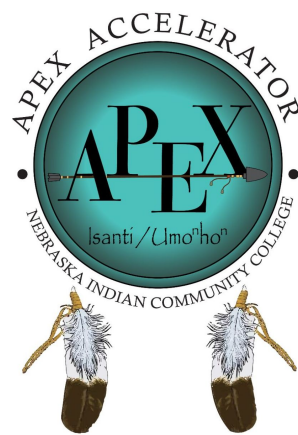


NEWSLETTER

July 2024



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NEWS ALERT

Urgent & Important:
SBA to Pause Acceptance of Small Business Certification Applications

The U.S. Small Business Administration (SBA) has recently announced that it will temporarily pause accepting applications for federal small business certifications beginning August 1st, 2024, through September as it performs system upgrades to its certifications portal. If you’ve been working on your certification application, we recommend completing your submission before August 1st. If you aren’t in a rush to certify (or re-certify) your business, the SBA plans to re-open its certification portal and continue accepting applications in early September. For additional information about this upgrade, [visit SBA’s official certification website](#).

TIP OF THE MONTH

How Long Do I Have to Respond to a Federal Solicitation?

You’ve identified a federal government solicitation that’s right up your alley—but how long do you have to submit your proposal? The answer depends, in large part, on the type of solicitation at issue.

[Federal Acquisition Regulation 5.203\(c\)](#) establishes the general rule: “agencies shall allow at least a 30-day response time for receipt of bids or proposals from the date of issuance of a solicitation” unless an exception applies. Thus, in many cases, a contractor will have at least thirty days (and sometimes more) to respond. There are two important exceptions allowing for shorter timeframes, however.

These key exceptions arise if (1) the contract resulting from the solicitation will be more than \$25,000 but will fall below the simplified acquisition threshold (currently \$250,000 for most acquisitions); or (2) the contract resulting from the solicitation will be more than \$25,000 and the contract is for commercial goods or services. In either of these two cases, the government merely must “establish a solicitation response time that will afford potential offerors a reasonable opportunity to respond,” considering “the circumstances of the individual acquisition, such as the complexity, commerciality, availability, and urgency.”

The U.S. Government Accountability Office (GAO) has held that agencies enjoy substantial discretion to establish solicitation response periods shorter than 30 days when one of these exceptions applies. For example, in a recent bid protest decision, [Allserv, Inc., B-422347 \(2024\)](#), the GAO upheld a 10-day response period for a commercial solicitation. In this case, the GAO held that the short timeframe was allowable given that “the procurement is for readily available services with minimal complexity” and that “the solicitation limits the submission of non-price quotations to just two pages.” The GAO also noted that the agency received seven bids in response to the solicitation, undercutting the protester’s suggestion that it was impossible to prepare an acceptable response within the 10-day period.

It’s worth noting, however, that agency discretion with respect to establishing response periods is not entirely unlimited, even when an exception to the thirty-day period applies. For example, in another bid protest decision, [Eastern Forestry, B-411848 \(2015\)](#), the GAO held that a response period of fifteen hours (yes, that’s hours, not days) was unreasonably short.

Fortunately, barring emergencies, agencies seldom attempt to impose deadlines as short as the one seen in *Eastern Forestry*. Nevertheless, many federal acquisitions are classified as commercial, fall below the simplified acquisition threshold, or both. Therefore, it is very important for government contractors to have systems in place to promptly identify and review new solicitations of interest. Keep in mind that the response time, whether 30 days or something else, is always based on the government’s publication of the solicitation, not the time the contractor first discovers or reads it.

If you would like assistance establishing or improving your processes for identifying and tracking federal solicitations, your APEX Accelerator can help! Contact your APEX Accelerator counselor for an appointment.

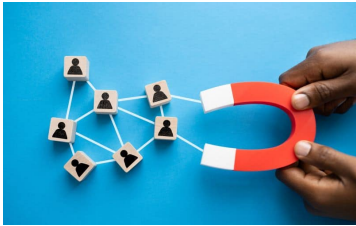
NICC APEX ACCELERATOR NEWS YOU CAN USE

Updated Directory of Prime Contractors Now Available

Prospective small business subcontractors often wonder where they can begin looking for potential large primes interested in subcontracting to them. The government has recently updated one valuable resource to help small business subcontractors: its annual Directory of Federal Government Prime Contractors with Subcontracting Plans. The Directory provides a list of prime contractors with contractual requirements to subcontract to small businesses. You can find the [updated Directory here](#).

If you seek teaming partners for government contracting opportunities, your APEX Accelerator can help! APEX Accelerators help contractors network with buying officers, prime contractors, and other businesses. Contact your APEX Accelerator counselor today for an appointment.

GOVOLOGY WEBINARS



Leveraging White Papers to Open Opportunities

Date: July 9, 2024
Time: 1:00 p.m. EDT
Presenter: Lisa Mundt, The Pulse of GovCon

[Click Here to Learn More](#)



Understanding the Mechanics of Fixed-Price Incentive (Firm Target) (FPIF) Contracts (2024 Update)

Date: July 11, 2024
Time: 1:00 p.m. EDT
Presenter: Jeff Cuskey, CPCM, CFCM, CSCM, CPP, GOVCON Consulting & Expert Witness Services

[Click Here to Learn More](#)



Methods for Communicating Your Past Performance to Accelerate Government Sales (2024 Update)

Date: July 16, 2024
Time: 1:00 p.m. EDT
Presenter: Joshua Frank, RSM Federal

[Click Here to Learn More](#)



Mastering the Art of Negotiation: Strategies, Skills, and Scenarios

Date: July 18, 2024
Time: 1:00 p.m. EDT
Presenter: Dolores Kuchina-Musina, REXOTA Solutions, LLC

[Click Here to Learn More](#)



Harnessing The Power of LinkedIn for Government Contractors

Date: July 23, 2024
Time: 1:00 p.m. EDT
Presenter: Ashia Sims Humphrey, October Social Media

[Click Here to Learn More](#)



Digitizing Your GovCon Sales Process

Date: July 25, 2024
Time: 1:00 p.m. EDT
Presenter: Tasha Jones, Twenty39 LLC

[Click Here to Learn More](#)



From Compliance to Competitive Edge: Understanding ISO 9001

Date: July 30, 2024
Time: 1:00 p.m. EDT
Presenter: Aubrey Cramer, Compliancehelp Consulting LLC

[Click Here to Learn More](#)

Please use the new code **24NICC20** when registering for Govology webinars.

RECOMMENDED READINGS

Agency Contracting Authority

Federal contractors sometimes mistakenly believe that any government employee—especially, but not limited to, a Contracting Officer’s Representative—has the authority to order the contractor to change its work or perform new work. That is not the case. The ability to direct contractors is strictly limited, and if a contractor follows the directive or suggestion of an unauthorized official, the contractor could be left uncompensated. Read more about [agency contracting authority here](#).

NAICS Codes Don't Flow Down to Subcontracts

Contrary to a common misunderstanding, a prime contract’s North American Industry Classification System (NAICS) code and size standard do not automatically flow down to subcontracts. This means that just because a business qualifies as small under the prime contract’s NAICS code does not necessarily mean that the prime can count the business as small for subcontracting purposes. Read more about the [rules governing NAICS codes and subcontracts here](#).

Office of Federal Contract Compliance Programs (OFCCP) Releases New Guidance on the Use of Artificial Intelligence (AI) in Federal Contracting Employment Processes

With the dramatic rise in the use of AI tools throughout the procurement community, the government has released new guidance on how federal prime contractors and subcontractors should approach employment nondiscrimination risks and best practices when using AI in the context of the laws that OFCCP enforces. Read more about [the OFCCP guidance on AI use here](#).

SPECIAL INTEREST

This section highlights items of special interest and importance to the Department of Defense Office of Small Business Programs (DOD OSBP). Please take a moment to visit the sites listed below for additional information. We also suggest that you read the latest edition of the [DOD’s Small Business Digest](#) (*log into LinkedIn to access this resource*) if you want to do business with the DOD.

Cybersecurity Maturity Model Certification (CMMC)/Cybersecurity Compliance Resources

[DOD CMMC Resource Page](#) – Resources to assist government contractors with understanding and complying with CMMC/cybersecurity requirements.

[Project Spectrum](#) – Project Spectrum is working with APEX Accelerators to assist small businesses in achieving compliance with CMMC/cybersecurity requirements.

Foreign Ownership, Control, and Influence (FOCI) Resources

[FOCI Frequently Asked Questions](#) -- FOCI is a status or situation in which a contractor with access to classified information has some foreign investment or association with foreign interest. Learn more about the federal government’s requirements relating to FOCI.

<https://business.defense.gov/> – The official website of DOD OSBP. It contains additional information, news, events, and other items for those interested in doing business (or currently engaged) with the DOD.

DOD Seeks to Address FOCI Risks for Covered Contractors,

Subcontractors With New Directive

The Department of Defense (DOD) has issued a new directive to establish policy and assign responsibilities to evaluate and determine whether the ownership of a covered contractor or subcontractor requires the implementation of foreign ownership, control, or influence mitigation measures. Read [the article here](#) and see [the directive here](#).

Foundational Cybersecurity Standards for Contractors Updated

The National Institute of Standards and Technology has released the third version of its publication 800-171. [This article highlights critical changes and takeaways](#).

No End “Insight” for DOJ’s Civil Cyber-Fraud Initiative

The Department of Justice (DOJ) recently announced a \$2.7 million settlement in a False Claims Act (FCA) case involving allegations that the contractor failed to implement adequate cybersecurity protections. The settlement highlights the underappreciated FCA risk that contractors may face for noncompliant cybersecurity. [Read more about this case here](#).

***About Nebraska Indian Community College
APEX Accelerator:***

Address (Macy Campus):
1111 Hwy. 75/P.O. Box 428
Macy, NE 68039
(Coverage Area: Omaha Indian Reservation)

Address (Santee Campus):
415 North River Road
Niobrara, NE 68760
(Coverage Area: Santee Sioux Indian Reservation)

E-mail us: APEX@thenicc.edu

This APEX Accelerator (formerly known as PTAC) is funded in part through a cooperative agreement with the Department of Defense.

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