

# NIH Contracting: a how-to

Eric Blair

4 February 2008

I did work on a contract basis for the NIH in early 2007, and got paid today. Over the year of trying to get compensation for my labor, I have learned a whole lot about the NIH's billing system. This column will share with you what I've learned, both because it offers some interesting points about bureaucracy in general and because those of you who got here via a search engine may be in a similar position and will benefit from what step-by-step instructions I could manufacture.

First, a useful vocabulary, attributed (I am told) to Mr L Lessig: *East Coast law* is the typical legal code that the US Congress comes up with. *West Coast law* is computer code: what the database is actually capable of doing.

The problem is that the two sometimes disagree: The US Code says that the database must do some trick, but the guys who wrote the database somehow failed to include that trick. In this case, West coast law wins.

The NIH's Office of Financial Management (OFM) recently installed a new database system, with the pathetically generic name of New Business System (NBS). The NBS has very limited abilities. For example, I was repeatedly told that the technicians using the system are unable to look up a contract by taxpayer ID or name. They can only look it up by contract number and invoice ID. This is the first hint of trouble.

When you get your contract, a portion of the Federal Acquisition Regulation (FAR) will be stapled to the contract. But *to the extent that the NBS manual and the FAR disagree, the OFM exempts itself from the rules laid down in the FAR*. The example of this that hit me hardest was that the FAR does not list an invoice number as required for a proper invoice, but as above, an invoice number is absolutely essential for the NBS to keep track of the invoice. Therefore, an invoice with no number at the top is an invalid invoice, even though it complies with the FAR. Why can't the data entry technician just make up a number? I have no idea—there's probably not a law about it given that the FAR doesn't require an invoice number to begin with—but you'll see that, as a matter of actual practice, the OFM's technicians have only two responses to an invoice: process it or reject it, and they are very inclined to reject.

To continue my personal anecdote, my un-numbered invoice was just thrown out. The FAR states that I must be notified if an invoice is invalid within seven days, but being that they just threw the invoice out, I wasn't notified until a lengthy drama that took four months. The FAR states that I am entitled to interest, being that their non-notification delayed the payment process, but since the NBS can't possibly track owed interest on an invoice that never got entered, I ain't never gonna see an interest payment.

This is very clearly a problem of East coast law versus West coast law, with a system that does not do a very good job of implementing the East coast law is it charged with executing. As above, where there is a discrepancy, OFM employees will cite their internal NBS manuals as the rules governing the contract, rather than the FAR. Too bad you don't have access to their internal manuals. I repeatedly asked several people for complete rules for invoice processing, and finally established that there is no such document.

But one thing is for certain: *if you follow the invoicing instructions on your contract, you will not get paid.* Instead, you need to comply with the unpublished rules of the internal system.

So, here are some notes and suggestions for those of you who are faced with the problem of receiving payment for a personal services-type contract with NIH:

- *Avoid being a contractor:* Push for a part-time job of some sort. The normal payroll department is doing fine, and doesn't suffer the dysfunction that the contract invoice processing system has.
- *Bill immediately:* Nothing in the FAR says you have to do the work before sending the invoice, and neither the FAR nor the NBS are looking for a signature of approval or other proof. So send the invoice the day you get your contract.
- *Bill for billing time:* If they're going to make you do the OFM's job for it, you might as well bill them for it. I sincerely hope that it takes you less than the several work-days of effort it took me to get paid, but be prepared for such an outcome by marking your hours from the start—don't just assume you'll write one invoice in five minutes and be done with it. If that means you're a PhD electrogeneticist billing \$300 an hour to do clerical work that a decently-programmed database could do, so be it.
- *Read the West Coast law:* Here is the list of NIH billing rules<sup>1</sup> that I was given. Note well that this requires much more information than the FAR requires, because it seems that NBS makes it impossible for the invoicing people to look this information up themselves. This is in no way a comprehensive set of rules: I've submitted invoices that complied with these rules but were rejected for other ad hoc reasons.
- *Do not mail your invoice:* The FAR says you should just mail in your invoice and that's all you have to do. That is simply hopeless advice from the East Coast. My lab has transmitted many pieces of paper to the OFM's Commercial Accounts division which were never heard from again. Gosh, I have an invoice that was stamped as officially received and then thrown out. My own experience has been that items sent to no one in particular have good odds of being lost, but individuals are very good about responding to emails. [Many seem to just check their email once a day, but that's sufficient.]
- *It takes two people to process your invoice—find them:* There is one person who does receiving, and another who does the billing. I'm not very clear on why these

---

<sup>1</sup><http://fluff.info/blog/asst/231-nih.billing.pdf>

two people are necessary and what distinct things each does, but there you have it. Call your contracting officer—the one listed on the bottom of your contract—and ask them who does receiving on your contract. While you're there, if you don't know any information in the extensive list above (I still don't know what a 2-way or 3-way match is) then be sure to ask your contracting officer.

- *Get immediate feedback from Receiving:* Email your invoice to the person your contract officer specified, and in your email, ask for immediate follow-up on whether there are problems with the invoice. This is a dialogue: expect something to be wrong, and expect to be asked to resubmit. If you only follow the eight mandatory steps in the FAR, you are guaranteed a rejection; if you follow the instructions in the PDF above, then maybe you have a chance that it will be accepted on the first try.
- *Get immediate feedback from Billing:* You will have to wait a day or two, and then start calling the OFM's Commercial Accounts division and ask if your invoice has appeared in their system yet. They have a "Customer Service" line—the name mystifies me because I'm a semi-employee, not a customer—but that line is frequently very busy with people trying to work out why they're not getting paid. Expect to wait an hour on hold before talking to anybody, though you might get lucky and have a significantly shorter wait. Once you do get through, ask if the invoice has been processed. The fact that receiving was able to process your invoice is no proof that the Commercial Accounts people will give your invoice the time of day. If your invoice was not processed, then get the email address of the billing person you're on the phone with [hint: if you wrote it down wrong, check in the online directory<sup>2</sup>] and begin the dialogue again: email them a new invoice immediately, wait for them to reject it, email a new one, repeat until the invoice is accepted. You may want to cc your receiving person.

So, that's the best I could work out from the process. Once you have both receiving and billing accepting your invoice, you are theoretically done: the NBS has digested your invoice and should therefore be able to send you a check or deposit. If it hasn't, well, I'm happy to say that I haven't explored that part of the system (yet).

---

<sup>2</sup>[http://ofm.od.nih.gov/emp\\_list.aspx](http://ofm.od.nih.gov/emp_list.aspx)