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# THE LATEST IN IDIQ CONTRACTS

PCI

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# WHY DO FEDERAL AGENCIES USE MA IDIQ CONTRACTS TODAY?

- Speed
  - Weeks vs. Months
  - More Manageable Competitions
- Pre-Selected Contractors
  - Vetted for Experience and Financial Stability
- Ability To Meet Small Business & Other Specialized Goals
  
- Ability to Obtain Real-time Pricing
- Non-Schedule IDIQ's Are Protest-Resistant
  - Only Task Orders Above \$25M Can be Protested
- Can Buy Directly or Through Assisted Acquisition Services

# IDIQ CONTRACTS & THE 4<sup>TH</sup> QUARTER

- Bloomberg Government Estimated That Up to 66% of FY'23 Q4 Buys Were Made Through IDIQ Contracts
- Particularly Important for IT and Professional Service Companies, & Any Company Selling Commercial Items
- Partner With Those Who Do If You Do Not Have One

# CURRENT IDIQ CHALLENGES

- How Will IDIQ'S Be Shaped by the Better Buying Initiative?
  - Downward Pricing Pressure, Enterprise-Wide Software Agreements
- Trend Toward Larger Number of Contractors Per Vehicle
  - On and Off-Ramps, Small Business Teams, Some IDIQ's With Low Entry Requirements
- Potential For Small-Business Set-Aside Dominance
- Protests At Every Phase
- Government Moving At Speed of Need, Yet It Takes 4-5 Years to Put A Big, Multi-Agency IDIQ (GWAC) In Place
  - Innovation Labs, OTA's, SBIR/STTR, Etc.

# MAJOR CHALLENGE

- How To Score Past Performance for JV's and Mentor-Protégé's
- This Is the #1 Protest Issue for Both NIH and GSA
- Who Did What and When Counts, but How It Counts Keeps Changing
  - GSA Is Trying To Address This on Polaris, But Is Limiting Updates to Those That Already Submitted Bids By the Original Deadline
- Bottom Line: All Members of a Team or Joint Offer Should Have Relevant Experience. Procuring Agencies Should Make That Clear
- This Does, In Fact, Mean That Not All IDIQ's Are Appropriate For New Market Entries, At Least At the Prime Level

# NEW – OR NEWLY REFURBISHED – IDIQ'S COMING SOON

- NIH CIO SP IV – Will It Ever Make It Out of the Protest Desert?
- GSA Polaris – See Above
- GSA OASIS+ - Offers Being Reviewed Now. Awards Coming in Early CY 2024
- GSA Alliant 3 – RFP Expected Any Time Now
- NIH CIO CS – Next Iteration of NIH's Product-based IT IDIQ
- NASA SEWP VI – RFP in “2024”, Awards Estimated 5/1/25

# SOME OTHER MAJOR IDIQ'S

- GSA Schedule Contracts
- GSA Vets Program
- Army ITES
- Navy Seaport-E Enhanced
- Air Force NetCents 2\*
- Multiple, Specially-Purposed DOD IDIQ's
  - Logistics
  - Healthcare

# SO, WHAT ARE WE TALKING ABOUT HERE, DOLLAR-WISE?

- GSA & VA Federal Supply Schedule Sales = \$57B – 5.5% Increase From FY'21 and 17.5% Since FY'20
- NASA SEWP – Sales More Than Doubled from FY'18-'22 - \$10.5B in FY'22
- Seaport Enhanced & Next Gen = \$6.B – Decrease of 6% From FY'21, but 3.4% Above 5 Year Average
  - Business Now Transitioning to Next Gen
- GSA OASIS (small and large) = \$12.1B – 20% Increase In EACH of the Past 2 Years



# MORE TOP GWAC/IDIQ PROGRAMS

- \*CIOSP 3 (small and large) = \$4.0B – **11% Increase**
  - CIOSP 3 Extended Till April 2024
  - CIOSP 4 Awards Coming Next Year??
- GSA Alliant2 = \$6.513B - **35% Increase!**
  - Second Alliant 3 Draft Expected Soon
- Army ITES IV (Hardware, Software, Services) – **Total Value Expected to be \$475M – This is Actually a Decrease from the Current Program**
  - GAO recently told the Army to “try again” over protests

# TYPES OF ACQUISITION METHODS

- Cost Plus
  - Make Sure You Have a Compliant Cost Accounting System
- Firm, Fixed Price
- Time & Material Labor Hour
- Not all Contracts Have the Same Buying Options
  - Look Before You Choose
- While FFP is Preferred, Other Methods Are Widely Used

# WHEN CAN I GET ON THESE VEHICLES?

- Must Respond to RFP At Origination Or During an On-Ramp
  - Most Companies Track These Opportunities Several Years in Advance to be Prepared
  - OASIS+ Is Promising Frequent, Perhaps Open, On-Ramps After Initial Awards Are Made
- Only the GSA Schedule Program Is Continually Open to New Offers
  - GSA Is Working With the SBA To Increase 8(a) Participation
- Some IT Companies Will Allow You to Sell Through Their Vehicle
- Another Alternative is To Partner With a Company That Has One or More

# SOME KEY COMPLIANCE CONSIDERATIONS

- Make Sure You Understand What It Takes to Comply
  - There Are Requirements Even as A Subcontractor
- Invest In Education and Infrastructure to Ensure You Can Implement the Necessary Practices & Processes
- Remember That Compliance IS Pennies on the Dollar
- Never Assume Your Customer Has All of the (Right) Answers

# IDIQ ORDERING RULES

# PRODUCT & NON-SOW SERVICE ORDERING METHODS

- These Procedures Apply Up To the Simplified Acquisition Threshold - \$250,000
- Examine At Least 3 Price Lists Or Conduct Market Research
- Make A Best Value Purchase Decision
- Purchase

# PURCHASING SOW SERVICES UP TO THE SAT

- Develop Statement of Work
- Solicit As Many Contractors As Reasonable to Obtain At Least 3 Bids in Return
- Evaluate Offers Received
- Make A Best Value Determination
- Purchase

# ALL PURCHASES OVER THE SAT

- Develop Statement of Work & RFQ For Services – Non Services, Develop RFQ
- Send Statement of Work To As Many Companies As Reasonable to Obtain 3 Offers OR Post on E-Buy System (For GSA Contracts)
- If Less Than 3 Received, Document File On Steps Taken To Ensure Competition, Wait Till The “Magic Third” Offer is Received, OR Offer Fair Opportunity to Bid to Call Contractors on the Selected IDIQ, Or It’s Relevant Part
- Evaluate Offers
- Make Best Value Determination
- Purchase



# SMALL BUSINESS IMPLICATIONS

- Agencies Learned Lesson The Hard Way When Trying To Unify Large and Small Contract Vehicles
  - CIOSP IV
  - OASIS+ Planning
    - GSA Separated OASIS+ Into Multiple Contracts
- Wider Use of Small Business Teams
  - More Small Business Contractors
  - More Contractors Overall on a Given IDIQ
  - Challenge: How Do Agencies Score Experience of Each Team Member? Does Each Member Have To Bring Experience to the Table? If so, What Kind?
- Understand Small Business Subcontracting Requirements
  - Contract Specific vs. Company-wide
  - Can You Achieve the Goals?

# POTENTIAL FOR SET-ASIDE ISSUES

- Delex
  - GAO Protest
  - Two or More Small Businesses on an IDIQ = Set-Aside
  - Agencies Issued Written Exceptions to their Contracts
- Tolliver
  - Court of Federal Claims
  - Rule of Two Must Be Considered Before Any Acquisition, Schedule Buys Excluded
- Kingdomware
  - Supreme Court
  - SDVOSB's and VOSB's Must Get First Opportunity at The VA
- Central Key Question: When Are Funds Obligated? When Is an Acquisition a “Contract”?

# IS IT AN IDIQ OR A BPA?

- Some IDIQ Contracts Are Really Based on Other Contracts Spun Into a Program
  - Air Force, DHS, and Army All Have Programs That Look Like IDIQ's, but are Schedules-based Blanket Purchase Agreements (BPA's)
  - Companies Must Have the Underlying Contract In Order to Bid for the Subsequent BPA-based Contracting Program
  - Makes Having A GSA Contract Important for More Than Just "Regular" Business

# A QUICK WORD ON CTA'S

- Contractor Teaming Agreements (CTA's) Are Often Used By Small Businesses To Come Together and Bid on an IDIQ
- FAR 9.6 Governs These Types of Teaming Agreements
- Some Courts Believe That These Agreements Are Dubious In Nature
  - Make Your Language Specific!
- **NB:** GSA Schedule Teaming Agreements **ARE NOT!** Regulated By FAR 9.6.
  - See FAR 8.4

# PROTESTS AND IDIQ CONTRACTS

- Will Protests Kill IDIQ Contracting Overall?
- The Street Is Becoming Increasingly Littered With the Corpses of SB IDIQ Contracts As A Result of Protests
  - GSA Alliant II SB - RIP
  - NIH CIOSP IV – Stabbed, Shot, and Bleeding.
  - GSA Polaris – Tasered, Poisoned, Left to Drown.
- The Government Is Wary About Creating Additional IDIQ's Over This Specific Issue
  - Protests tie-up Resources and Slow Down Progress
- Can Delay Contract Start
- Ironically, Task Orders, Except for Those on a GSA Schedule, Are Protest Resistant.

# TEN TIPS FOR DEVELOPING A SUCCESSFUL IDIQ PRACTICE

- Develop and Execute a Focused Business Plan
- Don't Try to Be Everywhere in the Federal Space At Once
- Make Sure You Know How Your Customer Can Use the IDIQ To Buy
- Have "Both Feet" In the Federal Market
- Recognize the Four Different Decision-makers: Customer, Customer's Supervisor, Contracting, and Finance
- Definitely Consider Partnering With Specialized & Experienced Companies
- Take Advantage of Free Info. Resources: Federal News Network, Defense News, Government Exec, etc.
- Use Associations for Networking, Information & Relationship Development
- Dedicate the Time and Resources Necessary
- Make Sure You Comply With IDIQ Rules

# KEY FACTORS TO CONSIDER WHEN SELLING VIA AN IDIQ

- Never Make Your Customer Play “52 Contract Pick Up”
  - Have 1-3 Preferred Vehicles and Be Ready To Explain Why They Work For Your Customer
- Has Your Customer Used This Vehicle Before?
- Who Has Sold To Them Before?
- Know What Is In Scope and Out of Scope on Each Vehicle
- Know the Contract Access Fee
  - AND Whether the Managing Agency Has Negotiated a Lower Fee for A Specific Customer
- Follow E-Buy, Especially at FY End

# THE ROLE OF ASSISTED ACQUISITIONS IN IDIQ CONTRACTING

- About 60% of GWAC/ MA IDIQ Buys Are Direct Between Customer and Contractor; 40% Are Done Via Assisted Acquisition Services
- Agencies Must Be Authorized By the GWAC/IDIQ Managing Agency to Buy Direct
- Contractors Definitely Need to Have Established Relationships With Assisted Service Organizations & Understand How They Work



# SO, HOW DO THEY WORK?

- All Are Fee-For-Service Organizations
- They Manage The Buy For Your Customer, Yet Contractors Will Bring Business to Them (No Assurance That You Get the Contract, Though)
- Major AAS Agencies Include: GSA, Interior Business Center, and NIH NITAAC. Many Have Specialties. All Have Time-Sensitive Deadlines at Year-End.

# TO SUM IT UP

- IDIQ's Are A Popular Method of Acquisition, But Have Some Challenges
- Ease of Use and Protest Resistance Are Plusses
- Don't Assume Your Customer Knows How to Use The IDIQ
- Be Committed to A Federal Market Approach
- Stay Compliant With IDIQ Requirements
- Engage With IDIQ Management Agencies During Contract Creation
- Team With Experienced Partners
- Understand the Role of Assisted Acquisition Services
- Stay Focused, But...
- Maintain a Sense of Humor

# QUESTIONS/DISCUSSION/THANK YOU!

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