Welcome to CON 090-3

Contract Formation in the FAR
Don’t Forget about Your On-line Course Resources

www.contractingacademy.gatech.edu/con-090-student-resources
Remember Our Course Design

• 4 Modules of Instruction
  – Module 1
    • Contracting Overview: FAR 1-4, 32-39, 41, 52, 53
  – Module 2
    • Contract Planning: FAR 5-12, 16, 19, 22-26
  – Module 3
    • Contract Formation: FAR 1-2, 5-6, 9, 13-15, 19, 33, 52
  – Module 4
    • Contract Administration: FAR 27-29, 32, 33, 42-51
Objective of Module 3 – Contract Formation

Learn the policies and procedures for soliciting offers and making awards

- Contract Formation Principles
- Solicitation of Offers
- Bid Evaluations
- Proposal Evaluation and Exchanges with Offerors
- Contract Award
- Protests
- Simplified Acquisition Procedures
CON 090-3
Contract Formation
Introduction
General Principles of Contract Formation

- **Promises** come in many varieties and bear on almost every aspect of human endeavor.
- Even in an age touched by cynicism, the trait of *keeping your word* is still valued highly.
- A complex society necessarily requires us to *rely upon each other*, and part of that is having confidence that a promise will be kept.
- In a complex economy, the importance of *keeping a promise* is heightened, in that failure of one party to keep his or her promise can harm the other party.
- The basic purpose of contract law is to identify those promises which will be enforceable in a court of law and distinguish them from those promises which a court will not enforce.
A Contract:

- Is a promise or set of promises which, if breached, the law will remedy; the law will recognize a duty to carry out the promise.
- Spells out the duties and responsibilities of each party to the contract.
  - If a party fails to perform, the law will step in and provide to the party that is harmed a remedy.
  - The definition of a contract recognizes the duty of both parties and thus, the courts will fashion an appropriate remedy for the failure.
Role of the Contracting Officer

• The Contracting Officer must “ensure that contractors receive impartial, fair, and equitable treatment.” FAR 1.602-2(b)

• Since the Contracting Officer has the power to dictate contract terms of a government contract and the execution of the work, the Contracting Officer must always balance the duty to get the best deal for the government against the obligation to act fairly with respect to the contractor.
# Outline of Module 3, Contract Formation in the FAR

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Lesson 1: Contract Formation Principles

- What contract formation involves.
- What a solicitation, an offer, and a contract are.  
  FAR 2.101
- What a contract under common law is.
- How the principles of mutual assent, consideration, capacity, lawful purpose, certainty of terms, and legal form apply.
- The Contracting Officer, authority to enter into contract, and unauthorized commitments.  
  FAR 1.602-1(a)&(b), 1.602-3(a)
Lesson 2: Solicitation of Offers

- Use of the *Uniform Contract Format (UCF)*, *solicitation provisions* and *contract clauses*, and how to use them.  
  FAR 2.101 and 52.101

- Characteristics of *contract line items* and *sub-line items*.  
  DFARS 204.7103-1(a) and 204.7104-1

- Difference between an *exhibit* and an *attachment*, and the purpose of an *accounting classification reference number (ACRN)*.  
  DFARS 204.7101

- What a *prescription* is.  
  FAR 52.101(c)

- The *FAR Matrix*, *alternates* and *deviations*.  
  FAR 52.101(e)
Lesson 3: Bid Evaluations

- **Responsiveness of bids**
  - FAR 14.301

- **Procedure for opening bids**
  - FAR 14.402

- **Cancelling an IFB or rejecting a bid**
  - FAR 14.404-1,2

- **Informalities, irregularities, mistakes**
  - FAR 14.405, 14.407
Lesson 4: Proposal Evaluation and Exchanges with Offerors

- **Proposal evaluation process**
  
  FAR 15.305, DFARS 215.305

- **Deficiency and revision**
  
  FAR 15.001

- **Exchanges with offerors and revisions**
  
  FAR 15.306, 15.307, DFARS 215.306

- **Clarifications, communications and discussions**

- **The competitive range**
  
  FAR 15.307 (b)
Lesson 5 – Contract Award

• **Responsible prospective contractor**  FAR 2.101
• **Responsibility standards**
  FAR 9.103, 9.104, DFARS 209.104
• **Special standards of responsibility**  FAR 9.104-2
• **FAPIIS**
• **Pricing and award policies**  FAR 15.402, 14.408, 15.504
• **Source selection**  FAR 15.308, 15.503, 15.504
• **Pre- and post-award debriefings**  FAR 15.505, 506
• **Synopsis of award and announcement**  FAR 5.301, 5.303
Lesson 6: Protests

- Protest and interested party  
  FAR 33.101

- Protest filing *fora, timeliness, handling, resolution, and suspension of performance*  
  FAR 33.103, 33.104

- Protests involving *small business representations*  
  FAR 19.302
Lesson 7: Simplified Acquisition Procedures

- What *simplified acquisition procedures* are and when they are *authorized*  
  FAR 13.002, 13.003(a)

- *Quotations and offers*  
  FAR 13.004

- *Competition requirements*  
  FAR 13.104, 13.106

- Governmentwide commercial purchase card  
  FAR 13.301 and DFARS 213.270, 213.301

- *Purchase order, BPA, SF44*  
  FAR 2.101, 13.303-306

- *Imprest funds, third party drafts*  
  FAR 13.001, 13.305-3, and DFARS 213.305
## Next Week’s Schedule

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See schedule on page 5 of Module 3 of Student Guide.
## CON 090-3 – Homework & Quiz Planning

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<th>Day</th>
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<th>Quizzes and Homework Assignments</th>
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<tr>
<td>1</td>
<td>1, 2</td>
<td>Lesson 1: Contract Formation Principles</td>
<td>Homework: Using FAR Parts 14 &amp; 15, DFARS Part 204, and DFARS PGI 204.7105, complete Quick Review, Uniform Contract Format, and Uniform CLIN System questions on pages 21&amp;22 of Student Guide.</td>
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| 2   | 6, 14, 15, 52 | Lesson 2: Solicitation of Offers | Quiz #7  
Homework: Complete Lesson Activity – Submission of Offers, on pages 35 & 36 of Student Guide. |
| 3   | 14        | Lesson 3: Bid Evaluations |  |
| 3   | 6, 14, 15, 52 | Lesson 4: Proposal Evaluation and Exchanges with Offerors |  |
| 3   | 2, 5, 9, 14, 15, 16 | Lesson 5: Contract Award | Quiz #8  
Homework: Complete questions 1 through 11 in Lesson 6 on pages 57-58 of Student Guide. |
| 4   | 15, 19, 33 | Lesson 6: Protests |  |
| 4   | 2, 6, 13  | Lesson 7: Simplified Acquisition Procedures (SAP) | Quiz #9  
Homework: Prepare for CON 090-3 Exam. |

*More details on page 6 of Student Guide.*