

The rapid spread of the novel coronavirus and its related disease, COVID-19, across the U.S. has resulted in disruptions for every major industry. Federal and state governments are quickly responding to the vast number of needs to combat the spread and impact of the pandemic. These needs are resulting in traditionally commercial-based companies stepping in to produce ventilators and personal protective equipment as well as to convert existing facilities such as hotels into hospitals. In some cases, the Defense Production Act is being used to force companies into satisfying the government's critical needs.

Commercial companies that have never worked under a government contract must now prepare to comply with the unique regulations required to do business with the U.S. Government. For example, work may be contracted under a cost reimbursable contract vehicle that will require the company to evaluate and update its accounting system and indirect rate structure to ensure compliance with government requirements. Depending on the circumstances, it may be possible for the contract or elements of a contract to be performed on a commercial pricing basis depending on the nature of the work. Companies may also want to evaluate their corporate structure as there may be important advantages to setting up a separate legal entity under which to perform the contract. Other important regulatory considerations are discussed below.

Regulatory Considerations

Working for the government has inherent risks and rewards. The government contract compliance requirements should be carefully evaluated to ensure appropriate policies, procedures, and controls are established to mitigate the associated risk. In order to enter into a federal contract, a company must comply with Federal Acquisition Regulation ("FAR") requirements. The FAR is a complex set of regulations that poses substantial business and compliance risks to government contractors. Prior to contract award, a government contractor must either be compliant, or demonstrate that it will be compliant at the time of the award, with all FAR provisions specified by the contracting agency.

In addition to FAR compliance, contractors may also be required to comply with more rigorous requirements under

the Cost Accounting Standards ("CAS"), depending, for example, on the value, contract type, and award method. Based on the thresholds for CAS applicability, a contractor may be required to comply with either "full" CAS (all 19 standards) or "modified" CAS (4 of the 19 standards).

Recipients of federal government funds distributed to the states through procurement contracts, grants, or cooperative agreements are not necessarily required to follow FAR and CAS regulations. The individual state and local governments may have the discretion for determining how to administer the funds using certain contract award methods, such as "competitive procedures." As a result, the full impact of procurement regulations for state and local government spending of federal government funds on contractors remains unclear and will need to be assessed on a contract by contract basis. Given the stringent transparency and accountability requirements that will be imposed on the states, it is expected that elements of the FAR will be used for state procurements as well.

Government oversight is stringent over all contractor activities, including accounting, estimating, marketing, purchasing, and inventory management. Government auditors and other representatives will be aggressively searching for improper billings, defective pricing, and other violations of the procurement laws and regulations. All too often, honest errors and omissions give rise to allegations of fraud.

Our Services and Approach

Chess Consulting's experts understand the unique government contract risks that emerging contractors must address and operationalize in order to be compliant with the FAR and CAS. We stand ready to assist commercial businesses, including those that may be bidding on their first government contract, deal with the regulatory requirements throughout the life cycle of a contract. Our assistance may include but is not limited to the following:

- 1) Assess existing accounting system and procedures for accumulation and recording of direct and indirect costs incurred and allocable at the project/contract level.
- 2) Develop compliant price/cost structure to support cost-type and time and materials contracts.

- 3) Set up or enhance processes for capturing daily project activity including labor and materials.
- 4) Assess and enhance relevant policies, procedures, and controls to support government contracting requirements.
- 5) Advise on unique issues and assess operating effectiveness of policies, procedures, and controls during contract execution.
- 6) Assist with or prepare incurred cost submissions.
- 7) Provide DCAA audit readiness and support including advising on the resolution of identified audit matters.

The Chess Consulting Advantage

Our government contract specialists understand the complex business and regulatory climate in which government contractors operate and are committed to finding practical, cost-effective solutions to the problems facing contractors today, and in the years ahead. We have approximately 30 professionals in the Washington, D.C., area devoted to serving government contractors. Furthermore, unlike other firms, our professionals bring to each engagement a unique combination of government contracting regulatory expertise, technical financial accounting and reporting knowledge, and forensic accounting and investigative skills as well as an adept understanding of our clients' business risks, processes, systems, and challenges.

Chess Consulting Differentiators

Deep industry knowledge and technical expertise which helps clients deal effectively with the complexities of the processes and issues facing its business.

Profitability focus concentrating on actions and solutions that create a competitive business advantage while fully complying with regulatory requirements.

Practical and creative solutions that effectively address difficult compliance and business issues.

Supportable positions that have been proven to withstand scrutiny from regulatory agencies (e.g., DCAA, DOJ, GAO).

Reduced risk of noncompliance with increasingly stringent regulations.

Ready access to skilled resources.