Final and Proposed Procurement Regulations

This newsletter provides information on topics related to final and proposed regulation changes for federal procurement. All Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation (DFAR) clauses can be found at http://farsite.hill.af.mil.

Final Rule to Amend Dollar Thresholds

The FAR Council has published a final rule, effective October 1, 2015, that will amend a number of dollar thresholds in the FAR and will allow for ongoing adjustments on a periodic basis. Some of the key provisions will be:

- The micro-purchase base threshold of $3,000 (FAR 2.101) is increased to $3,500
- The simplified acquisition threshold (FAR 2.101) of $150,000 is unchanged
- The FedBizOpps pre-award and post-award notices (FAR part 5) remain at $25,000 because of trade agreements
- The threshold for use of simplified acquisition procedures for acquisition of commercial items (FAR 13.500) is raised from $6.5 million to $7 million
- The cost or pricing data threshold (FAR 15.403-4) and the statutorily equivalent Cost Accounting Standard threshold are raised from $700,000 to $750,000
- The prime contractor subcontracting plan (FAR 19.702) floor is raised from $650,000 to $700,000 and the construction threshold of $1,500,000 stays the same
- The threshold for reporting first-tier subcontract information including executive compensation will increase from $25,000 to $30,000 (FAR subpart 4.14 and section 52.204-10)

Final Rule Clarifying Small Business Qualification Status

This final rule, issued by the Department of Defense (DoD), amends the Defense Federal Acquisition Regulations (DFARs) to clarify that contract awards may cause a small business to exceed the small business size standard. This rule, which became effective May 26, 2015, requires the government to include in certain solicitations DFAR 252.219-7000, under which potential contractors acknowledge that the contract award may grow the business beyond the size standard allowed for small business awards. This rule implements changes from the National Defense Authorization Act (NDAA).

Final Rule to Amend FAR: Update to Product and Service Codes

The Department of Defense (DoD), General Services Administration (GSA) and National Aeronautics and Space Administration (NASA) issued a final rule to amend the Federal Acquisition Regulation (FAR) to correct the terminology relating to preparation and transmittal of synopses and update the descriptions of federal product and service codes related to exemptions from service contract labor standards, to conform to the current Federal Procurement Data System Product and Service Codes manual 80 Federal Register 38307. The final rule will become effective August 3, 2015.
Final Rule to Amend FAR: Permanent Authority for Use of Simplified Acquisition Procedures for Certain Commercial Items

DoD, GSA and NASA issued a final rule to amend the Federal Acquisition Regulation (FAR) to implement a section of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act (NDAA) for fiscal year 2015 that makes the authority to issue solicitations using special simplified procedures for acquisition of certain items permanent, 80 Federal Register 38311. The final rule will become effective August 3, 2015.

Final Rule to Amend DFARS: Allowability of Legal Costs for Whistleblower Proceedings

DoD adopted as final, without change, an interim rule that amends the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for fiscal year 2013 that addresses the allowability of legal costs incurred by a contractor related to whistleblower proceedings, 80 Federal Register 36719. The final rule became effective June 26, 2015.

House Passes Bill Expanding Service-Disabled Veteran-Owned Small Business Program

The House passed the Service-Disabled Veteran-Owned Small Business Act H.R.1313 on May 18, 2015. If enacted, the bill would expand the amount of time surviving spouses can be treated as owners of service-disabled veteran-owned small businesses. The bill was received by the Senate and referred to the Committee on Veterans Affairs.

Proposed Rule on Sole Source Awards for EDWOSB and WOSB

In May, the SBA issued a proposed rule implementing the Woman Owned Small Business (WOSB) sole source authority contained in the 2015 National Defense Authorization Act. The proposed rule provides that Economically Disadvantaged Woman Owned Small Businesses (EDWOSBs) may receive sole source awards in industries designated by the SBA as "underrepresented" by women. WOSBs may receive sole source awards in industries designated as "substantially underrepresented." The industry-by-industry limitations are the same as those applicable to competitive EDWOSB and WOSB set-asides.

Under the proposed rule, an agency may make a sole source award in an appropriate industry where: (1) the contracting officer does not have a reasonable expectation that two or more EDWOSBs/WOSBs will submit offers, (2) the anticipated award price (including options) will not exceed $6.5 million for manufacturing contracts and $4 million for other contracts, (3) the EDWOSB/WOSB is responsible and (4) in the estimation of the contracting officer, the award can be made at a fair and reasonable price.

The SBA accepted comments on this proposed rule until June 30, 2015. Now the SBA is reviewing and will respond to the comments.

Upcoming GACO/GCAC Sponsored Events

08/13/15 – Cyber Threats to Businesses, CalU Southpointe, Canonsburg, PA

10/13/15 – GACO/GCAC's 28th Annual Procurement Opportunities Fair, DoubleTree by Hilton-Cranberry, Mars, PA