

## Government Contracts

FEMA, the U.S. Army Corps of Engineers, and many other federal agencies awarded contracts for disaster recovery services and public works in the wake of Hurricanes Katrina and Rita. Any time a private business is contracting with a government body, that business is subject to relevant contracting rules and regulations, such as the Federal Acquisition Regulation (FAR). Each federal agency has its own contracting guidelines and FAR Supplements, and there are statutory mandates that apply to all such agencies. Most states follow these guidelines as models for state public contract laws. Failure to comply with these guidelines can lead to late payments or non-payments, poor contractor evaluations, cure notices, default terminations, liability for excess procurement costs, and in certain cases, Inspector General subpoenas, civil penalties, or criminal sanctions. We help clients navigate the often-complicated field of government contracts, and we help clients stay in compliance with the laws and regulations that surround a particular type of contract.

Some relevant federal guidelines include:

- Competition in Contracting Act requirements for sole sourcing in limited circumstances only
- Responsive bidder and late bid rules
- Buy American Act and Berry Amendment rules favoring domestic products and certain countries
- A government agent's limited authority to contract
- Responsibility determinations of qualified bidder and offerors
- Procurement Integrity rules leveling the contract playing field
- Evaluation factors guiding the government's scoring of proposals in negotiated procurements
- GAO bid protest procedures protecting bidders and offerors from unfairly losing a contract award
- Small business rules, set asides, subcontracting plans, certifications, and appeals protecting small and socially disadvantaged entities
- Cost or pricing data rules making contractors demonstrate price reasonableness during negotiations on larger procurements

- Numerous mandatory FAR clauses which are handed down or by operation of law flowed down to subcontractors, such as cost or pricing data, audits, termination for convenience, labor clauses, small business plans, and certificates
- Equitable adjustment rules governing price reasonableness of changes
- Rights in technical data
- Environmental permits and responsibilities
- Revolving door prohibitions on hiring government officials
- Organizational conflicts of interest
- Procurement reforms, local preferences, and waivers
- False claims
- Government audit rules as by Defense Contract Audit Agency on larger contracts
- Claims procedures governing when a contractor must give notice of a change or differing site condition, when a contracting officer must issue a final decision, and on how a contractor may appeal a final decision

Our Government Contracts group can help guide state and federal prime and sub-contractors through these complicated guidelines and requirements both during the bid and performance aspects of a project.