

Timekeeping for Government Contractors – How and Why?

Adam So

May 10, 2023

Your Instructor



Adam So

Manager

703.970.0476

Adam.so@forvis.com

Agenda

What is “timekeeping” for government contracting?

Laws and acts that influence timekeeping

Roles in the world of timekeeping

Labor accounting

Non-compliance factors and remediation techniques

The DCAA floor check: What to expect?

COVID-19 impact

What is “Timekeeping” for Government Contractors?

Regulations vs. Guidance Over Timekeeping

FAR 31.201-2(d) & FAR 52.222-8 – Records

DCAA guidance

- Internal Control Questionnaire (ICQ)
- Contract Audit Manual – Ch 5. Sec 9
- Guidance for contractors
 - FAR Table 15-2 expectations
 - Identification of uncompensated overtime (FAR 52.237-10)
- Floor check questionnaire for electronic timekeeping system

Contractor Risk Assessment Guide (CRAG)

Standard Form 1408 – Pre-award survey of contractor accounting system

DFARS 252.242-7006 Accounting System Administration

What is “timekeeping” for government contracting?

FAR 31.201-2(d)

- *A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles in this subpart and agency supplements. The contracting officer may disallow all or part of a claimed cost that is inadequately supported.*

What is “timekeeping” for government contracting?

FAR 52.222-8 Payrolls and Basic Records

- Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of work

Preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work

Such records shall contain the name, address and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) (Construction Wage Rate Requirement statute)), daily and weekly number of hours worked, deductions made and actual wages paid

Guidance Over Timekeeping

Standard Form 1408 – Pre-award survey of contractor accounting system

- + A timekeeping system that identifies employee's labor by intermediate or final cost objective
- + A labor distribution system that charges direct and indirect labor to the appropriate cost objectives

DFARS 252.242-7006 Accounting System Administration

- + A timekeeping system that identifies employees' labor by intermediate or final cost objectives
- + A labor distribution system that charges direct and indirect labor to the appropriate cost objectives

Polling question #1

- Contractor employees are required to record their time based on:
 - a) Contract funding
 - b) Chargeability
 - c) Nature of the hours worked
 - d) Supervisor discretion

What is “timekeeping” for government contracting?

- DCAA Contract Audit Manual Chapter 5 (Para 5-908 & 909); This requires procedures for the proper use, controls, preparation of and recording of actual times worked

DCAA Auditors will be looking to see that:

1. All hours worked for all employees are recorded (this includes all direct and all indirect work)
2. The proper job assignments are made by different individuals than are performing the work (to the extent practical)
3. Daily recording of time worked by the employee
4. An audit trail for any and all changes exists
5. Employee review and approval of the time recorded
6. Supervisor review and approval of the employee's time recorded
7. Evaluation of labor distribution
8. Reconciliations between the distribution summary and the labor charges
9. Procedures to assure all hours worked (even if they are not billable) are recorded

Auditor Expectations - Controls

- Timekeeping procedures described in DCAA Guidance for contractors
- To be effective, DCAA expects internal controls over labor charging to meet the following criteria:
 - Segregation of responsibilities for labor-related activities
 - Procedures must be evident, clear-cut and reasonable so there is no confusion
 - Maintenance of controls must be continually verified and violations must be remedied through prompt and effective action
 - Individual employees must be constantly, although unobtrusively, made aware of controls that act as an effective deterrent against violations. Many businesses accomplish this by emphasizing the importance of timesheet preparation in staff meetings, employee orientation and through the posting of signs throughout the workplace that remind employees of the importance of accurate and current timesheets

General Controls - Continued

Timecard Preparation: assure that labor hours are accurately recorded and that any corrections to timekeeping records are documented including the appropriate authorizations and approvals

Allocation of Labor Costs to Cost Objectives: reasonably assure the proper allocation of labor costs to cost objectives

Validation of Undistributed Labor: provide reasonable assurance that labor transfers or adjustments of the labor distribution are documented and approved

Internal Reviews: monitor the overall integrity of the labor/timekeeping system

Auditor Expectations – Timesheet Preparation

- Detailed instructions for timesheet preparation should be established through a timekeeping manual and/or company procedure
- Instructions should indicate that the employee is personally responsible for:
 - Recording his/her time on a daily basis
 - Recording time on the timesheet
 - The correct distribution of time by project numbers, contract number or name, or other identifiers for a particular assignment. To ensure accuracy, a listing of project numbers and their descriptions should be provided to the employee and maintained in the work authorization system electronically or in a hard copy for the employee to refer to it as needed

Auditor Expectations – Approval

- A supervisor should approve and cosign all timesheets
- A supervisor is prohibited from completing an employee's timesheet unless the employee is absent for a prolonged period of time on some form of authorized leave. If the employee is on travel status, the supervisor for the employee may prepare a timesheet. Upon his or her return, the employee should turn in his/her timesheet and attach it to the one prepared by the supervisor

The guidance should state that the nature of the work determines the proper distribution of time, not availability of funding, type of contract or other factors

The company policy should state that the accurate and complete preparation of timesheet the employee's responsibility. Careless or improper preparation may lead to disciplinary actions under company policies, as well as applicable federal statutes

Auditor Expectations – Corrections

Purpose of correcting timesheet is to document the process of payroll correcting a timesheet error

Employee is responsible for accurate time reporting

If an employee realizes a timesheet is not correct:

- Identify what needs to be corrected
- Correct the timesheet in accordance with established practices
- Notify the manager a correction is needed

Laws and Acts that Influence Timekeeping

Laws and Acts that Influence Timekeeping

• Davis-Bacon Act – 1931

- Establishes the requirement for paying the local prevailing wages on **public works** projects for **laborers and mechanics**
- Applies to "contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the **construction**, alteration or repair (including painting and decorating) of public buildings or public works"

Walsh Healey Act -1936

- Applies to U.S. government contracts exceeding \$10,000 for the **manufacture or furnishing of goods**
- Establishes overtime pay for hours worked by contractor employees in excess of 40 hours per week, and sets the minimum equal to the prevailing wage as determined by the DoL

Fair Labor Standards Act – 1938

- Is a federal labor law of general and nationwide application, including overtime, minimum wages, child labor protections and the Equal Pay Act
- Exempt (salaried) vs. non-exempt (hourly)
- Overtime - requires overtime compensation (at time and one-half) for all "hours worked" over a prescribed "threshold" (typically 40 hours per week), for "non-exempt" employees

• McNamara-O'Hara Service Contract Act –1965

- Requires general contractors and subcontractors performing **services** on prime contracts in excess of \$2,500 to pay **service** employees in various classes no less than the wage rates and fringe benefits found prevailing wage in the locality as determined by the DoL

Roles in the World of Timekeeping

Federal Contractor - Employee

Employee

- Consistently follow established procedures
- Attend training
- Read the policy
- Record time accurately and DAILY
- Understand what project codes you are using
- Correct and document errors
- Understand where you work
 - Gov't site (turnstiles)
- Report suspected fraud, waste and abuse

Federal Contractor - Supervisor

Supervisor

- Approve time charges
- Pay attention when reviewing and approving an employee timesheet
- Monitor weekly activity reports and general compliance
- Reinforce the importance of daily time entry
- Take action if policy isn't followed
- Document mistakes and remediate quickly

Federal Contractor - Management

- Management
 - Construct a policy, revise annually
 - Make annual training a requirement
 - Make employees and supervisors accountable
 - Three strike rule
 - Manage your subcontractors
 - Encourage them to adopt procedures
 - Good timekeeping makes correct invoicing
 - Maintain records
 - Create an internal audit function for oversight
 - Make ethics a cornerstone to your workplace
 - Ethics Officer, hotline to report fraud, anonymous
 - Provide “tone from the top”

Government

- Procuring Contracting Officer

- Determines applicability of SCA
- Determines rates proposed are fair and reasonable

Administrative Contracting Officer

- Review and approve contractor compensation policies
- Determines if rates paid are fair and reasonable

Department of Labor

- Created to foster, promote and develop the welfare of workers, improve working conditions and enhance opportunities for profitable employment
- Implements, administers and enforces labor laws
- Oversees compliance with FLSA and SCA in federal contracts

Government Auditor

- Defense Contract Audit Agency – DCAA

Created to perform contract audits for Department of Defense

Advisor to the contracting officer

Timekeeping and labor audits – floor checks

Compensation

Impact on DFARS Business System Rule

Incurred cost audits

- Auditing labor costs
- Compensation audits
- Time and materials audits

Polling question #2

Does your company practice Total Time Accounting?

- a) Yes
- b) No
- c) I don't know

LABOR ACCOUNTING

Total Time Accounting (TTA)

- All hours are recorded (WHY??)
 - If a company is seeking government contracts that are subject to the cost principles or CAS, it must have a compliant timekeeping system – one that can capture all hours worked and then allocate cost equitably across all hours worked
 - The U.S. government requires that cost be allocated fairly and equitably across a company's various cost objectives, in reasonable proportion to the benefit accruing to them
 - When an employee's time is divided between multiple cost objectives, the labor cost must be equitably distributed over them

Total Time Accounting (TTA)

- All hours are recorded (WHY?)
 - While there is no specific regulation that requires TTA, the DCAA cites FAR 31.201-4: Cost Allocability and Assignability to Final Cost Objectives, CAS 401: Consistency Between Accounting and Bids and Proposals, and CAS 418: Proper Allocation Bases for Direct and Indirect Costs as justification
 - Federal Acquisition Regulation (FAR) 31.201-4 and Cost Accounting Standard (CAS) 418 - Allocation of Direct and Indirect Costs essentially require that cost be allocated to final cost objectives on a beneficial or causal basis. It is implied that all hours worked are needed to correctly determine the beneficial/causal relationship between the cost and the cost objective

Total Time Accounting (TTA)

- DCAA Expectations:
 - Recording all hours worked whether they are paid or not
 - Labor costs and associated overheads are affected by total hours worked, not just paid hours worked
 - Labor rate computations and labor overhead costs should reflect all hours worked
 - Unpaid hours worked are termed "uncompensated overtime"

Uncompensated Overtime

- FAR 52.237-10: Uncompensated Overtime
 - “Uncompensated overtime” means the hours worked without additional compensation in excess of an average of 40 hours per week by direct charge employees who are exempt from the Fair Labor Standards Act. Compensated personal absences such as holidays, vacations, and sick leave shall be included in the normal work week for purposes of computing uncompensated overtime hours.
 - If uncompensated overtime is worked but not captured correctly in the contractor’s timekeeping and accounting systems, and especially if a salaried employee works on more than one contract, there is a greater potential for contractors to manipulate their labor accounting system.

Uncompensated vs. Unpaid

Distinction between uncompensated overtime and unpaid overtime

- Unpaid overtime is when an employee that qualifies for overtime under FLSA is denied that extra pay which is owed
- Uncompensated overtime applies to employees who are exempt from FLSA overtime rules and are already considered compensated through their salaries for all hours worked

Uncompensated Overtime

Tips for Recording Uncompensated Overtime

- Establish a consistent practice for accounting for hours worked by salaried individuals that exceed 40 hours a week
- Ensure that estimating and billing practices are consistent with accounting practices
- Record and bill all qualifying hours worked for competitively awarded T&M contracts, unless prohibited by specific contract terms

TIME ENTRY

Time Entry

Manual

- Timesheet is accounted for and prenumbered
- Report lost timesheets
- Record time on a daily basis
- Record charges in ink
- Distribute labor by project number, contract name/number
- Line thru changes, provide explanation and initial changes
- Record all hours worked (paid or unpaid)
- Sign timesheets at the end of the accounting period

Automated

- Does everything that a manual system does but in paperless environment
- Benefits of the system:
- Timesheets are automatically numbered/tracked
- Password serve as electronic signature
- Reduces errors by workforce controls
- Electronic validation checks reduce charging errors
- Revisions require an explanation
- Provides for electronic audit process
- Automatically tracks holidays

Non-Compliance Factors and Remediation Techniques

Auditor Areas of Concern

- Total hours in timekeeping system should reconcile to labor distribution and payroll

Tracking of labor costs directly associated with unallowable costs are recorded

Documenting and approving labor transfers

Audit trail of timekeeping documents

Risk factors:

- Contract type mix
- Contracts in an overrun position
- Budgetary controls
- Similar scopes for cost type and fixed price contracts

Non-Compliance Factors

- Professional staff required to work a significant amount of unpaid overtime on a variety of projects-both direct and indirect
- Salaried employees only charging the first eight hours worked during any day for an extended period

A pattern of management directed unpaid overtime with employee bonus based on the extra hours worked

Cost-type government contracts worked during the first eight hours and fixed price or commercial contract work performed only during the unpaid hours

Overrun contracts/projects worked on only during unpaid hours

Remediation Techniques

- How do you counter non-compliance issues:
 - Employee maintains control of their timesheet
 - Employee completes their timesheet on a daily basis
 - Explanations for changes to timesheet
 - Employee records all hours worked whether paid or unpaid
 - Employee understands the use of all charge codes
 - Employee does not record hours worked in advance
 - Supervisors signs and approves timesheet
 - Adequate timekeeping policy read and signed by all employees

Remediation Techniques

- Self Governance
 - Conduct regular internal reviews that address: policies, consistent application of them and follow-up on any deficiencies
 - Procedures to facilitate the accumulation and recording of labor costs to the proper cost objectives
 - Segregation of duties between key personnel (i.e. Timekeeping vs. Payroll)
 - Supervisors who are accountable for meeting budgets should not have the opportunity to initiate changes to employees time charges
 - Procedures to facilitate the clear identification of the nature of the work performed
 - Enough detail to be trackable to the final cost objective
 - Sufficient to determine the allocability of the charges to government contracts/grants
 - Policies to require verification of the hours in the labor distribution summary agrees with the hours entered into the timekeeping and payroll systems
 - Procedures that generate an audit trail documenting the distribution of direct and indirect labor charges to the proper cost objectives

Remediation Techniques

- Employee Training Programs
 - Policies and procedures to ensure that all employees are aware of the importance of proper time charges
 - New hires training and refresher courses for existing employees
 - Awareness of penalties imposed by the government (i.e. False Claims Act)
 - Goes to the issue of top management creating an ethical environment

Compliance Reviews

- Review significant increases and decreases in sensitive labor accounts
- Procedures that ensure proper documentation of labor transfers or adjustments
- Procedures addressing overtime authorization
- Internal Floor Checks

The DCAA Floor Check – What to Expect?

Polling question #3

Contractors and employees are provided notice prior to a floor check.

- a) True
- b) False

The DCAA Floor Check

- What is it?
 - Floor check audits are designed to test contractor compliance with the contractor's timekeeping policy, controls on labor charges and to check employee time records for integrity and accuracy
 - Auditors will want to validate that employees are “actually at work” and ensure that employees are charging time on a daily basis, not once a week or a month
- Why do they occur?
 - Where there is a perceived risk that labor cost may not be recorded or accumulated correctly, DCAA may perform floor checks, labor interviews or both. They may also be a result of prior experiences with your company

Floor Checks

- Only unannounced audit
- DCAA - Floorcheck Questionnaire For Electronic Timekeeping System
- You need a company liaison
- Deliver a sample list from your data
- Pull the timesheet when they arrive
- Will ask about ethics program
- Will ask to see timekeeping training records
- Use documentation aids to help employees pass

The DCAA Floor Check

• What is a labor interview?

- Some of your employees will likely be selected for a labor interview to verify that employee's timekeeping practices are in compliance with your company's internal controls and in accordance with the DCAA timekeeping procedures
- If a selected employee is not available for the interview, you should try to track that employee either by phone or email to prove that such employee exists
- If the employee works from home, auditors might attempt to contact the employee by telephone and interview the employee's designated supervisor to obtain evidence of the employee's work and the supervisory control over that employee

The DCAA Floor Check

What kinds of questions are asked?

- Is the employee trained on the company's timekeeping policy and system?
- Was the employee provided with the nature and scope of work to be done?
- Did the employee receive written directions on labor charging and time allocation across different contracts and tasks?

What happens if an employee cannot fill out a timesheet?

- There may be any number of reasons that your timekeeping system is temporarily unavailable, such as the electricity going out or a server malfunction
- Be sure to keep manually written records of time worked and then copy them to the electronic timekeeping system when the system is up and running again

The DCAA Floor Check

- What if the employee is out due to illness or other personal circumstances?
 - Supervisors should refrain from initiating time records on behalf of the employee
 - DCAA allows the supervisor to initiate a timesheet for the employee who is absent for a prolonged period of time on authorized leave or travel
 - Upon return, the employee should certify the timesheet completed by the supervisor and turn in his/her own timesheet

The DCAA Floor Check

- Do employees need to know how to correct a timesheet?
 - You should have procedures in place that identify the original time records, the corrected time records and documentation on employee's authorization for changes
 - When correcting time in an electronic timekeeping system, do not delete records
 - Remember that every correction should be documented
 - All changes should be justifiable, verifiable, properly initiated and approved by the designated supervisor

The DCAA Floor Check

- What happens if you fail the DCAA floor check audit?
 - Reputational and competitive risk
 - Losing future opportunities for government contracts and having the start date of your current contract delayed are just a couple of the many implications that could negatively affect your business performance
 - Post floor check steps
 - Receiving the DCAA opinion (audit report)
 - Writing a rebuttal or “DCAA made a valid observation,” never agree
 - Setting a precedent
 - No agreement reached
 - DCMA Determination, still no agreement reached
 - Agency Board of Contract Appeals
 - Court of Federal Claims

COVID-19 Impact

Remote Audits

- MRD 20-PAS-001 (4/10/2020) Audit Alert on Limited Contractor Access Due to COVID-19
 - Provides guidance in response to contractor closures and limited access to contractor records and personnel due to COVID-19
 - Provides for audit activity to occur electronically potentially resulting in a qualified opinion
 - Provides for follow up procedures to resolve the scope limitations when normal operations resume if it will serve a useful purpose

WAH Program – Audit Steps - a. Materiality

- (1) Assess the materiality of the costs associated with the contractor's employees who work at home.
- (2) If material, determine if adequate internal controls over the WAH program are in place. If the contractor does not have adequate written policies and procedures, the contractor should be cited for a labor accounting system deficiency.
- (3) If not material and the contractor does not have written policies and procedures, notify the contractor in writing that if WAH costs become material, the Government will require a demonstration of the adequacy of the internal controls over the WAH program.

WAH Program – Audit Steps - b. Audit of Internal Controls

(1) Eligibility and status. These programs are usually offered to employees on an exception basis for situations where attendance at the company facility is a hardship such as when an employee is injured. However, adequate policies should include a description of the type of work that may be performed at home. The auditor should evaluate the reasonableness of performing this work at home. For example, work that must be closely supervised, requires access to non-portable equipment or depends on the frequent interaction with others, cannot be performed at home. The contractor's policies should also include the employment status of employees and eligibility for benefits.

WAH Program – Audit Steps - b. Audit of Internal Controls

(2) Approval policy, employee performance, work schedule and attendance. Contractor policies and procedures should require:

- proper advance approval by appropriate management officials;
- continuing evaluation of the participating employee's performance in completing assigned tasks;
- written documentation of the specific tasks to be performed along with expected completion dates;
- that WAH employees attend periodic meetings at the contractor's work site to allow the employee and supervisor to discuss work progress, assign new tasks, and evaluate work performed; and
- that WAH employees work a mutually agreeable set of core hours to allow management to have access to the WAH employee at designated times.

WAH Program – Audit Steps - c. Floor Check Procedures

- (1) When an employee selected to be floor checked is not present at the normal work-site due to a WAH program, the employee's supervisor should be interviewed. Obtain evidence of the employee's work, and documented evidence of supervisory control over the employee's WAH schedule.
- (2) Communicate with the employee by phone to determine if the employee has knowledge of WAH procedures and discuss specific type of work being performed along with the related labor charge numbers.
- (3) If the employee has a regularly scheduled meeting with the supervisor in the near future, any questionable procedures or practices identified in steps (1) and (2) can be discussed and verified with the supervisor and employee at that time.
- (4) Verify the individual's employment to the payroll/personnel records.

Polling question #4

KEY TAKEAWAYS

KEY TAKEAWAYS

- Complete your timecard daily for all time worked (Total Time Accounting)
- Charge time in your timecard to the appropriate charge code
 - direct cost charge code when work is performed that benefits a single identified project
 - indirect cost charge code that is assigned to you for work performed that benefits two or more projects or the organization as a whole
- Understand Corporate Policy
- Improper time charging creates risk
- Proper time charging benefits all stakeholders