Bidding On Government Contracts: Compliance With The DFARS Cyber Rule

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Phase I - Pre-Solicitation

• December 2016

• **Awardee, Inc.** is a technology company with a government services division which creates sophisticated warfighting software tools. The company already has contracts with DOD, both as a prime and as a sub-contractor. The company’s new government services director is assessing capabilities for future government contracts and contacts you concerning DFARS 252.204-7012.

  • What assurances do you want to give concerning DFARS compliance?
  • Does the size of the company matter?
  • Is the DFARS the only cybersecurity requirement imposed by the government?
  • Does it matter that it is not yet December 2017?
Phase 2 - Pre-Solicitation

• January 2017

• In an effort to prepare for DFARS compliance, Awardee decides to conduct a self-assessment of its cybersecurity capabilities and begins to plan for this assessment.
  • How much of the company’s leadership/management should be included in this assessment? How should they participate?
  • How should the company focus its self-assessment?
  • Should the capabilities of sub-contractors/vendors be included in this phase? What realistically is happening concerning this sort of information sharing between companies?
Phase 3 - Pre-Solicitation

- March 2017
- Awardee’s self-assessment reveals that it is not in compliance with NIST SP 800-171. It hires CyberTech, Inc. to help it achieve full compliance as soon as possible.
  - What are some the considerations for hiring cybersecurity firms? How much reliance should Awardee place on CyberTech?
  - Can Awardee avoid NIST SP 800-171’s security requirements by using cloud services?
  - Does compliance with NIST (or use of cloud services) equate to DFARS compliance?
Phase 4 - Solicitation

- **January 2018**

- **Awardee** plans to bid on a DOD contract to provide software and related equipment. The software will be export controlled but not classified and some of the equipment will also be export controlled but not classified. **Awardee** will be the prime and plans on using **Sub, Inc.** for some software support. **Sub** informs that it is in compliance with DFARS 252.204-7012 but it is not sure about some of the consultants that it plans to use for the contract. It’s also not sure if it will even handle CDI.

  - What are the problems with determining what is CDI? How can a contractor seek definition from the government?
  - How much concern should **Awardee** have if **Sub’s** consultants are not compliant with protection safeguards of CDI?
  - How much concern should **Sub** have concerning its consultant’s possible lack of compliance?
  - How can **Awardee** assure that **Sub** and its consultants are compliant?
  - How should **Awardee** prepare for the DOD’s verification of compliance?
Phase 5 - Award

• May 2018

• Awardee wins the contract.
  • What parting DFARS 252.204-7012 compliance advice would you give Awardee as it begins performance on its new contract?

  • With a new administration taking over in January 2017, what do you expect may change with the DFARS? What do you think should change by way of revisions to the DFARS?