise, technical financial accounting and reporting knowledge, and an understanding of our client's business processes, risks, and challenges.

We have also been successful in navigating through matters with government agencies where clients are not able to access historical accounting records due to the age of the systems or a merger or divestiture of business units.



## Chess Consulting Differentiators:

Deep industry knowledge and technical expertise which helps each client deal effectively with the complexities of the processes and issues facing its business.

Profitability focus concentrating on actions and solutions that create a competitive business advantage while fully complying with regulatory requirements.

Practical and creative solutions that effectively address difficult compliance and business issues.

Supportable positions that have been proven to withstand scrutiny from regulatory agencies such as the SEC, DCAA, DOJ, and GAO.

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