Government Contract Compliance: Maximize Your Profit & Stay Out of Jail

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NDIA
National Small Business Conference
9.25.2013
Experience
Jerry Miles is a government contracts attorney and business consultant with experience working in-house for KBR, a large government contractor, and a large, regional law firm. In addition to being the owner of a law firm, Mr. Miles regularly advises clients on teaming agreements, joint ventures, subcontracting, government contract disputes and bid protests.

Education
William & Mary Law
University of Virginia
Compliance

1. Why Comply?
   - Reduce and Mitigate Performance Risk
   - Audits, Withholdings & Investigations
   - Civil Lawsuits and Criminal Penalties

2. What to Comply With?
   - Small Business Regulations
   - Flow Down (“Shall”) & Reporting Requirements

3. How to Comply?
   - Post Award Practices, Processes & Procedures
Small Business Administration

1. Joint Ventures:
   - Ownership (51:49) & Control
   - Affiliation: “Add ‘Em Up” & 3 Awards; 2 Years
   - Work Performance: 51/49 v. 40/60?

2. Limitations on Subcontracting (Applies Above)
   - 50% of Total Cost of Personnel on Services Contracts
   - 50% of Total Cost of Manufacturing Supplies on Supply Contracts
   - 15% of Total Cost of Contract (Minus Materials) w/ Its Employees
Small Business Administration

   → Represent GF Awards to SB Subs Via SubK Plan At Bid
   → Notify Contracting Officer When 90 Days Late In Paying SB Sub

   → “Its Been A Long Time Coming . . .”

4. New Rule- “Presumed Loss” for Willful Certifications:
   → PL- FCA Damages Calculated: Amount Paid – Value of Services (0)
   → SAM (Deemed Certification & Annual Size Re-Certification)
Federal Acquisition Regulation

1. OCI- Unfair Competitive Advantage
   → Impaired Impartiality
   → Unequal Access to Information
   → Biased Ground Rules

2. Mandatory Disclosure- Ethics & Compliance Program

3. TINA- “Defective Pricing”: Disclose All Facts (Certified CoPD) Sig. Impact Price Negotiations
Federal Acquisition Regulation

4. Anti-Bribery: Copeland Anti-kickback & FCPA

5. Employment:

   ➔ Prevailing Wages: Davis-Bacon & Service Contract Act

   ➔ DoL OFCCP:
      
      1. Hiring Benchmark for Veterans @7%
      
      2. Hiring Benchmark for Disabled @ 7%
      
      3. Pre-Hire Self-Identification Procedures
Questions?

WHAT ABOUT OPERATIONAL RISK MANAGEMENT?

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