

## Federal Compliance from the Ground Up

At the base of every federal contract over \$50,000, there is the requirement for the federal contractor to be compliant with applicable labor laws. These laws are the equal employment opportunity (EEO) and the affirmative action provisions of their contracts. The Department of Labor's Office of Federal Contract Compliance Programs oversees and enforces these compliance requirements.

Once a federal contractor receives a contract with a value of \$5M (or more) which lasts at least 120 days, they must then comply with FAR Subpart 3.10 Contractor Code of Business Ethics and Conduct. These requirements are included by FAR Clause in the contractor's contract provisions. Requirements include that the contractor have a written code of business ethics with an internal training program and an internal control system that includes the display of an appropriate Hotline Poster for the reporting of fraud, waste or abuse by the contractor or its personnel. Most small business government contractors can meet federal compliance by meeting the requirements of these two areas.

However, once a contractor receives a "cost-plus" type contract, their accounting and timekeeping systems must be adequate for determining costs applicable to the contract or order, per FAR Subpart 16.3. This means that the contractor's accounting and timekeeping systems must, at a minimum, be able to: segregate costs as to direct and indirect, by contract, by contract line item if needed; and the timekeeping system must also distribute labor charges by direct and indirect and to appropriate cost objectives. The contractor's systems must also be able to segregate allowable from unallowable costs on a federal contract. At this point, the contractor should have written policies and procedures for both their accounting and timekeeping systems.

The next threshold for compliance typically occurs when contractors receive contracts that are covered by the FAR's Cost Accounting Standards (CAS). There are various levels of CAS coverage which are found in FAR Part 30. In general, once a contractor has received a contract of \$50M or more, they need to become familiar with CAS compliance. At this point, the contractor will be required to disclose their cost accounting practices and notify the government of any changes they make to those practices.

In addition to accounting system requirements, contractors with a contract with the Department of Defense or other executive agency which has adopted the DFARS Contractor Business Systems rules will also be required to meet certain requirements for their Purchasing Systems, Estimating Systems, Contractor Property Management Systems and, where applicable, Material Management Systems and Earned Value Management System. The requirements of each of these systems can be found in DFARS Subpart 242.70.

However, we have noticed that certain procurements out of the federal government, regardless of whether the resulting contract will be CAS covered or not, require the contractor to have an "approved" purchasing system. This means a purchasing system that meets the requirements established by the

Defense Contract Management Agency (DCMA) which are now part of the DFARS Business Systems rules.

If you are unsure of where you stand on your compliance, whether you need a Compliance Officer, or if your business systems are compliant, we can help. Watkins Meegan offers compliance reviews that will let you know where you stand and what you need to do to meet your compliance requirements. Contact Alec Ronin at [Alec.Ronin@WatkinsMeegan.com](mailto:Alec.Ronin@WatkinsMeegan.com) or Rebecca Kehoe at [Rebecca.Kehoe@WatkinsMeegan.com](mailto:Rebecca.Kehoe@WatkinsMeegan.com).

