

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

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NDIA

National Small Business Conference

9.25.2013

DEALE.
A SMART LAW FIRM

Jerry Alfonso Miles, Esq.



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

3. New Rule- “Small Business Subcontracting Rule”

- 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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