

Not WHO you know
but WHAT you know

What you need to know to win
Government Contracts



The best and worst of times to be a Government Construction Contractor

Unprecedented high levels of spending, MORE THAN \$600
BILLION IN FISCAL YEAR 2010 BY U.S. FEDERAL
GOVERNMENT AGENCIES

Increased levels of surveillance, oversight, audits &
investigations of prime and subs

More contractors are competing than ever before, which seems
to be driving prices down in a tight economy



Become a Qualified Government Contractor

- **CCR REGISTRATION**
- **CERTIFICATIONS and VERIFICATIONS**
- **UNDERSTAND THE RULES**
- **CHECK THE FAR**

What does it take to become a responsible government contractor?

- FAR 9.104, a prospective contractor must:
 - Have adequate financial resources
 - Be able to comply with the required delivery or performance schedule
 - Have a satisfactory performance record
 - Have a satisfactory record of integrity and business ethics
 - Have necessary organization, experience, accounting, and operational controls, as well as technical skills
 - Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them
 - Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

Where do you get information on becoming registered in CCR?

- FAR subpart 4.11 describes the steps to become registered in the Central Contractor Registration System.
- CCR.GOV
- PTAC
- CAUTION: if you google ccr.gov, often the site at the top of the list is really a dot.com who charges \$599.00 to complete the registration for you.



THE FEDERAL ACQUISITION REGULATION SYSTEM

FEDERAL ACQUISITION REGULATIONS


Established in 1984 for the codification and publication of uniform policies and procedures for acquisition by all U.S. government executive agencies.

The vision for the FAR system is to deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives.



HOW IS THE FAR ORGANIZED?

- **8 SUBCHAPTERS AND 53 PARTS**
 - A: General
 - B: Competition and Acquisition Planning
 - C: Contracting Methods and Contract Types
 - D: Socioeconomic Programs
 - E: General Contracting Requirements
 - F: Special Categories of Contracting
 - G: Contract Management
 - H: Clauses and Forms



Where do you find the definitions of key words and term?

FAR Subchapter A: General, Part 2, Definitions of words and terms.


Review BLACK'S LAW DICTIONARY for legal definitions.

Some government contracts (and solicitations) may contain specific definitions of unique terms.



What are the rules on improper business practices and personal conflicts of interest?

- FAR Subchapter A: General, Part 3
- Code of Federal Regulations



Where do you find the standard terms, conditions and forms used by the government in its contracts?

FAR Subchapter H, part 52, contains the solicitation provisions and contract clauses.

part 53 is where you find forms

2. WHO ARE THE MEMBERS OF THE FEDERAL ACQUISITION TEAM?

ADVISORY

LEGAL

COST/PRICE ANALYST

AUDITORS

INSPECTOR
GENERALS

CONTRACTING OFFICER

PROGRAM MANAGER

CUSTOMER (END
USER)

SUPPORT

CONTRACTING
OFFICER'S
TECHNICAL
REPRESENTATIVE

GOVERNMENT
PROPERTY
ADMINISTRATOR

QUALITY ASSURANCE
REPRESENTATIVE



The role of the government's contracting officer

FAR 1.6: Only the contracting officers have authority to enter into, administer, or terminate government contracts and make related determinations and findings.



Identify Opportunities

- www.fedbizopps.gov
- Army Single Face to Industry (google: ASFI)
- PTAC
- Go to government agency local purchasing offices



What are the government's competition requirements?

- The government seeks to promote full and open competition with certain exceptions and exclusions



Competitive procedures

- Sealed bids
- Competitive proposals
- Two-step sealed bids
- And other competitive procedures



Set-asides

- Small business
- Small disadvantaged business - 8(a)
- Historically Underutilized Business (HUB) Zone small business
- Service-disabled veteran-owned small business
- Woman-owned Small Business
- Economically Disadvantaged Woman-owned Small Business
- Local firms during a major disaster or emergency



When Small Business Set-Asides Apply

- Acquisitions with anticipated dollar value exceeding \$3000.00, but not over \$150,000.00
- Higher contract values may be set-aside if it is anticipated that there is a reasonable expectation that two or more offers will be received from responsible small businesses



Exceptions to competition include

- Only one responsible source
- Unusual and compelling urgency
- Industrial mobilization, engineering capability, development capability, research capability, or expert services
- International agreement
- Authorized or required by statute
- National security
- Public interest

FAR 36 - CONSTRUCTION / A&E

- **DESIGN**
 - The construction requirement (including the functional relationship to be used such as architectural, environmental, structural, electrical, mechanical, and fire protection) producing the technical specifications and drawings, and preparing the cost estimate.
- **DESIGN-BID-BUILD**
 - The traditional delivery method where design and construction are sequential and contracted for separately with two contracts and two contractors.
- **DESIGN-BUILD**
 - Combining design and construction in a single contract with one contractor.

Difference between sealed bidding and two step sealed bidding

SEALED BIDDING

- Buyer makes solicitation for firm bids
- After deadline, buyer evaluates bids
- Buyer chooses seller based on qualifications and bid price

TWO-STEP SEALED BIDDING

- Seller submits technical proposal and management and company qualification information
- Buyer evaluates everything except pricing information to determine which sellers are qualified
- Buyer requests pricing information from qualified sellers
- Buyer chooses seller (usually lowest bidder)



What is the typical contract negotiation process

- Requirement
- Planning
- Market research
- Request for proposals
- Contractor submits proposal
- Technical analysis of proposals
 - Cost proposal analysis
- Short list
- Discussions/negotiations
- Final evaluation and selection
- Award of contract



IDIQ CONTRACTS

- Promote faster deliveries by avoiding delays and unnecessary administrative costs associated with the negotiation of individual contracts.
- Obligates the government to fill all its actual requirements for the work specified in the contract, during the contract performance period from the contract awardee(s).



Typical IDIQ Contracts

MATOC Multiple Award Task Order Contract

Solicited via RFP

usually a base year and 4 option years and a funding ceiling

typically 3 or more awardees

task orders may be negotiated or competed among awardees

SATOC Single Award Task Order Contract

Solicited via RFP resulting in one awardee

Usually a base and option years with funding ceiling

negotiated task orders

POCA Performance Oriented Construction Activity

Usually sole-sourced to a company in the 8(a) Program

3 – 5 year duration or up to \$4 million

negotiated task orders


FAR 19- Small Business Programs

- FAR 52.219-14 Limitation on Subcontracting
 - (b) By submission of an offer and execution of a contract, the offeror agrees that in the performance of the contract in the case of a contract for
 - 3) General construction. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.
 - 4) Construction by special trade contractors. The concern will perform at least 25 per cent of the cost of the contract, not including the cost of materials, with its own employees.



FAR 28 LABOR LAWS

The requirement for Davis Bacon labor rates applies to subcontracts as well as the prime contract.



22.403-2 Copeland Act.The Copeland (Anti-Kickback) Act (18 U.S.C. 874 and 40 U.S.C. 3145) makes it unlawful to induce, by force, intimidation, threat of procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment. The Copeland Act also requires each contractor and subcontractor to furnish weekly a statement of compliance with respect to the wages paid each employee during the preceding week. Contracts subject to the Copeland Act shall contain a clause (see 52.222-10) requiring contractors and subcontractors to comply with the regulations issued by the Secretary of Labor under the Copeland Act.

22.403-1 Davis-Bacon Act. **The Davis-Bacon Act**
(40 U.S.C. 3141 et seq.) provides that contracts in excess
of \$2,000 to which the United States or the District of
Columbia is a party for construction, alteration, or
repair (including painting and decorating) of public
buildings or public works within the United States,
shall contain a clause (see 52.222-6) that no laborer or
mechanic employed directly upon the site of the work
shall receive less than the prevailing wage rates as
determined by the Secretary of Labor.



FAR 28-BONDS & INSURANCE

- Performance and payment bonds are required for 100% of the contract price
- If the contract price increases, the bond requirements also increase accordingly.
- Bid bond is 20% of the proposed price or \$3 million, whichever is less



FAR Part 32, Contract Financing

- There are a wide range of contract financing methods potentially available to government contractors, ranging from advance payments and progress payments to loans.

FAR 44-SUBCONTRACTING POLICIES/PROCEDURES

Was adequate price competition obtained?

Did the contractor adequately address alternate proposals?

Does the contractor have a sound basis for determining the responsibility of the contractor?

Has the contractor performed adequate cost or price analysis?

Is the proposed subcontract type appropriate for the risks?

Has the contractor adequately translated prime contractor technical requirements into subcontract requirements>



FAR 9- CONTRACTOR QUALIFICATIONS

- FAPIIS Federal Awardee Performance and Integrity Information System
 - Database of information on the integrity and performance of federal agency contractors
 - Making a determination of responsibility is a fundamental exercise of the contracting officer's discretion.

Govt Data Systems

FAPIIS at PPIRS to insure contracts and grants are made to only responsible firms and individuals

ACAS to document contractor performance for architect-engineer services contracts. Provide contractor feedback.

CCAS to document contractor performance for construction contracts. Provides contractor feedback.

PPIRS repository for all contractor performance evaluations across the federal government. Mechanism to view the entire CPARS, ACASS and CCAS

eSRS To collect data from prime contractors on small business subcontract plans and accomplishments.

FSRS to collect data from prime contractors on first-tier subcontract awards, including senior executive compensation