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Compliance Obligations for Recipients of Federal Financial Assistance

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Differences Between Grants and Procurement Contracts

- The Govt is spending money to advance a public purpose, not to purchase goods and services
 - Grants generally are more flexible than procurement contracts
- The Govt is not the “customer,” but is instead jointly invested and interested in the project’s success
 - Generally, contractors bear more performance risk
 - However, consequences of noncompliance are similar
- Termination rights are reversed – the Govt does not have termination for convenience right by law, but grant recipient does
 - Note, however, that the Govt can decline to authorize continuation of grant into additional budget or performance periods – this is known as a “Go/No Go” decision
- Conceptually similar obligations may have different authority and requirements
 - For example, Buy American Act (procurement) v. BABA (grants for infrastructure)
- Many other compliance obligations are similar, but there are fewer
 - For example, financial assistance agreements don’t include lists of 100+ FAR clauses

Practice Tips and Takeaways

- Companies do not need to be established federal contractors to apply for, obtain, and successfully perform a financial assistance agreement
 - Many companies receiving financial assistance awards have never worked with the Govt in the past
 - Many grant opportunities are looking for a broad pool of companies to participate to draw on diversity of experience and expertise
- However, any business with the Govt carries with it significant compliance obligations, and penalties for noncompliance can be severe
- If your organization envisions pursuing grants, it is worthwhile to invest at the front end in the necessary systems and processes to ensure compliance
 - Accounting, procurement, property management, etc.
 - The Govt likely will ask for confirmation that necessary systems/processes are in place and may conduct a pre-award survey
- Important to assign specific compliance obligations to specific employees
- Important to ensure all reports submitted to the Govt are timely, accurate, and complete

The Incoming Trump Administration

- Trump administration obviously will have very different policy views than the Biden administration, so the award or continuation of certain assistance agreements may be jeopardized
 - Administration could decline to approve additional budget/performance periods
 - For example, DOE standard language for “Go/No Go” decision includes the following as one of the possible Govt actions: “Discontinue providing federal funding for the project beyond the current budget period as the result of insufficient progress, **change in strategic direction**, or lack of available funding.”
 - Administration could terminate awards, if permitted by terms of award
 - 2 CFR 200.340(a)(4): termination by the federal agency or pass-through entity pursuant to the terms and conditions of the federal award, including, to the extent authorized by law, **if an award no longer effectuates the program goals or agency priorities**
- Trump administration may also attempt to implement “impoundment”
 - Executive branch action or inaction that results in a delay or refusal to spend appropriated funds – essentially a withholding of previously appropriated and obligated funds
 - Impoundment Control Act prohibits impoundment, but President Trump has said the law is unconstitutional – so could be the subject of future litigation

Key Terms

- **Grant or Cooperative Agreement**
 - A legal instrument of financial assistance between the Govt and recipient or between pass-through entity and subrecipient that is used to transfer anything of value to carry out a public purpose authorized by a law of the U.S.
 - Not to acquire property or services
 - Cooperative agreement provides for substantial involvement of the Govt or pass-through entity; a grant does not
- **Recipient**
 - Entity that receives a federal award directly from the Govt to carry out an activity under a federal program
- **Subrecipient**
 - Entity that receives a subaward from a pass-through entity to carry out part of a federal award
- **Pass-through entity**
 - Recipient or subrecipient that provides a subaward to a subrecipient to carry out part of a federal program
- **Cost sharing**
 - The portion of project costs not paid for by federal funds or contributions

Overview of Federal Financial Assistance Regulations

- Relevant requirements are in the Office of Management and Budget (OMB) Guidance at Title 2, Subtitle A of the Code of Federal Regulations (CFR)
- Chapter I includes guidance on specific policy issues
 - Part 25: Unique Identity Identifier and System for Award Management
 - Part 170: Reporting Subaward and Executive Compensation Information
 - Part 175: Trafficking in Persons
 - Part 180: Suspension and Debarment (Nonprocurement)
 - Part 182: Drug-Free Workplace
 - Part 183: Never Contract with the Enemy
 - Part 184: Buy America Preferences for Infrastructure (Build America, Buy America)
- Chapter II, Part 200 is known as the “Uniform Guidance”
 - Covers administrative requirements, cost principles, and audit requirements
- Subtitle B contains agency-specific regulations
 - Each agency can adopt (with variations) the OMB guidance

Financial Tracking/Reporting

- Recipient/subrecipient must have a financial management system that accurately identifies the source and application of funds for federally-funded activities
 - Federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income and interest – all supported by source documentation
 - Comparison of expenditures with budget amounts
 - Written procedures for determining the allowability of costs
- Recipient/subrecipient must maintain effective internal controls over federal funds
- Cost share contributions must be verifiable from the recipient's financial records
- Recipient must request prior approval from the Govt for budget revisions
- Each grant will have specific financial reporting requirements (quarterly, annually, etc.)
- Recipient/subrecipient must comply with other reporting requirements of the award
 - Periodic reporting on performance (e.g., progress, accomplishments, milestones, etc.)
 - Disclosure of subject inventions (during performance) and reporting on utilization of subject inventions (may continue for 10 years after date of disclosure)
 - Other reporting requirements – see DOE Financial Assistance Reporting Checklist (available [here](#))

Applicable Accounting Requirements

- Entity type can be meaningful to understand the cost accounting requirements applicable to a grant or agreement
 - Non-federal entity (NFE) – State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization per 2 CFR 200.1 – in general, these entities follow Subpart E of the Uniform Guidance
 - For-profit entities - the awarding agency may or may not have specific rules regarding cost accounting/allowability. For example:
 - Department of Energy regulations stipulate for-profit entities are to follow FAR Part 31, except that patent prosecution costs are not allowable unless specifically authorized in the award document
 - Department of Commerce does not specify requirements governing for-profit entities but notes that Grant Officers can apply FAR Part 31

Applicable Accounting Requirements Cont'd

- FAR Part 31 (FAR Subpart 31.2 for for-profit entities)
 - Stipulates requirements for cost allowability, along with certain requirements for the measurement, assignment, and allocation of costs
 - Incorporates certain requirements from the Cost Accounting Standards (CAS) (e.g., FAR 31.205-18 incorporates substantially all of the requirements from CAS 420)
- Uniform Guidance
 - Cost principles stipulated in Subpart E
 - Much of Subpart E is similar to FAR Part 31; however, there are notable differences (e.g., compensation for personal services, program income)
 - For-profit entities that need to follow Subpart E may require some system and/or process changes if organized to comply with FAR Part 31 and/or the CAS

Applicable Accounting Requirements Cont'd

- Cost Accounting Standards
 - Governs the measurement, assignment, and allocation of costs to covered contracts and subcontracts
 - Compliance with certain CAS (*e.g.*, CAS 410) require adoption of cost accounting practices that implicate all of an organization's contracts, not just those covered by CAS
 - Following CAS may create conflicts with either FAR Part 31 or Subpart E; if required to follow CAS, CAS will control

Cost Allowability

- Cost recovery under grants and agreements is typically based on allowable costs. In general, allowable costs are:
 - Necessary and reasonable for award performance;
 - Allocable to the award;
 - Determined in accordance with GAAP;
 - Treated consistently;
 - In conformance with any limitations or exclusions set forth in the Uniform Guidance, FAR Subpart 31.2, or CAS (as applicable);
 - Not included as a cost or used to satisfy cost sharing or matching requirements of any other federally-financed program;
 - Adequately documented; and
 - Incurred during the approved budget period, unless otherwise specified in the agreement or waived

Common Considerations – Accounting Requirements

- What accounting requirements apply?
- Are systems and processes set up to appropriately administer the award or are alterations to either needed?
- For entities that are set up to comply with requirements of FAR Part 31 and/or the CAS, is it necessary (or desirable) to follow the same processes under a grant or agreement when something less stringent may still be compliant?
- For entities that are new to the federal space, what is the tradeoff between 1) direct/indirect cost recovery, and 2) impacts to the organization created by imposing specific accounting and/or compliance requirements to the entirety of an organization (especially on indirect costs/functions)?

Real Property and Equipment

- For equipment, maintain accurate property records, conduct biennial inventories, implement a control system to prevent loss/damage/theft, and develop adequate maintenance procedures
- Default rule is title vests in recipient, subject to several conditions
 - Property must be used for the authorized purposes of the project until no longer needed for that purpose
 - Recipient may not dispose of or permit any encumbrance on the property without prior approval
 - Recipient must provide equivalent insurance for property as provided to property owned by recipient
 - Recipient must make equipment available for use on other federal projects or programs during the project period
 - DOE rules also require filing of UCC financing statements for equipment
 - If property is no longer needed for authorized purpose, recipient must seek disposition instructions
- Disposition can include retention by recipient/subrecipient or sale to a third party, usually after compensating the Govt for its contribution
 - But Uniform Guidance also allows agencies to permit recipient/subrecipient to retain equipment with no further obligation to the Govt, if not prohibited by statute or regulation
 - For example, Consolidated Appropriations Act of 2023 (Division D, Section 309) allowed the DOE to grant unconditional title in award recipient or subrecipient at conclusion of award period for energy development, demonstration and deployment programs funded with DOE appropriations
- DOE rule: if property is provided by recipient as part of cost share, it is treated as if acquired in part with federal funds, and will be subject to the above provisions

Procurement

- OMB Guidance, 2 CFR 200.318 *et seq.* generally requires documented processes, competition, and documented rationales for selections of contractors by recipients and subrecipients
 - Recipients/subrecipients must also eliminate conflicts of interest in the procurement process
 - Procurement actions require independent estimates, as well as cost or price analysis before award
- Distinction between subrecipients and contractors
 - Subaward = award to carry out part of a federal award received by a “pass-through entity”
 - Contract = purchase of property or services needed to carry out the project or program
 - Guidance on distinguishing between the two is found at 2 CFR 200.331
- Diligence prior to engaging contractors or suppliers
 - Ensure that contractors are not suspended or debarred by checking sam.gov or using a third-party vendor
 - Ensure that contractors are not sanctioned under the Office of Foreign Assets Control (OFAC) specially designated nationals (SDN) list – on OFAC’s website or using a third-party vendor
- Flow down requirements
 - Certain requirements of the financial assistance award are required to be included in awarded contracts
 - Some will appear in the financial assistance award; others are listed at 2 CFR Part 200, Appendix II
- Bonding
 - For construction contracts, generally must require a bid guarantee, a performance bond, and a payment bond

Domestic Preferences

- **Domestic Preferences for Procurements**

- OMB Guidance requires a preference for the purchase, acquisition, or use of goods, products or materials produced in the U.S. in procurements by the recipient
- Build America, Buy America
 - Applicable to all federally-funded infrastructure projects
 - All iron, steel, manufactured products and construction materials used in the project must be produced in the U.S., subject to exceptions
 - New guidance at 2 CFR Part 184 with relevant definitions

- **DOE U.S. Manufacturing and Competitiveness Requirements**

- DOE policy is that DOE-funded research, development and/or demonstration projects should foster domestic manufacturing
- FOAs require submission of plans to support domestic manufacturing of technology developed under the award
- Recipient agrees to make such plans binding on any entity receiving rights to a subject invention or developed technology
- Waiver or modification of the U.S. manufacturing plan can be requested from DOE, which will assess equitable considerations

Audits

- **Single Audit Requirements – 2 CFR Part 200, Subpart F**
 - Recipient/subrecipient that expends \$1M or more during its fiscal year in federal awards generally must have a “single audit,” subject to some exceptions
 - Not applicable to for-profit recipients/subrecipients
 - Recipient/subrecipient must arrange for audit and provide access to auditor, and take corrective action in response to all audit findings
 - Covers the entire operations of the auditee, including financial statements, the schedule of expenditures of federal awards, internal controls, and compliance with statutes, regulations and the terms of awards
- **Program-specific Audit Requirements – DOE Example**
 - DOE regulations for for-profit recipients/subrecipients found at 2 CFR 910 Subpart F
 - Mandatory annual compliance audit for each award with \$750,000 or more in expenditures
 - Basically the same as a single audit, but focused on discrete federal awards

National Policy Requirements

- Recipient/subrecipient must ensure compliance with a variety of statutory and regulatory requirements, including but not limited to the following:
- Federal Funding and Transparency Act of 2006 – 2 CFR Part 170
 - Requires reporting of first-tier subawards and names and total executive compensation of five most highly compensated officers of subrecipient in certain circumstances
- Equal Opportunity – Executive Order 11246
 - Prohibits discrimination in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin
 - Requires recipients to take affirmative action to ensure equal opportunity
 - Prohibits recipients from taking adverse employment actions against employees for asking about, discussing or sharing information about their pay
- Environmental – Clean Air Act, Clean Water Act
- Drug-Free Workplace – 2 CFR Part 182
- Whistleblower Protection – 41 USC 4712
- Lobbying Restrictions – 31 USC 1352
- Prohibition of certain telecom and video surveillance services/equipment (“Section 889”)
 - Equipment/services from Huawei, ZTE, Hytera, Hangzhou Hikvision, Dahua (and their affiliates)

Davis-Bacon Compliance for Construction Work

- Davis-Bacon Act – applies when required by federal program legislation
 - Laborers/mechanics performing construction, alteration or repair must be paid prevailing wages
 - Prevailing wages are set for each job classification on a county-by-county basis
 - Typically include a cash rate plus fringe benefit rate that can alternatively be paid in cash
 - Certified weekly payrolls
 - DOE requires award recipients use specific software to submit payroll to DOE unless a waiver is granted
 - Davis-Bacon compliance standards must be incorporated into subcontracts for construction, alteration, or repair of the project
 - Recipient must perform payroll and job-site reviews, including employee interviews, to ensure subcontractor and subrecipient compliance
 - Must notify contracting officer of all labor standard issues, violations, disputes, or DOL investigations
 - Submit Semi-annual DBA enforcement report by April 21 and October 21.

Cost Sharing - Basics

- Cost sharing means the portion of project costs not paid by federal funds or contributions (unless authorized by federal statute). This term includes matching, which refers to required levels of cost share that must be provided. (2 CFR 200.1)
- Voluntary cost sharing is not expected under research grants and federal agencies are discouraged from using voluntary cost sharing as a factor during merit review. (2 CFR 200.306(a))
- Two types of matching:
 - Cash – Cash spent for project related costs. The cash match must be for necessary, reasonable, and allowable costs
 - In-Kind – The valuation of non-cash contributions. Non-cash contributions may include services, equipment, supplies, and real property, among other items
- Unrecovered indirect costs may be used for matching requirements if approved by the federal agency or pass-through entity. (2 CFR 200.306(c))

Requirements Applicable to Cost Sharing Funds

- Cost sharing funds must meet the following requirements (2 CFR 200.306(b))
 - Are verifiable in the recipient's or subrecipient's records;
 - Are not included as contributions for any other federal award;
 - Are necessary and reasonable for achieving the objectives of the federal award;
 - Are allowable;
 - Are not paid by the federal government under another federal award (with limited exceptions);
 - Are provided for in the approved budget when required by the federal agency; and
 - Conform to other applicable provisions of the Uniform Guidance and agency specific requirements

Valuation of Cost Share Contributions

- 2 CFR 200.306 contains requirements pertaining to the valuation of In-Kind Contributions. For example:
 - Services of a third-party employee are valued at the employee's regular rate of pay, plus allowable fringe benefits, plus indirect costs. (2 CFR 200.306(f))
 - Donated equipment is valued no higher than fair market value. (2 CFR 200.306(i))
 - Donated space or loaned equipment are valued no higher than fair rental value. (2 CFR 200.306(i))
 - Donated buildings or land are valued at the lower of either 1) the value of the remaining life of the property recorded in the recipient's or subrecipient's accounting records at the time of donation or 2) fair market value. (2 CFR 200.306(d))

Cost Sharing Considerations

- Understand cost sharing requirements in 2 CFR 200.306 and agency supplements (e.g., the DOE). Agency supplements may impose additional requirements
- If self funding a project beyond the required cost share, consider what is paid for using federal funds, what is used to match, and what is self funded. There may be benefit to using federal funds for specific expenditures and self funding others
- Consider implications to, at least, the accounting and purchasing systems
- What level of support is required to substantiate fair market value if in-kind contributions are used for cost sharing purposes?
- Record keeping requirements (e.g., allowable costs, fair market value determinations)

Noncompliance

- The Govt's available remedies for a recipient/subrecipient's noncompliance is covered by 2 CFR 200.339
 - Noncompliance can include failure to comply with the Constitution, federal statutes and regulations, or the terms and conditions of a federal award
- The Govt's first remedy is to impose "specific conditions" on the recipient/subrecipient
 - Covered by 2 CFR 200.208
 - Can include things such as: converting payments from advance payments to reimbursements, withholding authority to proceed to subsequent phases, requiring additional reporting or project monitoring, requiring obtaining of technical or management assistance
- If the Govt determines that a specific condition will not remedy the noncompliance, the Govt can take further action
 - Can include withholding payments, disallowance of costs associated with noncompliance, suspension or termination of federal award, initiation of suspension/debarment proceedings

Disputes

- The Grant Officer's word is not final when it comes to noncompliance and instituted remedies
- Under 2 CFR 200.342, each agency must maintain written procedures for processing objections, hearings, and appeals
 - Each agency's process will be slightly different
 - One example of this process is at 2 CFR 910.128, which sets forth DOE's Disputes and Appeals process
 - Informal dispute resolution, alternative dispute resolution, written final determination by the Grant Officer, appeal to the cognizant Senior Procurement Executive (SPE)
- Under the regulation, a federal agency must provide the recipient an opportunity to object to federal noncompliance actions
 - Can include challenging disallowed costs, corrective action plans, terminations, etc.
- Once administrative processes are exhausted, next step would be Administrative Procedure Act (APA) lawsuit in federal district court

Termination

- A financial assistance agreement can be terminated (in whole or in part) in one of four ways:
 - By the Govt if the recipient/subrecipient fails to comply with T&Cs of the award
 - By the Govt with the consent of the recipient/subrecipient, in which case the parties must agree on the termination conditions
 - By the recipient/subrecipient upon sending the Govt written notification for the reasons for termination, and, if partial, the portion to be terminated
 - Note that the Govt can then terminate the entire award if it determines the identified remaining portion will not accomplish the purposes of the federal award
 - By the Govt pursuant to the terms and conditions of the federal award, including, to the extent authorized by law, if an award no longer effectuates the program goals or the Govt's priorities.
- A federal award can also be “suspended” for a limited period of time by written notification from the Govt

Termination Cont'd

- The Govt must provide written notice of termination to the recipient/subrecipient
 - Should include the reasons for termination, the effective date, and the portion of the award to be terminated, if applicable
- If the award is terminated prior to the end of the period of performance due to the recipient's material failure to comply with the T&Cs of the award, the Govt must report the termination in SAM.gov
 - The Govt is to use the Contractor Performance Assessment Reporting System (CPARS)
 - SAM.gov notice not to be posted until recipient exhausts disputes process/indicates it will not appeal decision
 - Information will be in SAM.gov for five years from the date of termination
 - The Govt is supposed to consider this information when considering whether recipient is qualified to receive additional federal awards
- When award terminated prior to expected completion, recipient/subrecipient still required to comply with closeout and post-closeout obligations

Closeout Obligations

- Recipient must submit all reports (financial, performance, and other reports required by the award) no later than 120 calendar days after the conclusion of the period of performance (90 days for subrecipient)
 - Final financial report must be submitted even if indirect cost rates have not been finalized. Recipient must submit revised final financial report after rate finalization
- Recipient must liquidate all financial obligations incurred under award no later than 120 calendar days (90 days for subrecipient)
- Recipient/subrecipient must promptly refund any unobligated funds that the Govt paid and that are not authorized to be retained and account for any property acquired with federal funds or received from the Govt
- The Govt “must make every effort” to complete all closeout actions no later than 1 year after end of period of performance (which can include mutual agreement on final indirect rates)
- The Govt must report failure to comply with closeout requirements, including submission of all reports, in SAM.gov as failure to comply with T&Cs of award

Mandatory Disclosures

- 2 CFR 200.113
 - “An applicant, recipient, or subrecipient of a Federal award must promptly disclose whenever, in connection with the Federal award (including any activities or subawards thereunder), it has **credible evidence** of the commission of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act (31 USC 3729-3733).”
 - Disclosure must be made in writing to the federal agency, the Office of Inspector General, and the pass-through entity (if applicable)
 - Failure to disclose can result in imposition of any of the remedies for noncompliance (see slide 23)
- Update written to align language with FAR mandatory disclosure rule for federal contractors (see FAR 3.1003, 9.406-2, 9.407-2, 52.203-13)
- OMB referred to FAR Council’s explanation of meaning of “credible evidence”
 - The “term indicates a higher standard [than reasonable grounds to believe], implying that the contractor will have the opportunity to take some time for preliminary examination of the evidence to determine its credibility before deciding to disclose”

Suspension and Debarment

- 2 CFR Part 180: guidance on Govt-wide debarment and suspension system for nonprocurement programs and activities
 - Federal agencies must have their own regulations consistent with this guidance
- Applies to “covered transactions” – defined by awarding agency
 - Transaction between agency and recipient, as well as lower tier transactions
- Causes of suspension
 - Indictment or adequate evidence to suspect commission of certain offenses
 - Adequate evidence to suspect any other cause for debarment
- Causes of debarment
 - Conviction or civil judgment for certain offenses or violations of law
 - Serious violations of public agreements and other miscellaneous causes
- Conduct can be imputed and exclusion can be applied to affiliates
- Exclusion under FAR system and nonprocurement system are reciprocal
 - Ineligibility under one system = ineligibility under the other system

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Jamie Tabb has a full-service government contracts practice, in which he represents contractors in bid protests, contract disputes, and other litigation. While focused primarily on federal contracts, Jamie also has experience at the state and local level. For over 18 years he has litigated bid protests at the Government Accountability Office (GAO) and Court of Federal Claims (COFC) and filed claims and prosecuted appeals at the Boards of Contract Appeals and COFC. Jamie also counsels contractors on regulatory and contractual compliance issues. He advises clients on the Federal Acquisition Regulation (FAR) and other agency-specific procurement regulations, the Small Business Administration (SBA) regulations, and statutes applicable to federal contracting including the Buy American Act and the Trade Agreements Act. He provides guidance to clients participating in mergers and acquisitions involving government contractors and assists companies with the process of mitigating Foreign Ownership, Control or Influence (FOCI) to obtain or retain a facility security clearance.

Experience Highlights

- Prepared and litigated a bid protest at the GAO challenging a U.S. Army contract award for intelligence support services in Afghanistan that was sustained by GAO in a written decision
- Played a leading role in negotiating the settlement of a dispute relating to a major Treasury Department information technology contract; V&E was negotiation counsel
- Successfully defended against a GAO bid protest of a U.S. Army contract for infrared weapon sights and enhanced night vision goggles
- Litigated a contract dispute relating to an undefinitized U.S. Air Force letter contract for Programmed Depot Maintenance on a C-130 aircraft at the Court of Federal Claims, and helped negotiate a settlement through mediation
- Assisted with the development of a plan to mitigate FOCI in connection with the acquisition of a prominent government contractor
- Advised a leading investment firm on the implications of acquiring a government contractor and the process of novating the contracts at issue
- Successfully defended against a GAO protest challenging the award to our client of a task order for video analysis in support of the National Geospatial-Intelligence Agency's counterintelligence operations
- Drafted a GAO bid protest of a U.S. Army Corps of Engineers contract award for personal services in Iraq that caused the Corps to take immediate corrective action; our client later won the re-competed contract
- Prepared a protest of a U.S. Air Force contract award for operation and maintenance of a remote radar system that caused the Air Force to take corrective action

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Tyler's practice focuses on all aspects of government contracting from procurement through performance. He regularly represents government contractors in litigation matters, including litigating bid protests at the Government Accountability Office (GAO) and the Court of Federal Claims (COFC); filing and responding to contract claims; prosecuting claim appeals at the different Boards of Contract Appeals; and litigating subcontractor dispute issues. Tyler also counsels and assists government contractors on contract and regulatory compliance matters involving the Federal Acquisition Regulation (FAR), agency supplemental acquisition regulations, and Small Business Administration (SBA) regulations. In addition, he also advises contractors and subcontractors on a broad range of government contract matters, including teaming agreement negotiations, subcontract formation and performance issues, organizational conflicts of interest (OCIs), ethics and procurement integrity laws, government and internal investigations, Cost Accounting Standards (CAS) compliance issues, and suspension and debarment proceedings.

Experience Highlights

- Assisted Fortune 100 contractor prepare and submit a damages claim under an Energy Savings Performance Contract (ESPC) to U.S. Army Corps of Engineers (USACE) for project cancellation, resulting in a settlement worth more than 90% of submitted claim amount within months of submission and despite USACE denying similar claims by other contractors and an adverse Armed Services Board of Contract Appeals decision in a related matter
- (GAO; COFC) — Assisted in numerous GAO and COFC protests involving high-value contract awards by multiple Defense and Civilian Agencies
- Lead associate representing defense contractor investigate and respond to allegations of violations of the Procurement Integrity Act (PIA) during the course of an ongoing procurement, which resulted in a positive outcome and eventual contract award for our client
- (CBCA) – Lead associate representing a Private Collection Agency in litigation against the Government for unpaid performance bonuses, which resulted in favorable settlement for client
- (E.D. Va.) – Represented defense contractor in investigation and litigation of trade secret misappropriation, breach of contract, and breach of fiduciary duty claims against former employee
- Assisted government contractor with responding to subpoena from the Office of Inspector General (OIG)
- (ASBCA) — Lead associate on several Contract Disputes Act (CDA) appeals collectively worth tens of millions of dollars for a major Defense Logistics Agency contractor

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Mike LaCorte has more than 19 years of experience in government contracts, accounting, auditing, and management consulting. Mike has led a variety of consulting engagements with grantees and contractors, including regulatory compliance and business system assessments, investigations and litigation support, cost and damage analyses, organizational restructurings, bid protests, due diligence related to mergers and acquisitions, management consulting, and other similar assignments. He routinely consults on requirements from the Federal Acquisition Regulation (FAR), FAR Supplements (e.g., the Defense FAR Supplement (DFARS)), the Office of Management and Budget (OMB) Uniform Guidance, and Cost Accounting Standards (CAS). Mike has also provided expert deposition testimony on generally accepted accounting principles (GAAP) and government contracting issues.



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