49.107 Audit of prime contract settlement proposals and subcontract settlements.

(a) The TCO *shall* refer each prime contractor *settlement proposal* valued at or above the threshold for obtaining *certified cost or pricing data* set forth in FAR 15.403-4(a)(1) to the appropriate audit agency for review and recommendations. The TCO *may* submit *settlement proposals* of less than the threshold for obtaining *certified cost or pricing data* to the audit agency. Referrals *shall* indicate any specific information or data that the TCO considers relevant and *shall* include facts and circumstances that will assist the audit agency in performing its function. The audit agency *shall* develop requested information and *may* make any further accounting reviews it considers appropriate. After its review, the audit agency *shall* submit written comments and recommendations to the TCO. When a formal examination of *settlement proposals* valued under the threshold for obtaining *certified cost or pricing data* is not warranted, the TCO will perform or have performed a desk review and include a written summary of the review in the termination case file.

(b) The TCO *shall* refer subcontract settlements received for approval or ratification to the appropriate audit agency for review and recommendations when—

(1) The amount exceeds the threshold for obtaining *certified cost or pricing data*; or

(2) The TCO determines that a complete or partial accounting review is advisable. The audit agency *shall* submit written comments and recommendations to the TCO. The review by the audit agency does not relieve the prime contractor or higher tier subcontractor of the responsibility for performing an accounting review.

(c)

(1) The responsibility of the prime contractor and of each subcontractor (see 49.108) includes performance of accounting reviews and any necessary field audits. However, the TCO *should* request the Government audit agency to perform the accounting review of a subcontractor's *settlement proposal* when-

(i) A subcontractor objects, for competitive reasons, to an accounting review of its records by an upper tier contractor;

(ii) The Government audit agency is currently performing audit work at the subcontractor's plant, or can perform the audit more economically or efficiently;

(iii) Audit by the Government is necessary for consistent audit treatment and orderly administration; or

(iv) The contractor has a substantial or controlling financial interest in the subcontractor.

(2) The audit agency *should* avoid duplication of accounting reviews performed by the upper tier contractor on subcontractor *settlement proposals*. However, this *should* not preclude the Government from making additional reviews when appropriate. When the contractor is performing accounting reviews according to this section, the TCO *should* request the audit agency to periodically examine the contractor's accounting review procedures and performance, and to make appropriate comments and recommendations to the TCO.

(d) The audit report is advisory only, and is for the TCO to use in negotiating a settlement or issuing a unilateral determination. Government personnel handling audit reports *must* be careful not to reveal privileged information or information that will jeopardize the negotiation position of the Government, the prime contractor, or a higher tier subcontractor. Consistent with this, and when in the Government's interest, the TCO *may* furnish audit reports under paragraph (c) of this section to prime and higher tier subcontractors for their use in settling subcontract *settlement proposals*.

Parent topic: Subpart 49.1 - General Principles