

Cost Reasonableness

[Reference: FAR 31.201 and DEAR 970.31]



Guiding Principles

- Apply the prudent person test.
- Consult cost principles.
- Talk to subject matter experts.
- Look for similar contracts for comparisons.

Overview

This section discusses the reasonableness of costs charged to Department of Energy contracts.

Reasonable Costs

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business.

Reasonableness of specific costs must be examined with particular care in connection with firms or their separate divisions that may not be subject to effective competitive restraints. No presumption of cost reasonableness is automatically assumed by a contractor.

Determining Reasonableness

The Department of Energy Contracting Officer is responsible for determining the reasonableness of costs reimbursed under Department of Energy contracts.

This requires the exercise of reasoned judgment. A cost may be allowable under the contract; however, it must also be reasonable in nature and amount.

If any questionable expenditures and activities are identified, appropriate action is initiated to resolve the issues. This generally is accomplished with the assistance of, and reviews by, the Field Office staff including, program personnel, the Chief Financial Officers' organization, the contracting organization, and legal counsel.

Other Factors To Be Considered

The reasonableness of a cost is just one of several criteria which must be satisfied prior to a cost being eligible for reimbursement under a Department of Energy contract.

The following criteria must also be evaluated and satisfied prior to reimbursement:

Costs are required to perform the contract, or are otherwise allocable to the contract.

Costs meet generally accepted accounting principles and practices.

Costs meet the standards of the Cost Accounting Standards Board.

Costs meet the terms of the contract.

Costs are not otherwise unallowable.

Government-Owned Operations

What is reasonable for the Department of Energy's Government-owned, contractor managed operations depend upon a variety of considerations and circumstances, including:

Whether it is the type of cost generally recognized as ordinary and necessary for the conduct of the Department of Energy's mission or the performance of contract requirements.

Whether it complies with generally accepted sound business practices, arms' length bargaining, and Federal and State laws and regulations.

The contractor's responsibilities to the Government, other interested parties, employees, and the public at large.

Whether it complies with established practices.

Resolution

Determinations of reasonableness do not always lend themselves to easy resolution. It is not practicable to establish an absolute dollar value or ceiling amount above which a cost would be considered automatically unreasonable for every cost in every situation. Nor is it practicable to identify particular cost categories which are always unreasonable. Determinations, out of necessity, must be made on a case-by-case basis.

While the determination of reasonableness for a particular expenditure or cost category may involve judgment factors, there should be some underlying basis for the incurrence of the cost that tends to establish the cost as reasonable.

As an example, prior practices may be relevant. However, the incurrence of a cost for the first time does not establish a prima facie case that the cost is unreasonable.

Review of decisions which address reasonableness resulting from Board of Contract Appeals, Department of Energy Inspector General reports, and General Accounting Office reports would be appropriate. However, it must be kept in mind that decisions often vary on a case-by-case basis and a particular category of cost found reasonable in one set of circumstances may very well be determined unreasonable given another scenario.

Timing

Determining reasonableness is a process that generally involves the assistance of all members of the contract management team.

The process can identify unreasonable costs during any one of the following stages:

The prospective environment, that is, prior to expenditure of the funds when a pricing review or preaward audit has identified potentially unreasonable costs. For example, lease costs at rates in excess of those charged other lessees for similar accommodations, or, if the rates appear reasonable, identification of leased space in excess of Department of Energy approved requirements.

At the time of cost incurrence or just prior to cost incurrence. For example, travel costs that at the time presented for approval lacked adequate justification, or the number of personnel involved is excessive.

After incurrence of the cost. Unreasonable costs can be identified during program audits or the Statement of Costs Incurred and Claimed process (formally Voucher Accounting for Net Expenditures Accrued process).

Actions

Costs can be unreasonable when not incurred in an efficient manner. For example, a contractor may use in-house guard services when an outside vendor may be able to supply comparable services at a substantially lower cost. The contractor should be advised that such costs will be deemed unreasonable and will not be reimbursed by the Government.

It is absolutely essential that the Department take an aggressive stance relative to unreasonable costs. When unreasonable costs are identified prior to expenditure, the Department's administration process must ensure that the costs in question are not reimbursed with Government funds.

Contracting Officers may wish to seek advance agreements with contractors addressing particularly contentious or recurring costs of a questionable nature.

The Department seeks recovery of unreasonable costs, which had been reimbursed on an interim basis, to ensure no delay in recovering the costs, pending a final review. If the Department and the contractor are unable to reach an otherwise satisfactory accommodation regarding reasonableness of costs, the Contracting Officer may need to issue a Notice of Intent to Disallow Costs. Action to disallow costs should be discussed with the contractor in order to avoid potential disputes.