U. S. Small Business Administration

North Florida 8(A) & Business Development Quarterly

SBA North Florida
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FY 2010 SBA North Florida Calendar of Events:

Please visit www.sba.gov/fl/north

Helping small businesses start, grow and succeed.

SBA

Your Small Business Resource

Government Contracting was a huge Success for Small Business in FY 2009!!!

Major Group NAICS	FY08 # of Offers	FY08 $ of Offers	FY09 # of Offers	FY09 $ of Offers
11 - Agri, Forestry, Fish & Hunt	16	$5,682,124.00	9	$3,860,419.00
22 - Utilities	1	$700,000.00	2	$5,937,280.00
23 - Construction	136	$209,017,798.66	122	$170,620,596.25
32 - Mfg - Wood, Paper, Print, Petrol, Chemical			1	$10,340.00
33 - Mfg - Metal, Machinery, Equip, Plastic & Furn	11	$34,039,391.61	9	$8,161,989.05
42 - Wholesale Trade	4	$131,687.37	6	$1,865,060.52
48 - Trans & Warehousing	1	$3,000,000.00	3	$28,944,393.47
49 - Trans & Warehousing - Couriers & Storage			1	$51,263.00
53 - Real Estate & Rental & Leasing	1	$401,350.00		
54 - Prof.,Sci & Technical Service	39	$47,463,447.90	38	$241,947,162.28
56 - Admin & Support & Waste Mgmt	22	$33,544,595.77	24	$25,546,390.54
61 - Educational Services	2	$663,800.00	8	$5,391,137.04
62 - Health Care & Social Asst	2	$561,400.00	1	$183,406.00
71 - Arts, Ent & Rec			1	$3,500,000.00
72 - Accom & Food Service			1	$4,800,000.00
81 - Other Service	3	$2,600,380.00	1	$900,000.00
Grand Total	238	$337,805,975.31	227	$501,719,437.15

Federal Agency	FY08 # of Offers	FY08 $ of Offers	FY09 # of Offers	FY09 $ of Offers
Dept JF Kennedy Performing Arts			1	$120,000.00
National Aeronautics and Space Administration	1	$500,000.00		
U.S. Army Corps of Engineers	3	$28,000,000.00	2	$52,629,178.00
U.S. Defense Logistics Agency	1	$796,986.86	1	$27,126.00
U.S. Dept of Agriculture	11	$2,712,536.00	5	$3,621,140.00
U.S. Dept of Commerce/NOAA			1	$25,462.91
U.S. Dept of Defense-Joint Reserve Bases	6	$2,054,000.00	5	$609,611.00
U.S. Dept of Energy			1	$10,340.00
U.S. Dept of Education	1	$2,075,327.00		
U.S. Dept of Homeland Security	23	$11,269,993.47	14	$11,485,711.37
U.S. Dept of Housing and Urban Development	1	$27,500.00	1	$1,521,931.00
U.S. Dept of Justice	1	$900,000.00	1	$58,433.64
U.S. Dept of State	1	$3,500,000.00		
U.S. Dept of the Air Force	43	$60,161,948.04	45	$279,499,295.00
U.S. Dept of the Army	33	$110,583,138.00	32	$45,330,095.06
U.S. Dept of the Interior	26	$15,931,946.00	19	$5,207,519.58
U.S. Dept of the Navy	73	$87,641,947.60	82	$92,905,568.72
U.S. Environmental Protection Agency	3	$2,838,969.14		
U.S. General Service Administration	8	$4,561,883.20	14	$4,368,224.87
U.S. Marine Corps	3	$4,249,800.00	3	$4,299,800.00
Grand Total	238	$337,805,975.31	227	$501,719,437.15

SAVE THE DATE!

3rd Annual 8(a) Conference

August 9, 2010

Daytona Beach, FL

More Info to come soon!!!!

SAVE THE DATE!

PART 2!

7(j) Training,
Daytona Beach, FL

- Aug. 10 – 7(j) Training *Proposal Preparation*
- Aug. 11 – 7(j) Training *Government Contract Negotiations*
- Aug. 12 -7(j) Training *Federal Contracting and Government Contract Management*

More info coming soon!

WELCOME TO THE SBA's 8(a) PROGRAM!!

The following firms were accepted to the SBA North Florida 8(a) Program since April, 2009:

Clean Master Services, Inc., Jacksonville

Sweat, LLC, Pensacola

NR Electronics, LLC, Longwood

Power Solutions Electric, Inc., Jacksonville

Gulf Pacific Contracting, LLC, Bonifay

Santoni International Builders, LLC, Orlando

Lasa Construction, Inc., Jacksonville

Roderick Jimenez Interior Designer LLC dba RJ Studios, Orlando

Huey's Works, Pensacola

Florida Environmental & Land Service, Inc., Tallahassee

Taino Consultants, Inc., St. Augustine

Aztec Flooring Installation, Inc., Jacksonville

HDJ Security, Inc., Marianna

PQH Group, Inc., Jacksonville

Hydra Engineering, LLC, Crawfordville

Aya Associates, Inc., Maitland

Grand Coastal Builders, Inc., Pensacola

AMTIS, Inc., Orlando

AKEA, Inc., Newberry

Business IT Services, Inc., Orlando

Doctor Leak, Inc., Orlando

Paul Patrick Electric, Inc., Milton

Serene Software, Inc., Jacksonville Beach

Cameron Resources Group, LLC, Oviedo

Division 7 Waterproofing & Concrete Restoration, Inc., Jacksonville

Rhodes & Brito Architects, Inc., Orlando

Victors IT Services, Inc., Shalimar

Gestault Systems, Inc., Orange Park

Milan Engineering, Inc., Winter Park

Adsync Technologies, Inc., Pensacola

Dalpar Corporation, Fort Walton Beach

Freeman Design Group, Inc., Lake City

Mastone Consulting, Inc., Casselberry

WELCOME! Please help the SBA in welcoming Lisa Haggerty as the new Procurement Technical Assistance Representative (PTAC). Her office is located at the Small Business Development Center at the University of North Florida in Jacksonville. PTAC's specialize in assisting small businesses seeking to compete successfully in federal, state and local government contracting. For a complete listing of PTAC's, please visit http://www.aptac-us.org/new/

GET PREPARED! Hurricane season is around the corner! Business owners– be sure to review your contingency plan and if you need assistance, please be sure to check out the SBA's Webinar on Disaster Preparedness at www.sba.gov/fl/north! And for more information, visit www.sba.gov/disasterassistance.

E-Verify: Employment Eligibility Verification

From the Department of Homeland Security

E-Verify is the best and quickest way for employers to determine the employment eligibility of new hires. It is a safe, simple, and secure Internet-based system that electronically verifies Social Security numbers and employment eligibility information reported on Form I-9. E-Verify is voluntary in most states and there is not charge to use it.

As of September 8, 2009, employers with federal contracts or subcontracts that contain the Federal Acquisition Regulation (FAR) E-Verify clause are required to use E-Verify to determine the employment eligibility of Employees performing direct, substantial work under those federal contracts and new hires organization wide-regardless of whether they are working on a federal contract.

Visit us at www.youtube.com/ushomelandsecurity and view two videos designed for employers and employee portraying real-world hiring scenarios as part of our newly released Civil Rights initiatives.

If you are an employer or employee and would like more information about the E-Verify Program, Form I-9 and/or E-Verify for Federal Contractors visit www.dhs.gov/E-Verify or call (888) 464-4218.

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Mentor-Protégé Connection

In an effort to assist 8(a) program participants find a suitable mentor or protégé, the SBA North Florida District Office has developed this listing to identify firms interested in participating in SBA's Mentor Protégé Program. The listing provides the firm's basic contact information (company name, point of contact, address telephone, email address, website and firm's primary industry) to aide in the selection.

The list is divided into two listings; one list identifies firms whose interest is to participate as "protégé," and the second list firms interested in participating as "mentor." Interested Mentors and/or Protégés should select a prospective candidate, conduct the appropriate research, determine compatibility and make direct contact with the mentor/protégé.

To View the List of Interested Mentors/Protégés, Please Click HERE

FAREWELL!! The SBA North Florida District Office bides farewell to BDS John W. (Bubba) Doriety who retired after 20 continuous years of Federal civilian service this past February. John will dedicate his retirement time mostly to traveling and while in town he will divide his time between his passion for fishing and volunteering at the Wounded Warrior Project in Jacksonville. He is already missed! Please note map below for which BDS is now handling John's portfolio.

SUCCESS NEWS FROM YOUR COLLEAGUES

8(A) SUCCESS! A. Harold and Associates, LLC of Jacksonville, FL was recently awarded a $2.3 Million dollar contract to support the U.S. Army Program Executive Office Simulation, Training and instrumentation in Orlando. Congratulations to Andy Harold and A. Harold and Associates, LLC for your continued success!

MORE 8(A) SUCCESS! Congratulations to Pegine Echevarria! Pegine has been named the SBA's 2010 Women in Business Champion of the Year for the North Florida District & The State of Florida! Pegine will be honored at the May 13th Small Business Week & Lender Awards Luncheon in Jacksonville. www.sbdc.unf.edu

WHITING-TURNER

The Whiting-Turner Contracting Company has been awarded the "P-623 P-8A Integrated Training Center" located in the Naval Air Station of Jacksonville, Florida. As part of Whiting-Turner's efforts to support Small Business involvement, we would like to extend an invitation to all construction trades to submit proposals on all aspects of work for this project. For pre-qualification information, please contact Nathan Vose with Whiting-Turner at 407-370-4500 or email at nathan.vose@whiting-turner.com.

18TH ANNUAL SMALL BUSINESS WEEK CELEBRATION & LENDER AWARDS

MAY 13, 2010
11:30 AM TO 130 PM

UNF UNIVERSITY CENTER

JACKSONVILLE, FL

TO REGISTER, VISIT
WWW.SBDC.UNF.EDU

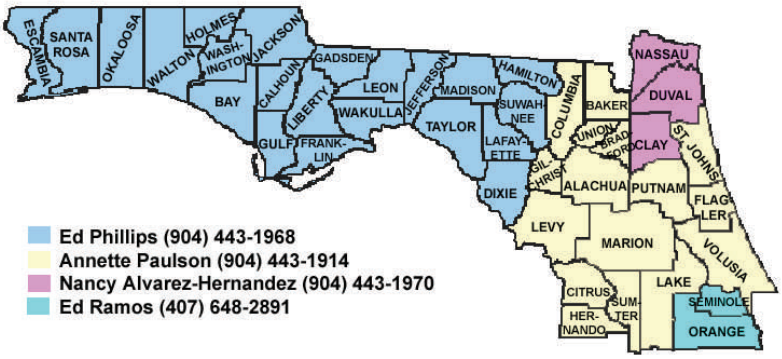
CHECK IT OUT!!

The SBA North Florida has posted a Listing of all participating 8(a) Firms in North Florida at www.sba.gov/fl/north

Helping small businesses start, grow and succeed.

SBA

Your Small Business Resource



The North Florida District Business Opportunity Specialists are here to Assist You in your Government Contracting

Maximizing Recovery Under Termination For Convenience:

Written By: Cef Otero, CPA.CITP, Otero & Associates, PLLC

Under the "Termination for Convenience of the Government" clause (FAR 52.249-2), the government may cancel the contract if their needs change in accordance with the above mentioned FAR clause. In return for this unique privilege it agrees to reimburse the contractor for certain costs. This article addresses what costs to claim with the intent of maximizing your recovery. Lack of understanding what costs to claim is one of the greatest deterrent for maximizing full termination settlement cost recovery.

The Basic Rules

The above clause and FAR Part 49 address terminations. The basic formula is that when a fixed price contract is terminated the contractor is entitled to recover (1) allowable costs incurred in the performance of the work (2) reasonable profit for work performed (3) reasonable settlement expenses and (4) certain continuing or post-termination costs. Recovery of these costs and profit are limited to the "total contract price" which can include the original price plus any equitable adjustments the contractor may be entitled to. If the government can prove the contract would have been completed at a loss, the contractor is not entitled to profit and its other termination costs (excluding settlement expenses) are subject to a loss adjustment that reduces the allowable cost by the percentage of loss. Moreover, profit cannot be claimed on settlement expenses.

Cost Principles

Because a contract termination is considered to cause the incurrence of certain costs that would not arise had there been no termination, the Federal Acquisition Regulation includes a "termination cost" principle (FAR 31.205-42) that is to be used in conjunction with the other cost principles of FAR Part 31. These unique costs, some of which we will discuss in detail later, include:

Common items.

These are items reasonably usable on contractor's other work which are usually not allowable unless the contractor submits evidence the items cannot be retained without sustaining a loss.

Costs continuing after termination.

These costs are allowable if the contractor took reasonable efforts to eliminate them. "Idle facilities and idle capacity" are examples of these costs.

Initial Costs

Initial costs not fully absorbed because of the termination are allowable. Examples include "starting load costs" such as learning curve and training as well as "preparatory costs" such as initial plant rearrangement and production planning.

Loss of useful value

Costs associated with special tooling and special machinery and equipment that now has no value to the contractor after the termination is allowable.

Rental costs under expired leases

Rental costs under unexpired leases are allowable for a reasonable period.

Costs of alterations of leased property

The costs of alternations of leased property are allowable when such alteration costs were considered necessary for performance of the contract.

Subcontractor claims

Subcontractor claims are generally allowable along with an appropriate share of the contractor's indirect expense.

Settlement expenses

Settlement expenses for preparing and presenting a termination claim as well as termination and settlement of subcontracts are allowable. These expenses include costs of in-house personal and outside experts such as consultants and attorneys. Remember, that profit cannot be claimed on settlement expenses.

Fair Compensation Doctrine.

The FAR cost principles are not to be applied strictly in determining allowability but are applied "subject to" the general principle that a contract whose contract is terminated for convenience is entitled to "fair compensation". This overriding principle states "a settlement should compensate the contractor fairly for the work done and the preparations made for the terminated portions of the contract, including a reasonable allowance for profit. Fair compensation is a matter of judgment and cannot be measured exactly. In a given case, various methods may be equally appropriate for arriving at a fair compensation. The use of business judgment, as distinguished from strict accounting principles, is the heart of a settlement" (FAR 49.201(a)). The strategies we discuss below for maximizing your termination settlement proposal is based on this "fair compensation" principle.

Determine whether Termination is really a Breach of Contract

If the termination is really a breach of contract, then the contractor is not limited to the cost recovery limitation specified under the Termination for Convenience clause. The contractor would then be entitled to anticipatory profits which is not allowable under the termination for convenience clause. Examples of a contract breach would be (i) the government fails to order the guaranteed minimum under ID-IQ contract is a breach unless the government terminated the unordered portion of the guaranteed minimum; (ii) the government fails to order all of its needs under the *requirements contract*; (iii) the prime contractor or upper-tier subcontractor terminates a subcontractor where subcontract lacks the termination for convenience clause.

Continued on page 5.....

Recovery Under Termination continued.....

Claim All Allowable Costs

Sometimes proposed costs are rejected because the government claims the contractor is not entitled to an equitable adjustment. Under an equitable adjustment, the contractor must show that the government caused the additional cost of performance (e.g. delay, acceleration). However, a termination for the convenience of the government essentially converts a fixed-price contract to a cost-reimbursement contract. Accordingly, the contractor is entitled to recover its allowable costs up to the contract value.

Charge Indirect Costs Indirectly

A termination often leaves the contractor in a position where if it uses its normal way of recovering indirect costs (applying an indirect rate to direct costs) it will not result in a fair compensation because such direct costs are not incurred. When this occurs, indirect costs may be charged as direct costs following the fair compensation principle. Numerous appeals boards have continuously permitted costs normally charged indirect to be charged directly for purposes of a termination. Of course, contractors must be careful to avoid double counting by removing these costs from the applicable indirect cost pools.

Some auditors and contractors have raised the issue that charging these normally indirect costs directly violates the FAR and CAS 402 requirements to treat like costs incurred under like circumstances consistently. However, several court decisions have ruled that a terminated contract is not considered to be incurred "in like circumstances" (AT&T Techs, Inc. v US, 18Ct 315).

Request an Equitable Adjustment for Non-terminated Work

If the termination is considered partial, then the contractor is entitled to an equitable adjustment associated with the increased cost of performance of non-terminated portion of contract. It is important to understand the difference because there is usually greater recovery for obtaining the equitable adjustment. Note the time requirements for an equitable adjustment is 90 days as opposed to one year for a termination.

Submit a Timely Proposal

A prime contractor in a traditional contract must submit its final termination settlement proposal to the government within one year of the effective date of the termination. The effective date is the date on which the notice requires the contractor to stop performance unless the notice is received after the stop work date in which case it becomes the date received.

Remember, you have one year to submit a termination settlement proposal and 90 day to submit an equitable adjustment. However, the period for submitting a proposal can be extended by the Termination Contracting Officer (TCO), prime or upper-tier sub but the request must be in writing before the deadline.

Professional Assistance

Contractor should seek the assistance of professional consultants in this area in order to maximize their recovery potential. The good news is that costs of professional help should not be a barrier because these costs are considered to be recoverable settlement costs, even when a contractor has no other termination costs to claim other than the fees for professional advice. If you need professional advice concerning a termination or any other government contracting cost, pricing, or any other financial matter seek a consulting that understands government contracting matters.

The firm of Otero & Associates, PLLC is a CPA firm that specialized in government contracting matters. The consultants are former Defense Contract Audit Agency (DCAA) auditors. This experience enables us to provide a high degree of technical expertise and professional government contracting advisory services tailored specifically to this industry. Now more than ever, contractors need a trusted advisor with solid strategies to maximize cost recovery and profits, while focusing on compliance in order to keep pace with today's rapidly changing regulatory environment. For additional information you may visit their web page at www.oterofirm.com or contact our office at (407) 834-3133.

Please visit www.sba.gov/recovery for the programs that are available now to you as small business owners. These include loan advantages, surety bond amount increases, microlending and much more! Stay tuned and for more information, please feel free to contact the SBA North Florida District Office 904-443-1900 or www.sba.gov/fl/north.