

COFFEE TALK:

JAMIS & Capital Edge discuss COVID-19's Regulatory Compliance, Financial, and Performance Impacts on Government Contractors



Part 3: Prospective Government Contracts, Things to Consider

SOFTWARE SOLUTIONS DESIGNED TO SIMPLIFY GOVERNMENT CONTRACTING



JAMIS[®]

Our mission at JAMIS is to help our customers solve many of their complex and dynamic business performance and regulatory compliance challenges with our modern business management software JAMIS Prime ERP, which is specifically designed for the unique needs of government contractors.

Today's Presenter



Craig Stetson, Partner, CPA, CGMA, MBA
Capital Edge Consulting, Inc.

Experienced Government Contract Regulatory Compliance Specialist with demonstrated history of working in the federal government procurement industry. 30 years of direct experience assisting government contractors interpret and apply the myriad of accounting and regulatory compliance requirements associated with federal government contracts. Skilled in a wide range of compliance matters related to accounting, pricing, contract administration, business systems and financial reporting. Significant experience i) working with and interpreting the requirements of the Federal Acquisition Regulation (FAR) and Cost Accounting Standards (CAS); ii) preparing and negotiating termination settlement proposals, claims and requests for equitable adjustment; iii) designing and assessing cost allocation structures and cost accounting practices; iv) interpreting and auditing cost allowability in accordance with FAR SubPart 31.2 requirements; and, v) assessing business systems and internal control adequacy and effectiveness pursuant to pertinent federal procurement regulation requirements.

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Agenda

- Financial Relief under the CARES Act
 - Specific DoD Appropriation
 - Section 3610
 - Section 1102
 - Section 4003
 - Section 4112
- Traditional Contracts
- Watchdog Groups
- Risk and Mitigation
- Summary and Takeaway

Financial Relief under the CARES Act

Specific DoD Appropriation

- \$10.5B; Senate Appropriations Committee
 - \$1.45B to mitigate the impact of COVID-19 on production lines, supply chain, military depots, and labs
 - \$1B for the Defense Production Act to increase access to materials necessary for national security and pandemic recovery
 - \$5.0B for military health care costs, additional medical equipment and expansion of military treatment facilities
- Majority likely emergency commercial item procurements

Section 3610

Federal Contractor Authority

- Employee payroll and other costs to maintain ready state when work cannot be performed due to certain restrictions
- DoD agency-wide instruction and guidance expected this week (draft) and final before end of May 2020

Section 1102

Paycheck Protection Program (PPP)

- Loan program offering financial assistance to small businesses
- Loan amounts based on prior annual period spending
- Loan proceeds restricted for certain period and use
- Forgiveness feature if certain conditions are met
- May impact other financial assistance received under federal government contracts; for example, Section 3610

Section 4003

Emergency Relief and Taxpayer Protections

- \$500B in loans, loan guarantees and investments
 - \$17B in direct loans to ‘businesses critical to maintaining national security’
 - \$25B to passenger air carriers; \$4B to cargo air carriers
- Loan recipients and amounts at discretion of Department of Treasury
- Loss incurred or expected to be incurred
- Loans are not forgivable
- Limitations – executive compensation (Section 4004), dividends, stock buy-backs
- Government requires collateral warrants or equity instruments

Section 4112

Pandemic Relief for Aviation Workers

- \$32B in financial assistance related to employee wages and benefits
 - \$25B to passenger air carriers; \$4B to cargo air carriers
 - \$3B to contractors
- Limitations – future employee compensation (Section 4116), two-year period starting March 24, 2020
- Restriction on dividends, stock buy-backs through September 30, 2021
- Government (at sole discretion) may receive equities, debt securities or other financial instruments as appropriate compensation (Section 4117)
- Audit and clawback provisions; certifications

Traditional Contracts

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Prospective Contracts

- Easing of Procurement Regulations
 - Progress Payment Liquidation Rates
 - Vouchers under Classified Contracts
 - Expanded use of OTAs
- Rarely used Contracting Authorities
 - Defense Production Act
 - Letter Contracts
- Continuing Risks
 - Audits, Investigations and Watchdog Groups
 - Price Reasonableness, Price Gouging

Watchdog Groups

Watchdog Groups

- **Special Inspector General for Pandemic Recovery (SIGPR)**
 - Authority Section 4018; Title IV scope with focus on loans provided under Section 4003
- **Pandemic Response Accountability Committee**
 - Authority Section 15010; overarching CARES Act focus, “prevent and detect fraud, waste, and abuse, and mismanagement...”
 - 21 specific agency IGs
- **Congressional Oversight Commission**
 - Authority Section 4020; 5-person panel, oversight of Department of Treasury and Federal Reserve
- **Congress, GAO, DOJ, DCMA, DCAA and more**

Risk and Mitigation

Risk and Mitigation

- Risk
 - Vague or Undefined Provisions
 - Audits, Investigations
 - False Statements, False Claims
- Mitigation
 - Accurate, Truthful Representations
 - Comply with Requirements
 - Direction from Authorized Government Official
 - Accounting and Financial Reporting
 - Communication, Documentation and Internal Controls
 - Monitoring

Summary and Takeaway

Summary and Takeaway

- Legislation, agency memorandums and guidance and issued regulations are broad
- Key provisions tied to financial relief directly affect employee compensation programs
- Government oversight is expected to be diverse, significant and long term
- Contracts, loans, grants, financial assistance all come with some form of requirements and responsibilities – nothing is free
- Legal consequences exist – be aware now

QUESTIONS?

Thank You!



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