



BDO GOVERNMENT CONTRACTING PRACTICE

IN CASE YOU MISSED IT: SECOND ANNUAL BDO EXECUTIVE SEMINAR FOR GOVERNMENT CONTRACTORS



On April 28, nearly 300 professionals across the government contracting industry gathered at **BDO's 2015 Executive Seminar for Government Contractors** – 100 more attendees than last year – to discuss a number of issues affecting today's contracting marketplace. Among the day's speakers was Virginia Congresswoman Barbara Comstock, as well as other leading industry professionals. Co-hosted with law firm BakerHostetler and the Public Contracting Institute, the event covered a wide range of issues pertinent to contractors, including the current DCAA/DCMA environment, compliance matters, the impact of business systems requirements in today's marketplace and the latest legal updates.

There were several overarching themes that emerged from the day's panels and discussions, including:

Uncertainty Prevails in the Government Contracting Industry

Speakers addressed defense cutbacks, sequestration and mounting challenges surrounding the lowest price technically acceptable (LPTA) method of evaluating contracts. Budget uncertainty has added a new strain on the relationships between government regulators and contractors, contributing to the growing popularity

of bid protests. Contractors must focus on maintaining relationships with key government regulators rather than pursuing aggressive growth strategies at a time when companies are forced to do more with less.

Amid this unpredictable environment, contractors should be deliberate and selective by pursuing fewer, more strategic bids that align with their core capabilities. Firms should be aware that budget constraints could stimulate competition over a smaller pool of resources and procurement needs, so investing heavily in differentiation and innovation around their core capabilities will be instrumental in maintaining a

CONTACT:

Christopher Carson
National Government Contracting
Practice Lead
703-770-6346 / ccarson@bdo.com

Eric Sobota
Managing Director
703-770-6395 / esobota@bdo.com

Robert Craig
Managing Director
703-770-1095 / rcraig@bdo.com

John Van Meter
Managing Director
703-893-0600 / jvanmeter@bdo.com

steady stream of business. Though federal defense budgets are shrinking, the energy and technology sectors are undergoing growth and disruption, stimulating a wealth of procurement needs that could prove advantageous to contractors whose capabilities align with material needs in these sectors.

Currently, government procurement is very focused on, and can be partial to, large businesses, which causes a trickle-down effect to smaller businesses and new contractors in the aforementioned growth sectors. However, the industry has historically been cyclical, and that pendulum has swung – and will continue to swing – back in favor of small businesses as these sectors evolve and grow.

Opportunities Abound in Energy and Technology Corridors, but Barriers to Innovation Exist

The industry may see more contractors tapping small businesses in the booming tech and energy sectors. However, a number of barriers to innovation exist in the current business environment, including regulatory and compliance hurdles as well as legal issues. Speakers cautioned that the overall government contracting industry must take steps to ensure that the complex regulatory environment doesn't hamper growth and advancement of R&D in technology and affordable energy.

The Department of Defense (DoD), for example, is looking for opportunities to engage with major technology companies

– many based in Silicon Valley – that aren't familiar with the procurement process and may be precluded from entry into the defense space. The heavy regulations and lack of funding make it risky for these major innovators to contract with the DoD. Furthermore, these companies often receive R&D dollars in much greater sums from other sources, which makes the contracting space less attractive. The DoD will have trouble achieving its goals of technological innovation unless it disrupts its own management and oversight regimes.

Dialogue and Education Increasing Among Contractors and Government Agencies

If there's one thing defense contractors can count on, it's that Defense Contract Audit Agency (DCAA) audits will always pose regulatory and compliance challenges. Contractors need to ensure their business systems are regularly monitored for adequacy and compliance, so that when the DCAA issues an audit, companies will have a plan in place to address any gaps. The good news is that there is a renewed emphasis on compliance and the industry is encouraging a two-way feedback system with government oversight bodies – in other words, the government is listening.

Government contractors control their own destiny and should embrace their own affirmative duty to self-report information about any potential violation of a criminal law, including fraud, overpayment, bribery or criminal conflicts of interest. Companies must remember that negative conduct,

especially fraud, is first and foremost personal and, therefore, they must establish rigorous employee conduct standards as their first line of defense against fraud and other violations.

Contractors should also educate themselves on the Mandatory Disclosure Regulations embedded within the Federal Acquisition Regulations (FAR), and establish a written code of ethical conduct to establish proper practices of self-policing, including specific accountability standards and procedures for internal audit. Proper training is essential to promoting a culture of compliance, as lack of knowledge or procedure does not absolve companies of risk or potential for punitive measures.

Looking Ahead For Government Contractors

As the speakers discussed, there are macro and micro factors impacting the procurement landscape, with innovation and compliance the top two drivers of growth in this space. Business system audits and proper accounting standards are important for successful partnerships and sustained growth. Government contractors can benefit from upfront preparation, which can reduce risk and save them added effort down the line when engaging openly with the DCAA or DCMA. In an increasingly competitive landscape, contractors can stay ahead by practicing due diligence regarding compliance and legal matters, thereby maximizing their existing position within the industry.

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