Federal Acquisition Management
GACO FAR Seminar Series
Marketing and Winning
Federal Contracts
Our Government

Legislative Branch

Executive Branch

Judicial Branch
But Who’s On First?
Legislative Branch

- Enacts the Annual Budget
- Authorizes and Appropriates Funding for Specific Acquisitions
- Enacts Procurement Legislation
Legislative Branch

**Congress**

- House of Representatives – 435 members
- Senate – 100 senators
Executive Branch

• Applies, implements and supplements procurement regulations
• Obligates funds to procure goods and services necessary to meet public needs.
• Manages awards through established processes and functional responsibilities
Executive Branch

The Cabinet

- Agriculture
- Commerce
- Defense
- Education
- Energy
- HHS
- Homeland Security
- HUD
- Interior
- Justice
- Labor
- State
- Transportation
- Treasury
- Veterans Affairs
Executive Branch

- White House
- The Cabinet
- Council of Economic Advisors
- Council on Environmental Quality
- Domestic Policy Council
- National Economic Council
- National Security Council
- Office of Administration

- Office of Faith-Based and Community Initiatives
- Office of Global Communications
- OMB
- Office of National AIDS Policy
- Office of National Drug Control Policy
- Office of U.S. Trade Reps.
- Foreign Intelligence Advisors
- USA Freedom Corps
- While House Military Office
Judicial Branch

Processes case decisions which supplement statutory and regulatory requirements
Judicial Branch

*Includes:*

- U. S. Supreme Court – 9 Justices
- Circuit Courts of Appeals – 12 courts
- District Courts – 91 Trial Courts
Federal Acquisition Funding Process

- Internal Department and Agency Budgets
- Preparation of President’s Budget
- Congressional Enactment, Resolution, Authorization, and Appropriation
- OMB Apportionment
- Agency Allocation
- Administrative Commitment and Obligation thru awards
- Expenditure through Payment for Performance
Federal Acquisition Regulation System

• Purpose
• Guiding Principles
• Authority and Issuance

aka “The FAR”
Purpose
FAR 1.101

- Codification of Laws
- Publication and accessibility
- Includes FAR + Agency Regs

Follow the FAR at
www.acquisition.gov.
Guiding Principles
FAR 1.102

- Customer satisfaction – cost, quality, timeliness
- Minimization of administrative costs
- Integrity, fairness and openness
- Fulfillment of public policy objectives
Guiding Principles
FAR 1.102

- Customer satisfaction – cost, quality, timeliness
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Authority, Issuance
FAR 1.103, .104, .105

• Prepared, issued and maintained by Secretary of Defense and Administrators of GSA and NASA
• Issued as Chapter 1 of Title 48, CFR
The Federal Acquisition System is the most complicated but the fairest in the world.

It does not, however, suffer fools, the uninformed, the devious, or those who don’t know who they are or what they’re selling.
Strategic Planning
A set of proactive, offensive maneuvers that keeps surprising competitors and makes them irrelevant.
Strategy

Internal: Focus on the organization and innovation

External: Focus on the customer and market position
Internal Strategy

- Created from the inside-out
- Helps determine what you can do best
- Leverages assets as part of the creative process
- Includes three acts:
  - **Creation** – About new ideas, thinking, assets
  - **Preservation** – About remembering, infrastructure, consistency
  - **Destruction** – About getting rid of the obsolete – assets, concepts, ideas – and freeing up resources for Creation.
External Strategy

Takes into consideration:

• Local, regional, national, international economy
• Competition and wanna-bes
• Potential for growth and “stretch”
Obstacles to Strategic Development

- Leaders suffer from “Fuzzy Vision”.
- Leaders are engulfed in operational minutiae.
- Only in times of crisis do leaders ask, “Where is this business going?”
- No formal time or process has been established for strategy.
Strategic Precepts

1. People cannot execute a secret strategy.
2. Strategy execution is not possible without ownership.
3. People only execute a strategy they are committed to.
4. Operational prowess doesn’t breed strategic ability.
Goals of Strategic Management

• Develop strategic, operations and business plans
• Ensure successful implementation and change
• Focus on and build sustained high performance in five areas:
  – Financial results
  – Customer satisfaction
  – Employee happiness
  – Contributions to society
  – Key operational measures
Bad Strategists: Foxes

• Foxes know many things
  – Pursue many ends – often unrelated
  – See the world as very complex
  – Thoughts are scattered and confused
Good Strategists: Hedgehogs

- Hedgehogs know one big thing
  - Simplify the world into a single organizing principle
  - Leverage that principle in all they say and do
  - Use the principle as a decision-making tool
A Few Hedgehogs You May Have Heard Of

- Sam Walton, Wal-Mart – Serving small, out-of-the-way, rural towns
- Michael Dell, Dell Computer – Sell computer, then build it.
- Howard Schultz, Starbucks – The third place – not work, not home.
- Google – Need we say more?
Strategic Planning

- The **continuous** process of systematically making present decisions;
- Organizing the effort needed to carry out these decisions;
- Measuring results against expectations;
- Applying thought, analysis, imagination and judgment;
- Deciding what we have to do **today** to be ready for **tomorrow**.
Vision: Answers “What”. What will our future look like? What will we be?

Mission: Answers “Why”. Why do we exist? Why is our vision important?

Values: Answers “How”. How will we conduct our work?

Assessment: Answers “what do we have to work with?” To overcome?

Goals: Answers “Who and When”. Who will do what and when will they do it?
Goals

• Your definition of what success looks like
• Covers the entire scope of the business
• Specifies what vision work will get done, by whom and when
• Poses the question, “What will we have to accomplish by the end of this year to be a success?”
• Must be specific and measurable
Objectives

• A goal sub-set
• Quantifiable and measurable
• Incites meaningful action
• Designed to focus resources on achieving results
• How do your personal goals and assigned responsibilities align with the corporate mission?
• Nirvana isn’t possible but is there a healthy overlap?
Operations Plan

• **A 12-Month Set of Goals:** Answers the questions of “Who will do what and when will they do it?”

Prepared Annually – Updated Quarterly
Business Development Plan

• A Subset of Operations Plan
• Addresses marketing targets and goals

Prepared Annually – Updated as needed
Federal Marketing Plan

• A Subset of the Business Development Plan
• Addresses aspirations, targets and goals applicable to the federal market

Prepared Annually – Updated as needed
Planning Hierarchy

- Strategic Plan
- Operations Plan
- Business Development Marketing Plan
- Federal Marketing Plan
The Federal Acquisition System may involve the potential for many pitfalls. Ethical Conduct is paramount and involves education of all levels of small business personnel.
Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none.

FAR 3.101-1
Avoid any conflict of interest or even the appearance thereof in Government-contractor relationships.

Official conduct must be such that Government personnel would have no reluctance to make a full disclosure of their actions.
Prohibitions & Restrictions
FAR 3.104-2&3

- Offer or acceptance of a bribe or gratuity
- Seeking employment during an acquisition
- Representation of a Contractor by a former government official who participated preaward
- Disclosure of bid or proposal or source selection info before award
Prohibitions & Restrictions
FAR 3.104-2&3

• Receipt of bid and proposal or source selection info prior to award
• Contact regarding non-Federal employment
• Acceptance of compensation by a federal official from a contractor within one year of . . .
Impact of Such Violations

- High-Level Review up to HCA
- Cancelation of procurement
- Disqualification of offeror
- Profit recapture and/or repayment of invoiced amounts
- Criminal, civil, administrative penalties
- Debarment
Anti-Trust Violations
FAR 3.3

Defined as practices that eliminate competition, restrain trade, lead to higher prices, etc.

- Collusive bidding
- Follow-the-leader pricing
- Rotated low bids
- Collusive price estimating systems
- Sharing of the business
Contingent Fees
FAR 3.4

- Arrangements to pay fees for soliciting or obtaining Government contracts
- Every contract has a warranty against this
- May result in:
  - Rejection of bid/proposal
  - Annulment of the contract
  - Recovery of fee
  - Suspension, debarment, investigations
Other Improper Business Practices
FAR 3.5

- Buying-in – underpricing expecting to increase amount after award or receive follow-on contract
- Subcontractor Kickbacks – Making payments to prime for favorable treatment
- Unreasonable Restrictions on Subcontractor Sales
The Government is a complicated customer.

Understanding the government customer is your most important first marketing step.
Includes multi-disciplined teams that are trying to obtain the optimum market response to requirements in terms of:

- Quality
- Timeliness
- Cost

while

- Minimizing business and technical risks
- Maximizing competition
- Accomplishing socio-economic goals
- Maintain integrity
Quality is addressed in every competitive selection:

- Describing supplies or services
- Prescribing standards for acceptability
- Establishing inspection and acceptance standards
Timeliness

Timeliness means delivering or performing in the time prescribed in the solicitation.
Cost includes three major factors:
– Cost of the acquisition process
– Cost of delivery or performance
– Cost of ownership
Minimizing Risk

• The Government seeks to minimize its risk by placing requirements on the contractor.

• Further risk abatement techniques include:
  – The ability to terminate for convenience or default
  – Warranty of supplies or service
  – Bid, performance and payment bonds
Maximizing Competition

The government uses a variety of techniques to ensure a base of responsible suppliers:

– Dual Sourcing
– Obtaining data rights for products developed with government funding
– Funding innovative research
Accomplishing Socio-Economic Objectives

Priorities are boundless and include:

– Fair employment practices
– Safe working conditions
– Fair wages
– Clean air and water
– Support to small businesses
– Support of the blind and severely disabled
Maintaining Integrity

Government business must be conducted in a manner above reproach

- Employment restrictions
- Conflicts of interest
- Gratuities
- Protection of proprietary information
- Anti-trust violations
- Contingent fees
- Buying-In
- Subcontractor kickbacks
So, What Is Marketing?

It is a way of managing an organization so that each critical business decision is made with full knowledge of the impact it will have on the customer and what they ultimately believe about your products and services.
Small Businesses must attract and retain a diversified base of satisfied customers.
Marketing Hints

• Marketing must respond to federal tactical market research.
  ✓ Sources sought synopses
  ✓ Draft Solicitations for comment
  ✓ Surveys of the marketplace
  ✓ Face-to-Face contact with contractors
  ✓ Interface with other government agencies having like needs.
More Hints

• Your marketing must also respond to federal strategic market research:
  ✓ Trade journals and articles
  ✓ Newspaper articles – business pages
  ✓ Trade association conferences
  ✓ Networking events
  ✓ Electronic forums & webinars
More Hints

• Time collecting good data is time well spent and essential for good planning.
• Marketing collateral and proposals are silent sellers for the product.
• Data must be clear, concise and complete.
• What is specifically being sold and where must be very clear.
More Hints

• The introduction is often the only part that is read.
• Good service and high quality are more important than price.
• Marketing is a continual activity.
• The distribution system is an important part of marketing.
• Sales and economic trends are an important part of forecasts.
More Hints

- Quality of service and products can always be improved.
- Positive environmental practices can be valuable marketing factors.
- Positive past performance is one of the best “marketing hooks”.
- Satisfied customers are better than gold.
Contracting Officers

Who are they and why do they matter?
COs and Their Authorities -- FAR 1.602

- Operate as GS-1102s in a procurement career management system with rigid qualification requirements.
- Have authority to enter into, administer, terminate contracts and make related determinations and findings.
- Are responsible for all requirements of law, orders, regulations and other procedures.
- Are responsible for ensuring performance of all actions, compliance with all terms, and safeguarding the U.S. government.
Procuring CO Duties

- Prepare and manage acquisition plans
- Translate requirements into Work Statements
- Determine methods of procurement and types of contract
- Determine terms and conditions and evaluation criteria
- Coordinate release of solicitations
- Respond in writing to questions
- Prepare and release solicitation amendments
Admin. CO Duties

- Provide an orientation of the contract requirements
- Oversee all activities of the contract
- Ensure on-time delivery/performance
- Modify contract when necessary
- Terminate as necessary for convenience or cause
- Handle close-out tasks
Just a Plain Ol’ C.O.

Manages contracts from cradle to grave…pre-award through close-out
Contractors

So, you want to be a contractor? Here are a few things you need to know to succeed.
Contractor Qualifications
FAR Part 9

- Responsibility
- Qualifications
- First Article Testing and Approval
- Debarment, Suspension, Ineligibility
- Conflicts of Interest
- Contractor Teams
- Defense Production and R & D Pools
A Contractor must:

- Have adequate finances or the ability to obtain
- Be able to perform or deliver as required
- Have a satisfactory performance record, good integrity, high business ethics; organization and experience, accounting and operational controls, technical skills; necessary production, construction, and technical equipment or the ability to obtain them
- Be otherwise qualified and eligible
- Ability to determine responsibility for all subs
Determining Responsibility

- Offeror-provided Certifications Regarding Responsibility and/or other info
- Clean slate as to indictments, charges, convictions, judgments or tax delinquencies
- Financial competence, audit findings
- Pre-award survey results
- Excluded Parties List check
Qualifications

FAR 9.2

• Qualification requirements must be pre-justified by HCA.
• Qualifications are listed in a QPL, QML or QBL [product, manufacturer, bid].
• CO may not delay a proposed award so that an offeror may get qualified.
First Articles
FAR 9.3

- Approval = C.O. written notification
- Appropriate with new or changed products, new vendors, etc.
- Exceptions:
  - R & D
  - Pre-Award qualification
  - Commercial products
  - Products with definitive specifications
Debarment and Suspension
FAR 9.4

- Debarment and suspension are discretionary actions imposed in the interest of the public and for good cause.
- If on EPLS, company is excluded from receiving contracts or being solicited for prime or subcontracts.
Reasons for Debarment

- Commission of fraud or criminal offense in the course of contract performance
- Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property
Reasons for Debarment (Cont.)

- Violation of federal or state anti-trust statutes related to submission of offers
- Affixing a Made in America label on products not manufactured in U.S.
- Lack of business integrity or honesty
Debarment Facts

- Every agency has debarring processes.
- Contractor may have appeal rights.
- Debarment period may be 3 – 5 years, depending on the offense.
- Scope may include any officer, director, shareholder, partner, or employee of any single company or joint venture.
Suspension Facts

- Causes include all those applicable to debarment.
- Contractor is given the opportunity to appear on his/her behalf.
- Period may not exceed 18 months.
- Scope is the same as debarment.
Responsibility

- **TECHNICAL CAPABILITY:** Knowledge and experience needed to generate the required product or service.

- **PRODUCTION CAPABILITY:** Facilities, material, equipment, and personnel needed to complete the contract on time. Ability to plan, control, integrate, place and manage orders.
Responsibility

- **QUALITY ASSURANCE**: Capacity for complying with the contract’s quality assurance requirements
- **FINANCE**: Access to enough money to acquire needed facilities, material, equipment, and personnel
- **ACCOUNTING**: Adequate accounting system to track costs, manage progress payments, handle all finances.
Responsibility

• GOVERNMENT PROPERTY CONTROL: Capacity to manage and control government property

• TRANSPORTATION: Compliance with all the rules and regulations on the movement of government material

• PACKAGING: Equipment and personnel to meet all of the packing and shipping requirements of the contract
Responsibility

- **SECURITY**: Up-to-date, adequate clearances
- **PLANT SAFETY**: Compliance with all federal, state, and local safety requirements
- **ENVIRONMENTAL/ENERGY**: Compliance with environmental/energy regulations and goals
- **ETC. ETC.**
Procurement Types

What are they? And why should you care?
• Types of Procurement

- Micro-purchase
- Simplified Acquisition
- Sealed Bidding
- Negotiated Procurement
Micro-Purchase

Acquisition of items valued at or below $3,000.
Simplified Acquisition

$3,000 to $150,000, except for acquisition of supplies or services that are used to support a contingency operation or to facilitate defense against nuclear, biological, chemical, or radiological attack.
Sealed Bidding
FAR Part 14

Employs competitive bids, public bid openings and awards. Used if:

• Time permits for the solicitation, submission, and evaluation of sealed bids;
• The award will be made on the basis of price and other price-related factors;
• It is not necessary to conduct discussions with the responding offerors about their bids; and
• There is a reasonable expectation of receiving more than one sealed bid. [FAR 6.401(a)]
Sealed Bidding

Steps include:

• Preparation of IFB [Invitation for Bid]
• Publicizing IFB
• Submission of bids
• Public bid opening
• Evaluation
• Award to lowest responsive, responsible bidder
• Performance
Contracting method that may employ either sole-source or competitive acquisition. Generally includes fewer technical specs than in sealed bidding.

Details follow in next session.
Federal Acquisition Process

1. **Gov. Synopsizes**
2. **Gov. Develops Reqmt.**
3. **Offeror Decides to Bid & Submits Prop.**
4. **Gov. Evaluates**
5. **Comp. Range or Select**
6. **Discussions – Rev. Prop.**
7. **Selection**
8. **Negotiation**
9. **Award**
Next Class:

Negotiated Procurement and Negotiation

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