

INTELLIGENCE THAT WORKS

# *2020 Year-End Compliance Planning for Federal Contractors and Assistance Awardees*



*As another year comes to a close, BRG's Government Contracts Advisory Services team is here to share a year-end compliance-planning checklist for federal contractors and assistance awardees. As you get ready to close the books on another year, these proactive efforts can help your organization complete annual compliance and business processes, assist in audit readiness, mitigate potential issues, and improve audit outcomes and internal/external reporting. This is not meant to be an exhaustive list, but rather a tool for your organization's use in becoming more proactive with business and federal compliance planning and execution.*

INDIRECT RATES/NICRA/INCURRED COST REPORTING	
1	<b>Review Actual Costs, Budgets, and Provisional Rates</b> <ul style="list-style-type: none"> <li>- Compare actual costs and rates to budgets and provisional rates to detect significant variances.</li> <li>- Request updated current-year provisional rates if actual rates will exceed provisionals to enhance year-end cash flow.</li> <li>- Identify areas for improvement, such as revised assumptions for provisional rates and realigning budgets to better reflect actuals.</li> </ul>
2	<b>Prepare Indirect Rate/Provisional Rate/NICRA Calculations</b> <ul style="list-style-type: none"> <li>- Develop forward pricing rate/NICRA proposal.</li> <li>- Calculate and submit provisional rates for the coming year.</li> </ul>
3	<b>Scrub for Unallowable Costs</b> <ul style="list-style-type: none"> <li>- Perform an unallowable cost scrub, selecting a method suitable for the organization's accounting system and risk assessment.</li> <li>- Review updated federal thresholds to ensure they are considered during this exercise, such as limitation on compensation (see table below) and Federal Travel Regulation limitations (if applicable).</li> </ul>
4	<b>Initiate Incurred Cost-Submission/Negotiated Indirect Cost Rate Proposal Planning and Supplemental Schedules</b> <ul style="list-style-type: none"> <li>- Hold internal kickoff meeting.</li> <li>- Create a preparation timeline for internal team members, including deliverables such as: <ul style="list-style-type: none"> <li>&gt; For ICS: Review DCAA's Incurred Cost Electronically (ICE) Model; new ICE model was released effective April 2018 (also available for download at <a href="https://www.dcaa.mil/Checklists-Tools/ICE-Model/">https://www.dcaa.mil/Checklists-Tools/ICE-Model/</a>). <ul style="list-style-type: none"> <li>• Confirm the number and types of contracts to be included in reporting.</li> <li>• Identify contracts subject to rate caps.</li> <li>• Update service center allocation bases (square footage, headcounts, etc.).</li> <li>• Update Contract Briefs.</li> <li>• Compile contract closing information.</li> </ul> </li> <li>&gt; For NICRA: Review USAID NICRA guidance and checklists (available at: <a href="https://www.usaid.gov/work-usaid/resources-for-partners/indirect-cost-rate-guide-non-profit-organizations">https://www.usaid.gov/work-usaid/resources-for-partners/indirect-cost-rate-guide-non-profit-organizations</a>) or applicable guidance for your cognizant agency. <ul style="list-style-type: none"> <li>• Year-end scrub for unallowable costs.</li> <li>• Update service center allocation bases (square footage, headcounts, etc.).</li> <li>• Assemble other checklist information, such as employee compensation, Uniform Guidance Single Audit report(s), and other supplemental schedules.</li> </ul> </li> </ul> </li> </ul>

## INDIRECT RATES/NICRA/INCURRED COST REPORTING

<p><b>4</b> cont'd</p>	<ul style="list-style-type: none"> <li>&gt; For Cost-Type and Time and Materials contracts: compile contract data: performance period, contract ceiling, contract fee, and level of effort (if applicable)</li> <li>• Determine which contracts are ready to close, and provide explanations for contracts that are not ready to close.</li> <li>• Gather supplemental data identified in FAR 52.216-7 (e.g., headcount, highly paid employee information) for audit preparedness.</li> </ul>
<p><b>5</b></p>	<p><b>Update Disclosure Statements</b></p> <ul style="list-style-type: none"> <li>- Identify potential revisions, including method adjustments.</li> <li>- Evaluate cost impacts related to revisions, if any.</li> <li>- Prepare revised submission.</li> </ul>
<p><b>6</b></p>	<p><b>Monitor and Evaluate Service Contract Act (SCA)/Davis Bacon Act (DBA) Compliance</b></p> <ul style="list-style-type: none"> <li>- Review to ensure projects are using correct determinations.</li> <li>- Review to ensure reporting (i.e., certified payroll) is being done properly and in compliance with SCA/DBA.</li> <li>- Review monitoring of subcontractor compliance with SCA/DBA, if applicable.</li> <li>- Obtain latest Area Wage Determinations (AWDs), and prepare change orders for new rates.</li> </ul>
<p><b>7</b></p>	<p><b>Review Small Business Plan and Reporting</b></p> <ul style="list-style-type: none"> <li>- Review and update your corporate small business plan.</li> <li>- Review organization's reporting practices for proper and timely reporting of individual subcontracting reports (ISRs)/summary subcontracting reports (SSRs) (see Electronic Subcontracting Reporting System at <a href="http://www.esrs.gov">www.esrs.gov</a>).</li> <li>- Review actuals versus contract requirements/proposed subcontracting plan.</li> </ul>
<p><b>8</b></p>	<p><b>Review and Prepare FAS Sales Reporting and IFF Remittances (if applicable)</b></p> <ul style="list-style-type: none"> <li>- Effective July 2019, all GSA Schedule holders are required to report sales and remit any owed Industrial Funding Fees (IFF) in the new Federal Acquisition Service Sales Reporting Portal (FAS SRP).</li> <li>- The FAS SRP replaced the previous use of GSA Schedule 72A Report for sales reporting.</li> <li>- Initially, use of the FAS SRP was limited to Transaction Data Reporting (TDR), but it has now been adopted for use across all GSA Schedules.</li> <li>- The FAS SRP is a more secure (e.g., multifactor authentication), more flexible reporting portal that allows vendors to more easily make sales adjustments, pay the IFF, and conduct similar contract administration.</li> <li>- Requests for contract administrative modifications can now be made through GSA eMod to add/change personnel and emails (<a href="https://eoffer.gsa.gov/">https://eoffer.gsa.gov/</a>) for easier contract administration.</li> <li>- The FAS SRP can be found here: <a href="https://srp.fas.gsa.gov/">https://srp.fas.gsa.gov/</a></li> </ul>

## ORGANIZATIONAL

1	<b>Review and Update Your Organization's Policies and Procedures</b>
2	<b>Review and Update Organizational Charts</b>
3	<b>Review Organizational Changes that Occurred During the Year</b> <ul style="list-style-type: none"> <li>- Evaluate impact on disclosure statement, reporting requirements, indirect rate structure, etc.</li> </ul>
4	<b>Review Board of Director Minutes for Significant Impacts</b>
5	<b>Review Ongoing Subrecipient Monitoring</b> <ul style="list-style-type: none"> <li>- Review monitoring requirements with any subrecipients. <ul style="list-style-type: none"> <li>&gt; This includes the subrecipient's administration, billing, and scientific progress, as well as ongoing risk assessment.</li> </ul> </li> <li>- As a best practice, document all efforts related to subrecipient monitoring, especially if you encounter challenges such as delayed billing or have difficulty communicating.</li> </ul>
6	<b>Review Indirect Cost Centers/Departments and Update Mapping to Indirect Pools and Bases (i.e., Causal/Beneficial Relationships)</b> <ul style="list-style-type: none"> <li>- Identify potential revisions, including method adjustments.</li> </ul>
7	<b>Review and Update SAM.gov</b> <ul style="list-style-type: none"> <li>- Review general organization information, such as points of contact and NAICS codes.</li> <li>- Check that DUNS number(s) is (are) current, and track when it (they) will need to be renewed.</li> <li>- Review and update Representations and Certifications.</li> </ul>

## AUDIT PREPAREDNESS

1	<b>Review Any Significant Audit Issues from the Past Year and Assess Impact</b>
2	<b>Schedule Kickoff Meeting with Government Auditors (DCAA, Third-Party Auditors, Other Agency Auditors) to Review Audit Plan/Scope for the Upcoming Year</b>
3	<b>Plan for/Perform Mock Audits</b> <ul style="list-style-type: none"> <li>- Plan and conduct internal floor checks (audit program available at <a href="http://www.dcaa.mil">www.dcaa.mil</a>).</li> <li>- Prepare for scheduled government audits, such as Business Systems, Incurred Cost Submissions (ICS), Cost Accounting Standards (CAS) compliance, etc. <ul style="list-style-type: none"> <li>&gt; Develop a mock audit plan, utilizing DCAA audit programs (available at <a href="http://www.dcaa.mil">www.dcaa.mil</a>) or other agency audit guidance, if available. <ul style="list-style-type: none"> <li>• Review DCAA updated audit guidance, including its recently revised guidance on "Post Year-End and Corporate Incurred Cost Audit Programs," as well as the revised "Checklist for Determining Adequacy of Contractor Incurred Cost Proposal."</li> </ul> </li> <li>&gt; Prepare and review supporting documentation prior to start of audit.</li> </ul> </li> </ul>



## TRAINING

1

### Perform 2020 Training and Develop an Annual Training Plan for 2021 and Beyond

- Annual training for all employees, including:
  - > Timekeeping/floor checks
  - > Expense reporting
  - > Business ethics
  - > General FAR/CAS (2 CFR 200, if applicable) compliance
  - > Information/data security.
- Annual training for employees in compliance-sensitive positions (government compliance, finance and accounting, internal audit, project managers, contract/ grant administration, purchasing, etc.), including:
  - > Project team training tailored to terms of contract(s)/award(s)
  - > Detailed FAR/CAS training, tailored to organization's compliance requirements, to include topics such as reporting requirements (ICS, FPRP, D/S, NICRA, if applicable, etc.), FAR Part 31, 2 CFR 200 (if applicable), business systems, etc.
  - > Code of conduct/ethics.

## GENERAL

1

### Review Pipeline for Potential FAR/CAS Contracts: Enables Your Organization to Be Proactive with Training, Project Setup, Compliance Requirements, Reporting, etc.

- General organization information, such as points of contact and NAICS codes.
- Ensure CAS covered contract determination is maintained in the accounting system.
- Ensure contracts exceeding the TINA threshold for the requirement of Certified Cost or Pricing Data (10 U.S.C. 2306a and 41 U.S.C. chapter 35) are marked and maintained in the accounting system.

2

### Review Updated Thresholds Impacting Reporting and Compliance (see tables below)

- Review/revise internal accounting, estimating, and purchasing procedures as needed to reflect the adjustments.
- Review/revise standard subcontract and supplier agreements/templates to reflect adjusted thresholds.

3

### Section 889 of the 2019 National Defense Authorization Act

- Section 889 mandates that the Department of Defense will not do business with government contractors whose supply chains contain products from five Chinese companies, including most notably Huawei.
- The Sec. 889 prohibitions went into effect on September 30, 2020.
- Contractors should review their supply chains at a very detailed level for components and parts that might come from named prohibited companies.
- Contractors should replace parts or components of the supply chain sourced from banned companies. A company that fails to self-certify that none of its equipment is sourced from banned companies risks being precluded from DOD contracts and business.

## GENERAL

4

### **Defective Pricing Responsibilities are Delegated to DCMA -Ensure Rigor in Maintaining Pricing File Backup**

- A new Defective Pricing Pilot Team has been created at the DCMA to provide pricing support to Procuring Contracting Officers (PCOs) in resolving DCAA Truthful Cost or Pricing Audits. Contractors subject to defective pricing audits can expect DCMA participation in the resolution of any DCAA findings of defective pricing. Powers granted to DCMA pilot teams include the issuance of contracting officer final decisions as needed, if no agreement is reached, and any contract modifications required to implement final price adjustments. See DFARS 252.215-7009, "Proposal Adequacy Checklist," for a comprehensive checklist to follow to minimize the risk of defective pricing.

5

### **Contract Closeouts – Proactively Identify Contracts for Closeout Procedures**

- Contractors often underestimate the bottom-line impact of contracts that have not been formally closed out. Contracts that have not progressed through the closeout process can add administrative work, negatively impact government customer relations, and ultimately harm profitability.
- Quick contract-closeout procedures include a few important steps, such as:
  - > Determining whether contract is complete.
  - > Determining whether any remaining work to be done is less than 10 percent of unsettled contract/task order/delivery order direct and indirect costs.
  - > Ensuring remaining contract amount is less than \$1,000,000, and/or investigating potential agency class deviations, which may allow for exceptions to the \$1,000,000 ceiling.
  - > Internal assessments of contract status and business operations impacting contracts, such as adequate business systems, status and any concerns of cognizant contract audits, history of indirect cost rate agreements as compared to ICS, potential rate structure changes, and similar operational and contract administration assessments.

## FEDERAL ACQUISITION REGULATION INFLATION ADJUSTMENT OF ACQUISITION RELATED THRESHOLDS (effective October 1, 2020)

	Prior Threshold	New Threshold	Reference
Micro-purchase threshold	\$3,500	\$10,000	FAR 2.101
Simplified acquisition threshold	\$150,000	\$250,000	FAR 2.101
FedBizOpps pre-award and post-award notices	\$25,000	No change	FAR Part 5
Use of simplified acquisition procedures for acquisition of commercial items	\$7 million	\$7.5 million	FAR 13.500
Cost or pricing data (TINA) threshold	\$750,000 for prime contracts awarded before July 1, 2018	\$2 million for prime contracts awarded on or after July 1, 2018	FAR 15.403-4
Cost Accounting Standards threshold-trigger contract	\$750,000	\$2 million	48 CFR 9903.201-1 and FAR 30.201-4
Prime contractor subcontracting plan floor	\$700,000 (\$1.5 million for construction)	\$750,000 (\$1.5 million for construction)	FAR 19.702
Threshold for reporting first-tier subcontract information, including executive compensation	\$30,000	No change	FAR 4.14 and FAR 52.204-10

Source: Federal Register, Vol. 85, No. 192 [October 2, 2020], p. 62485-90.

<https://www.federalregister.gov/documents/2020/10/02/2020-21690/federal-acquisition-regulation-inflation-adjustment-of-acquisition-related-thresholds>

## OTHER IMPORTANT THRESHOLDS FOR GOVERNMENT CONTRACTORS

	Prior Threshold	New Threshold	For Contracts Awarded After:	Reference
Limitation on allowability of compensation <sup>1</sup>	\$ 540,000 (2019)	\$555,000 (2020)	June 24, 2014	FAR 31.205-6(p)
Covered federal contract minimum wage—annual adjustment (effective January 1, 2021) <sup>2</sup>	\$10.80/hour	\$10.95/hour	n/a	FAR Case 2015-003

1. The Office of Federal Procurement Policy (OFPP) has not published the CY 2019 and 2020 compensation cap amounts on its website. However, OFPP has published the formula for computing the cap amounts. This formula allows anyone to compute new cap amounts as soon as the Bureau of Labor Statistics releases the applicable Employment Cost Index table and prior to OFPP formally publishing the new cap amounts on its website. See DCAA Memo 20-PSP-004(R) for more information.
2. Source: Federal Register, Vol. 85, No. 169 (August 31, 2020), p. 53850-54.



# About BRG's Government Contracts Advisory Services (GCAS) Team

Berkeley Research Group's Government Contracts Advisory Services Group (GCAS) is a leading provider of consulting services to government contractors in the defense, construction, engineering, healthcare/health insurance, higher education, nonprofit, manufacturing, technology, hospitality and retail industries. GCAS experts and consultants specialize in providing advice throughout the entire lifecycle of contracts and grants. From solicitation to contract and grant closeout, our professionals partner with awardees and contractors to proactively address regulatory complexity.

## *GCAS service offerings include:*

Government contract and grant accounting, FAR, and Cost Accounting Standards consulting, business system validation services, indirect rates and incurred cost submissions consultation, bid protest and investigation and litigation services.

## *Our Professionals*

GCAS's professionals bring decades of government contracts consulting experience to our service offerings. Our unique team of seasoned accounting and financial experts are leaders in the industry, many of whom are alumni of "Big 4" accounting and consulting firms. Our practice leaders frequently author articles and speak about government contracts regulatory topics. They partner with client leadership and client operations to provide simple answers to government contractors most difficult questions.

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## About BRG

Berkeley Research Group, LLC (BRG) is a global consulting firm that helps leading organizations advance in three key areas: disputes and investigations, corporate finance and performance improvement and advisory. Headquartered in California with offices around the world, we are an integrated group of experts, industry leaders, academics, data scientists and professionals working beyond borders and disciplines. We harness our collective expertise to deliver the inspired insights and practical strategies our clients need to stay ahead of what's next.

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