

§ 100.15

28 CFR Ch. I (7-1-05 Edition)

subcontracting, fixed-asset improvement programs, inventories, the volume of sales and production, manufacturing processes, the carrier's products, or other relevant circumstances; or

(iii) Allocable cost groupings developed for a carrier's primary location are applied to off-site locations. Separate cost groupings for costs allocable to off-site locations may be necessary to permit equitable distribution of costs on the basis of the benefits accruing to the multiple cost objectives.

(6) The base period for allocating allocable costs is the cost accounting period during which such costs are incurred and accumulated for distribution to work performed in that period. The base period for allocating allocable costs will normally be the carrier's fiscal year. A shorter period may be appropriate when performance involves only a minor portion of the fiscal year, or when it is general practice to use a shorter period. When the compliance effort is performed over an extended period, as many base periods shall be used as are required to accurately represent the period of performance.

§ 100.15 Disallowed costs.

(a) General and Administrative (G&A) costs are disallowed. G&A costs include, but are not limited to, any management, financial, and other expenditures which are incurred by or allocated to a business unit as a whole. These include, but are not limited to:

(1) Accounting and Finance, External Relations, Human Resources, Information Management, Legal, Procurement; and

(2) Other general administrative activities such as library services, food services, archives, and general security investigation services.

(b) Customer Service costs are disallowed. These costs include, but are not limited to, any Marketing, Sales, Product Management, and Advertising expenses.

(c) Plant costs that are not directly associated with the modifications identified in §100.11 are disallowed. These include, but are not limited to, repairing materials for reuse, performing routine work to prevent trouble; expenses related to property held for fu-

ture telecommunications use; provisioning costs; network operations costs; and depreciation and amortization expenses.

(d) Costs that have already been recovered from any governmental or non-governmental entity are disallowed.

(e) Costs that cannot be either directly assigned or directly allocated are disallowed.

(f) Additional costs that are incurred due to the carrier's failure to complete the CALEA compliance effort in the time frame agreed to by the government and the carrier are disallowed.

(g) Costs associated with modifications of any equipment, facility or service installed or deployed after January 1, 1995 which are deemed reasonably achievable by the Federal Communications Commission under section 109(b) of CALEA are disallowed.

(h) To ensure that the Government does not reimburse carriers for disallowed costs, the following provisions are included:

(1) Costs that are expressly disallowed or mutually agreed to be disallowed, including mutually agreed to be disallowed directly associated costs, shall be excluded from any billing, claim, or proposal applicable to reimbursement under CALEA. When a disallowed cost is incurred, its directly associated costs are also disallowed.

(2) Disallowed costs involved in determining rates used for standard costs, or for allocable cost proposals or billing, need be identified only at the time rates are proposed, established, revised, or adjusted. These requirements may be satisfied by any form of cost identification which is adequate for purposes of cost determination and verification.

§ 100.16 Cost estimate submission.

(a) The carrier shall provide sufficient cost data at the time of proposal submission to allow adequate analysis and evaluation of the estimated costs. The FBI reserves the right to request additional cost data from carriers in order to ensure compliance with this part.

(b) The requirement for submission of cost data is met if, as determined by the FBI, all cost data reasonably available to the carrier are either submitted

Department of Justice

§ 100.16

or identified in writing by the date of agreement on the costs.

(c) If cost data and information to explain the estimating process are required by the FBI and the carrier refuses to provide necessary data, or the FBI determines that the data provided are so deficient as to preclude adequate analysis and evaluation, the FBI will attempt to obtain the data and/or elicit corrective action.

(d) Instructions for submission of the cost data for the estimate are as follows:

(1) The carrier shall submit to the FBI estimated costs by line item with supporting information.

(2) A cost element breakdown as described in §100.16(h) shall be attached for each proposed line item.

(3) Supporting breakdowns shall be furnished for each cost element, consistent with the carrier's cost accounting system.

(4) When more than one line item is proposed, summary total amounts covering all line items shall be furnished for each cost element.

(5) Depending on the carrier's accounting system, the carrier shall provide breakdowns for the following categories of cost elements, as applicable:

(i) *Materials*. Provide a consolidated cost summary of individual material quantities included in the various tasks, orders, or agreement line items being proposed and the basis upon which they were developed (vendor quotes, invoice prices, etc.). Include raw materials, parts, software, components, and assemblies. For all items proposed, identify the item, source, quantity, and cost.

(ii) *Direct labor*. Provide a time-phased (e.g., monthly, quarterly) breakdown of labor hours, rates, and costs by appropriate category, and furnish the methodologies used in developing estimates.

(iii) *Allocable direct costs*. Indicate how allocable costs are computed and applied, including cost breakdowns that provide a basis for evaluating the reasonableness of proposed rates.

(iv) *Subcontracting costs*. For any subcontractor costs submitted for reimbursement, the carrier is responsible for ensuring that documentation requirements set forth herein are passed

on to any and all subcontractors utilized in the carrier's efforts to meet CALEA requirements.

(v) *Other costs*. List all other costs not otherwise included in the categories described above (e.g., special tooling, travel, computer and consultant services) and provide bases for costs.

(e) As part of the specific information required, the carrier shall submit with its cost estimate and clearly identify as such, costs that are verifiable and factual. In addition, the carrier shall submit information reasonably required to explain its estimating process, including:

(1) The judgmental factors applied, such as trends or budgetary data, and the mathematical or other methods used in the estimate, including those used in projecting from known data; and

(2) The nature and amount of any contingencies included in the proposed estimate.

(f) There is a clear distinction between submitting cost data and merely making available books, records, and other documents without identification. The requirement for submission of cost data is met when all accurate cost data reasonably available to the carrier have been submitted, either actually or by specific identification, to the FBI.

(g) In submitting its estimate, the carrier must include an index, appropriately referenced, of all the cost data and information accompanying or identified in the estimate. In addition, any future additions and/or revisions, up to the date of agreement on the costs, must be annotated in a supplemental index.

(h) Headings for submission are as follows:

(1) Total Project Cost: Summary.

(i) Cost Elements (Enter appropriate cost elements.)

(ii) Proposed Cost Estimate—Total Cost (Enter those necessary and reasonable costs that in the carrier's judgment will properly be incurred in efficient completion of CALEA requirements. When any of the costs in this have already been incurred (e.g., under a letter contract), describe them on an attached supporting schedule.)

§ 100.17

28 CFR Ch. I (7-1-05 Edition)

(iii) Proposed Cost Estimate—Unit Cost (Enter the unit costs for each cost element.)

(iv) Supporting Material (Identify the attachment in which the information supporting the specific cost element may be found.)

(2) Total Project Costs: Detail (at Switch Level or Project Level, as appropriate).

(i) Cost Elements (Enter appropriate cost elements.)

(ii) Proposed Cost Estimate—Total Cost (Enter those necessary and reasonable costs that in the carrier's judgment will properly be incurred in efficient completion of CALEA requirements. When any of the costs in this have already been incurred (e.g., under a letter contract), describe them on an attached supporting schedule.)

(iii) Proposed Cost Estimate—Unit Cost (Enter the unit costs for each cost element.)

(iv) Supporting Material (Identify the attachment in which the information supporting the specific cost element may be found.)

§ 100.17 Request for payment.

(a) The carrier shall provide sufficient supporting documentation at the time of submission of request for payment to allow adequate analysis and evaluation of the incurred costs. The FBI reserves the right to request additional cost data from carriers in order to ensure compliance with this part.

(b) Instructions for submission of the supporting documentation for the request for payment are as follows:

(1) The carrier shall submit to the FBI incurred costs by line item with supporting information.

(2) A cost element breakdown as described in §100.17(f) shall be attached for each agreed upon line item.

(3) Supporting breakdowns shall be furnished for each cost element, consistent with the carrier's cost accounting system.

(c) When more than one line item has been agreed upon, summary total amounts covering all line items shall be furnished for each cost element. Depending on the carrier's accounting system, breakdowns shall be provided to the FBI for the following categories of cost elements, as applicable:

(1) *Materials.* Provide a consolidated cost summary of individual material quantities included in the various tasks, orders, or agreement line items and the basis upon which they were determined (vendor invoices, time sheets, payroll records, etc.). Include raw materials, parts, software, components, and assemblies. For all reimbursable items, identify the item, source, quantity, and cost.

(2) *Direct labor.* Provide a breakdown of labor hours, rates, and cost by appropriate category, and furnish the methodologies used in identifying these costs. Have available for audit, in accordance with §100.18, time sheet and labor rate calculation justification for all direct labor charged to the agreement.

(3) *Allocable direct costs.* Indicate how allocable costs are computed and applied, including cost breakdowns, comparing estimates to actual data as a basis for evaluating the reasonableness of actual costs.

(4) *Subcontracting costs.* For any subcontractor costs submitted for reimbursement, along with a copy of the invoice, the carrier must have available for audit in accordance with §100.18, documentation that costs incurred are just and reasonable.

(5) *Other costs.* List all other costs not otherwise included in the categories described above (e.g., special tooling, travel, computer and consultant services) and have available for audit in accordance with §100.18, documentation that costs incurred are just and reasonable.

(d) There is a clear distinction between submitting cost data and merely making available books, records, and other documents without identification.

(1) The requirement for submission of cost data is met when all accurate cost data reasonably available to the carrier have been submitted, either actually or by specific identification of the data that are available for review in the carrier's files, to the FBI.

(2) Should later information which affects the level of reimbursement come into the carrier's possession, it must be promptly submitted to the FBI.