

Marketing Costs: The New DCAA Hot Button Issue

We’ve heard from a number of sources saying the DCAA is enhancing its focus on “marketing” costs in an attempt to declare some of these costs unallowable. In particular is the notion that unless a particular meeting with the government is in response to a solicitation, then meeting costs are unallowable. To paraphrase Ronald Reagan, “There they go again.”

FAR citations

FAR 31.205-1 Advertising and Public Relations. The conditions for unallowable advertising and PR are well known and fairly well spelled out. Contractors lost the common sense battle years ago that reasonable advertising and promotion costs of products might actually increase sales (isn’t that the point?), thereby increase the productive base and drive down indirect rates.

FAR 31.205-38 Selling Costs. This clause articulates additional common sense conditions by which selling costs are deemed allowable. The DCAA may attempt to exploit and confuse the terms “business development” and “marketing”. Something called “promotional marketing” can be construed as advertising or PR, so avoid that specific term. Marketing, as a generic term, is not found in the cost principle and should not automatically be deemed unallowable. In fact, marketing as it is practiced by most of our government contracting clients easily fits into the description of FAR 31.205-38(5) ***Direct selling costs (see end of article).**

Nowhere in the FAR does it stipulate a sales visit must be in response to a solicitation. In fact, many government contracting agencies publish a list of prospective contracts to be let in any annual period. The government and other agencies

(SBA, PTACs, SBDC) constantly advise contractors to seek out these lists and contact government buyers to discuss their products and services. Solicitations have yet to be developed for many of these agency needs. Also, for agencies developing state-of-the-art technology, they usually publish a Technology Road Map that articulates, in some cases in a very general sense, what technologies they feel might help fulfill their mission. No solicitation there, either.

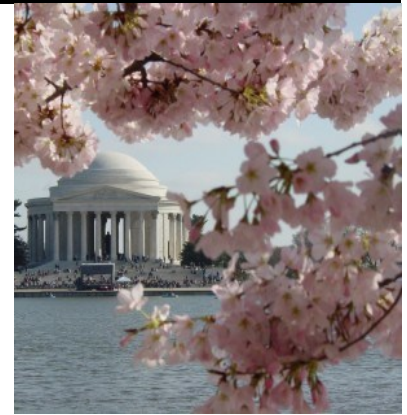
Most contractor sales personnel are very familiar with the saying, “If the solicitation is the first time you hear about it, you are already behind.”

Benefit to the government.

This is a concept that’s used in guiding DCAA auditors when evaluating selling costs (marketing/business development). One can make a strong case that if a technology or potential buying activity is part of an agency’s future acquisition plan, it’s to benefit the government.

What to do. We suggest a simple statement be added to any trip report or call that says what the benefit is to the government. Something simple that says, “visit to discuss our xyz technology to meet agency’s ABC Technology Roadmap”. If the benefit link is a bit more vague, ask your government counterpart to agree in writing that there is a potential benefit to the government for your visit, or even a statement after the fact that your visit was beneficial. These statements could be saved in the travel file in case it is ever challenged by the DCAA.

On an annual basis, develop a specific sales plan around known government sources articulating their buying patterns or specific needs. Inform your sales staff to cite this plan, along with any



specific benefit when a sales call or visit is made.

Final Thought. In a sense, this may be one area where being a small business has its advantages. Large widget or professional services firms may have a more distributed, shotgun approach to marketing, thereby making themselves an easier target. Small businesses are by nature a bit more focused and generally go after the lowest hanging fruit (easily identifiable targets).

Small businesses are also at an advantage since there is a major push to fulfill small business contracting roles. Having government agencies on one hand help and encourage small businesses identify and meet with government buying commands, then saying these costs may be unallowable appear to be counterproductive.

**Direct selling efforts are those acts or actions to induce particular customers to purchase particular products or services of the contractor. Direct selling is characterized by person-to-person contact and includes such efforts as familiarizing a potential customer with the contractor’s products or services, conditions of sale, service capabilities, etc. Includes negotiation, liaison between customer and contractor personnel, technical and consulting efforts, and individual demonstrations, and any other efforts having as their purpose the application or adaptation of the contractor’s products or services for a particular customer’s use. The cost of Direct Selling Efforts is allowable.*

New Program: ReliAscent's "Introduction to Government Contracting" and "FAR Foundations"

Upcoming Events

Dates you need to remember:

- **May 11th**-- NSF SBIR 2013 accepts proposals
- **May 22nd**-- DHS SBIR 2013.2 closes
- **May 24th**-- DoD SBIR 2013.2 Begins accepting Proposals
- **June 11th**— NSF 2013 SBIR closes
- **June 13th**—NSF 2013 STTR closes
- **June 26th**—DoD SBIR 2013.2 SBIR closes



By the Numbers: Sequestration

Many thought that the Sequester came and went with little real effect (other than delayed flights at airports)...but what is the real impact?

- **\$825 Million:** Lockheed's estimated 2013 earnings loss
- **3%:** Boeing's estimated 2013 earnings loss
- **\$15 Billion:** Projected funding shortfall for the US ARMY in FY 2013
- **\$500 Billion:** Mandatory DoD defense cuts to be implemented over the next 10 years
- **90,000:** Minimum reduction in active-duty, guard and reserve forces in US ARMY
- **2.3%:** Earnings decline for General Dynamics in Q1
- **\$7.2 Billion:** Cut to USAF's space programs budget