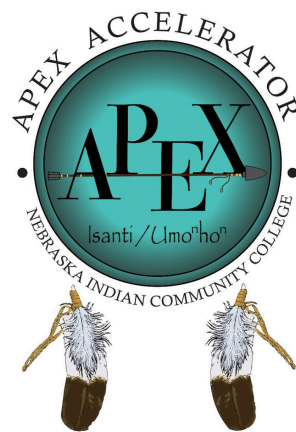


NEWSLETTER

March 2025



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TIP OF THE MONTH

Avoiding Common Pitfalls Related to Solicitation Amendments

It's not uncommon for an initial solicitation released by the federal government to be followed by one or more amendments. Addressing amendments can present pitfalls for offerors, but knowing about those pitfalls in advance can help avoid them. Here are two common amendment-related pitfalls to know and avoid.

Pitfall #1: Failing to Acknowledge an Amendment

The government often insists that offerors formally acknowledge solicitation amendments. Failure to do so, even when it may seem unnecessary or inconvenient, could result in the proposal being disqualified.

That's what happened in a recent bid protest decision issued by the U.S. Government Accountability Office (GAO), [Worrell Contracting Co., Inc., B-423208 \(2025\)](#). In *Worrell Contracting*, the government amended the solicitation just nine hours before the original proposal deadline. The amendment, which extended the deadline, required offerors to return a signed copy of the amendment. Worrell Contracting Company, Inc., which had already submitted its proposal, did not notice that the solicitation had been amended and did not submit a signed copy of the amendment.

The GAO noted that offerors have "constructive knowledge" of solicitation documents posted on the System for Award Management (SAM), including amendments. The GAO held that because the amendment required each offeror to acknowledge it in writing, and because Worrell did not do so, the agency properly disqualified Worrell.

The *Worrell Contracting* decision is an important reminder that offerors should closely track solicitations in SAM, even after the proposal is submitted, and be sure to acknowledge any amendment that requires it.

Pitfall #2: Misunderstanding the Power of Q&As

In many acquisitions, the federal government provides offerors with a formal opportunity to ask questions about the solicitation. Typically, offerors are asked to submit their questions in writing by a specific deadline. The government then reviews the questions and provides answers, typically by uploading the answers to the solicitation's page in SAM.

Sometimes, the government formally amends the solicitation in conjunction with the release of Q&As. However, even if the government does not do so, the government's response to the Q&A can be deemed an amendment to the solicitation, and failure to comply with the *de facto* "amendment" can cause a proposal to be downgraded or excluded.

For example, in the GAO's decision in [Energy Engineering & Consulting Services, LLC, B-407352 \(2012\)](#), the agency eliminated an offeror's proposal because the proposal did not satisfy a technical requirement set forth in the answer to a Q&A. The GAO held that the agency acted properly in disqualifying the proposal, saying: "information disseminated during the course of a procurement that is in writing, signed by the contracting officer, and provided to all vendors, contains all of the essential elements of an amendment--even where not designated as an amendment--and is sufficient to operate as such." The GAO has continued to enforce this policy in its [more recent decisions](#).

The bottom line? Offerors should carefully read all the government's Q&A answers, even to questions asked by other offerors, and keep in mind that those answers may act to amend the solicitation.

NICC APEX ACCELERATOR NEWS YOU CAN USE

Changes to SBA's Mentor-Protégé and Joint Venture Regulations

The U.S. Small Business Administration has adopted a final rule making changes to its Mentor-Protégé Program and joint ventures formed under the auspices of the SBA's Mentor-Protégé Program. You can [read about specific changes in this article](#).

Are you interested in learning more about how an SBA mentor-protégé agreement could help your company compete in the federal marketplace? Or do you need assistance preparing your mentor-protégé application? Your APEX Accelerator can help! Contact your APEX Accelerator today to schedule an appointment.

GOVOLOGY WEBINARS

*Please use the new code **52NICC20** when registering for Govology webinars.*



How to Justify Increased Profit/Fee Under DoD Contracts Requiring Certified Cost or Pricing Data (2025 Update)

Date: March 4, 2025

Time: 1:00 p.m. EST

Presenter: Jeff Cuskey, CPCM, CFCM, CSCM, CPP,
GOVCON Consulting & Expert Witness Services

[Click Here to Learn More](#)



The Concept of “Responsibility” in Government Contracting (2025 Update)

Date: March 6, 2025

Time: 1:00 p.m. EST

Presenters: Nicole Pottroff and Stephanie Ellis,
Koprince McCall Pottroff LLC

[Click Here to Learn More](#)



DCAA: Overview of Indirect Rates

Date: March 11, 2025

Time: 1:00 p.m. EDT

Presenter: Katelyn Rigle, Defense Contract Audit
Agency

[Click Here to Learn More](#)



Leveraging the Freedom of Information Act (FOIA) for Competitive Advantage in Government Contracting

Date: March 13, 2025

Time: 1:00 p.m. EDT

Presenter: Patrick Kelly, PK Consulting Services

[Click Here to Learn More](#)



Winning Strategies and Proven Best Practices for Government Prospecting (2025 Update)

Date: March 18, 2025

Time: 1:00 p.m. EDT

Presenter: Joshua Frank, RSM Federal

[Click Here to Learn More](#)



Evolving DoD Contractor Cybersecurity Requirements (2025 Update)

Date: March 20, 2025

Time: 1:00 p.m. EDT

Presenter: Adam Austin, Totem Technologies

[Click Here to Learn More](#)

RECOMMENDED READINGS

President Trump Issues Numerous Executive Orders with Potential Impacts on Federal Contractors and Grant Recipients

The new administration has made headlines by issuing a number of executive orders that could have significant impacts on federal contractors. These executive orders include such things as the elimination of longstanding affirmative action requirements in certain contracts and the repeal of a policy requiring certain service contractors to offer a “right of first refusal” to qualified incumbent personnel. Read about the executive orders and their potential impacts on contractors and grant recipients in the following articles:

- [President Trump Issues Numerous Executive Orders with Potential Impacts on Federal Contractors and Grant Recipients](#)
- [President Trump Ends Affirmative Action Requirements for Government Contractors](#)

- [Executive Order Targets Affirmative Action Programs: New Compliance Requirements for Government Contractors](#)
- [President Trump Signs Executive Orders on First Day Impacting Contractors](#)

New OCI Rule Contains Big Changes

The Federal Acquisition Regulation Council has issued a major proposed rule under which the FAR Council would overhaul the longstanding rules governing organizational conflicts of interest (OCI). Of special note, the proposed rule would shift some of the burden of identifying OCIs away from Contracting Officers and onto contractors, who could be required to proactively notify the government of actual, potential, or apparent OCIs. [Read more about the proposal.](#)

DOD Amends DFARS Implementing SBIR/STTR Data Rights, What It Means for Small Businesses

The Department of Defense has issued a final rule amending the data rights provisions applicable to participants in the SBA's Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program Policy Directive (the Policy Directive). Data rights are often of paramount interest and importance to participants in these research and development programs. Read more about the changes and [how participants can best protect their data rights.](#)

CMMC & FOCI RESOURCES AND NEWS

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.

Cybersecurity and Data Protection: 2024 Recap & 2025 Forecast

2024 was a banner year for cybersecurity rules applicable to government contractors. CMMC may have led the headlines, but it was just one of many notable developments. The new year is shaping up to be just as impactful. In this [extensive overview](#), you will find a recap of the major cybersecurity and data protection developments of 2024 and a forecast for what's ahead in 2025.

Proposed Regulation on Controlled Unclassified Information Standardizes Process for CUI Identification and Handling Across Federal Agencies

The FAR Council has issued a long-awaited proposed regulation to govern processes for identifying and handling Controlled Unclassified Information (CUI). Among other things, the proposed rule “establishes a common form to be used by all federal agencies at the contract formation stage to identify contract-related CUI, prescribes requirements for contractor protection of CUI, and creates a formal reporting process for security incidents involving CUI.” Read more about the [proposed regulation governing CUI](#).

NICE and Easy: Proposed Cybersecurity FAR Amendment Incorporates NICE Framework, Standardizing Cybersecurity Workforce Descriptions

The FAR Council has been busy when it comes to cybersecurity. In addition to the proposed rule addressed above on CUI, the FAR Council has released a [proposed rule to standardize workforce criteria for cybersecurity](#) and information technology support services contracts.

How to Expedite Your CMMC Process

The CMMC rule is here, but some contractors have yet to move ahead in implementing its requirements. This [article offers practical suggestions](#) for implementing CMMC efficiently.

Analyzing the Overlap Between CFIUS and FOCI (Video)

In the latest installment in a video series on FOCI, the hosts discuss “the intersection of the Committee on Foreign Investment in the United States (CFIUS) and Foreign Ownership, Control and Influence (FOCI) mitigation.” [Click here to watch the video](#).

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