

# PTAC Link

PROCUREMENT TECHNICAL ASSISTANCE CENTER – CONNECTING BUYERS & SUPPLIERS

Progress Through Regional Cooperation In The Alleghenies

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### Government Contracting 101 Classes Ramping Up For 2015

The Southern Alleghenies PTAC is pleased to announce our presentation of "Government Contracting 101" in each of the counties we serve. The Government Contracting 101 class is a FREE half-day training event that will give businesses an idea of what it takes to get into contracting with Federal, State, and Local governments, and resources provided by the PTAC. We have previously presented this class in 2013.

If you are interested and would like more information, please visit the event you are interested at the links below:

[Fulton County](#) - McConnellsburg, VFW, April 15th 9:00 AM to 12:00 PM

[Blair County](#) - Devorris Ctr. for

## Call the lawyers: Here are the real reasons why contract award protests are on the rise

It's no secret that more contract awards are getting protested. But it might be a little too simplistic to chalk it up to desperation among contractors that see opportunities dwindling.

Don't get me wrong, that is one reason why the numbers are increasing - [by 5 percent in 2014, as I reported in November](#). But a panel of procurement experts pointed to a couple other reasons: more missteps by a more inexperienced government acquisition workforce, and the disintegration of the "protest stigma" that once existed in the industry.

In the case of the former, [John Lubratich](#), chief financial officer at Herndon-based ViON Corp., noted one example where an award was supposed to be sole sourced to single company, only to morph into a competition among select companies that held contracts under a specific procurement vehicle. Multiple companies protested, arguing they should've been given an opportunity to compete, and the agency opted to take corrective action and start over.

"It was a bait-and-switch," Lubratich said Wednesday at a panel discussion hosted by the Washington Business Journal and Baker Tilly. "So often the IT side [of the agency] knows what they want. But then it goes to the contracting shop, who takes a left turn. It's a difficult situation. We're going, 'What happened?' and the natural response is 'Call the lawyers.'"

This disconnect has become more pronounced with the dwindling federal acquisition workforce, the panel noted, which has led to hiring of contracting officers with less experience.

Somewhat telling is the fact that of 2,561 protests filed in 2014, only 556 progressed to an actual decision. The rest were resolved before it came to that, typically by agencies opting to take corrective action in response to the protest rather than defend the protest on the merits.

Considering that fact, "it's not tough or illogical step to file a protest if you've lost a procurement that is strategically important," said [Rich Rector](#), partner and government contract chair at law firm **DLA Piper** LLP.

Business Development (Altoona), May 6th, 9:00 AM to 12:00 PM

[Bedford County](#) - BCDA Offices (Bedford), May 15th, 9:00 AM to 12:00 PM

**Huntingdon County - Date and Location to be determined; Stay Tuned!**

If you have any questions, please don't hesitate to contact us at [ptac@sapdc.org](mailto:ptac@sapdc.org), or 814-949-6528814-949-6528.



The Southern Alleghenies PTAC would like to say Happy Spring to all of it's clients/contacts.

The PTAC is ready for any issues or questions that you may encounter while dealing your government contracts.

Any concerns please direct them to:

James Gerraughty, PTAC  
Program  
Manager  
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(814) 949-6528

**OFPP: Contractors can rate transactions with agencies using new digital platform**

Contractors will now be able to rate their transactions with federal agencies to help those agencies improve the procurement process, says OFPP Administrator Anne Rung in a March 18 memo.

And these days, the fear of getting blackballed by an agency for protesting an award decision has diminished, in part because agencies rarely run their own contract competitions. The growth of large, governmentwide procurement vehicles has made the whole process far less personal, said [Kevin Plexco](#), vice president of information solutions at [Delteck Inc.](#) in Herndon.

"The market has changed; the stigma of protesting is not what it used to be," he said. "Contracts are awarded by acquisition shops, not the actual agencies doing the buying. So if you protest, you're not suing the customer - you're suing this contracting organization. Combine that with the high stakes of the awards, and companies are far more willing to call out a contracting officer."

*Article posted courtesy of  
Jill R. Aitoro*

**Mentor-Protege For All: SBA Proposes "Universal" Mentor-Protege**

The SBA has proposed to establish a government-wide mentor-protege program available to all small businesses.

In a [proposed rule](#) released yesterday, the SBA proposed to establish a single, "universal" mentor-protege program, open to all small businesses, not just those with certain socioeconomic designations. And critically, the SBA's proposed mentor-protege program would allow SBA-approved mentor-protege joint ventures to qualify as "small" for any federal government prime contract or subcontract-a benefit currently available only to 8(a) companies.

In 2010, Congress gave SBA the authority to create mentor-protege programs for SDVOSBs, HUBZones, and WOSBs. In the 2013 National Defense Authorization Act, [Congress authorized the SBA to create mentor-protege programs for all small businesses](#), but did not mandate that SBA do so. The 2013 NDAA also directed the SBA to establish regulations governing mentor-protege programs offered by other procuring agencies (except DoD's mentor-protege programs could become confusing to the public and procuring agencies and hard to implement by SBA.)

The SBA proposes to continue operating a separate 8(a) mentor-protege program. However, the SBA proposes to "make the small business mentor-protege program identical to the 8(a) mentor-protege program."

Some important specifics of the SBA's proposal are as follows:

- *Eligibility of Mentor.* Under the proposed regulations, "any for-profit business concern that demonstrates a commitment and the ability to assist small business concerns may be approved to act as a mentor and receive the benefits of the mentor-protege relationship." SBA proposes to disallow non-profit entities from serving as mentors.
- *Eligibility of Protege.* A firm would not be eligible to serve

OFPP will use a tool called Acquisition 360, which Rung says is the first ever transaction-based feedback tool that allows agencies to identify strengths and weaknesses in their acquisition processes, according to the memo.

The [memo](#) instructs agencies to use the Acquisition 360 platform to seek feedback from vendors and internal stakeholders - such as contracting officers and program managers - on how well certain high-dollar acquisitions perform.

But the effort to rate the contracting experience isn't about calling out individual federal employees, Rung says.

"This effort is not intended to be used to rate individual contracting officers, program managers, or integrated project teams, or to compare procuring offices generally, as the complexity of procurements varies greatly among agencies, and unexpected challenges can arise," Rung says in the memo.

Agencies have one month to identify at least two of their largest IT contracts or task orders awarded within the past six months for the first survey.

*Article posted courtesy of  
Ryan McDermott*

## **FAR prohibitions on human trafficking took effect March 2, 2015**

The Federal Acquisition Regulations (FAR) Council has published the a [final rule](#) implementing Executive Order 13627 and title XVII of the National Defense Authorization Act of 2013, requiring contractors on federal contracts to certify, both prior to award and annually, their human

as protege unless it qualifies as a small business under its primary NAICS code. Further, instead of accepting self-certifications of size, the SBA will "verify that a firm qualifies as a small business before approving that firm to act as a protege in a small business mentor-protege relationship."

- *Number of Proteges.* Generally, "a mentor participating in any SBA-approved mentor-protege program will have no more than one protege at a time." However, the SBA may authorize up to three concurrent proteges if the mentor "can demonstrate that the additional mentor-protege relationship will not adversely affect the development" of any of the proteges.
- *Number of Mentors.* Generally, a protege "will have no more than one mentor at a time." However, the protege "may have two mentors where the two relationships will not compete or otherwise conflict with each other and the protege demonstrates that the second relationship pertains to an unrelated, secondary NAICS code, or the first mentor does not possess the specific expertise that is the subject of the mentor-protege agreement with the second mentor."
- *"One-or-the-Other" Rule.* Under the proposed rule, a company would not be able to serve as both a mentor and protege at the same time. However, the SBA is specifically seeking comments about whether this restriction make sense.
- *Written Agreement.* The proposed rule would require the mentor and protege to execute a written agreement "identifying specifically the benefits intended to be derived by" the protege.
- *SBA Approval.* The proposed rule requires that the SBA approve the written mentor-protege agreement before the mentor and protege may receive any benefits under the mentor-protege program.
- *Annual Review.* Under the proposed regulation, the SBA would review the mentor-protege agreement annually to determine whether to approve its continuation for another year.
- *Limited Duration.* The proposed rule specifies that a single mentor-protege agreement will be limited in duration to three years.
- *Equity Interest.* The proposed regulations would allow a mentor to a small business to own an equity interest of up to 40% in the protege firm in order to raise capital for the protege.

Perhaps most critically for small businesses and large businesses alike, the proposed rule provides that "a protege may joint venture with its SBA-approved mentor and qualify as a small business for any Federal government contract or subcontract, provided the protege qualifies as small for the size standard corresponding to the NAICS code assigned to the procurement." The rule would allow mentor-protege joint ventures to qualify as "small" for any socioeconomic subcontract for which the protege qualified. So, for example, a joint venture between a SDVOSB protege and its SBA-approved large business mentor would qualify for a SDVOSB set-aside contract.

Finally, instead of establishing guidelines for other agencies' mentor-protege programs, the SBA is seeking comments as to whether there will be a "continuing need for other small business

trafficking compliance and monitoring. The Final Rule prohibits contractors from:

- engaging in severe forms of human trafficking during a period of performance of the contract,
- procuring commercial sex acts during the period of performance of the contract,
- using forced labor in the performance of the contract,
- destroying, concealing, confiscating or otherwise denying employees' access to identity or immigration documents,
- engaging in fraudulent or misleading recruitment practices,
- employing recruiters that violate the labor laws of the country where the recruitment takes place,
- charging recruiting fees,
- failing to provide return transportation to an employee who is not a national of the country where the work is to take place, subject to limited expectations,
- providing housing, if required, that fails to meet host country safety or housing laws, and
- failing to provide a written work document, if required.

The Final Rule is broadly applicable to all Federal contractors and subcontractors, regardless of contract type or dollar amount, including contractors providing commercial items, commercially-available off-the-shelf items, or goods on General Service Administration (GSA) Federal Supply Schedules (FSS). In addition, certain contractors providing

mentor-protege programs once SBA's various mentor-protege programs are implemented." The SBA suggests that many agencies' mentor-protege programs may essentially become obsolete in the event that SBA's "universal" mentor-protege program takes hold.

It is difficult to understate the potential impact of this proposed rule. On the one hand, many non-8(a) small businesses will be thrilled that SBA-sanctioned mentor-protege relationships may soon be available to them, and eager to begin establishing mentoring relationships with large companies. 8(a) participants, on the other hand, may be concerned that one of the most important, unique benefits of the 8(a) program—the ability to joint venture with a large mentor—will no longer be so unique.

Meanwhile, small businesses without an immediate opportunity to "land" a large business mentor may wonder whether the lack of a mentoring relationship will adversely affect their competitive standing. In this regard, it is worth asking: If mentor-protege joint ventures become commonplace across all set-aside procurements, will agencies become reluctant to award contracts to stand-alone small businesses?

These questions, and many, many more, will undoubtedly be asked and debated as this proposed rule moves forward. It is important to note that this is only a proposal and that the final rule may vary (perhaps considerably) from the initial version. Public comments are due by April 6, 2015.

*Article posted courtesy of  
Steven Koprince*

## About Us

The PTAC at SAP&DC is an economic development entity that bridges the gap between supplier and buyer in the government marketplace. The PTAC stands ready to support businesses in the Alleghenies region in their pursuit to secure contracts with local, state and/or federal government agencies nationwide by:

- Identifying niche government markets and specific contract opportunities
- Assisting with bid and proposal preparation
- Preparing the required vendor registrations
- Navigating your company through the requirements and procedures of government contracting
- Enhancing competition by obtaining applicable socio-economic certifications
- Providing guidance to ensure successful post-award contract performance

**Due to the generous support of our Commonwealth and Federal funding partners, services provided by the PTAC are free of charge.**

Whether you are an experienced contractor or new to the government marketplace, the PTAC will provide one-on-one counseling utilizing the following program resources

goods and services abroad will be required to make new certifications and implement compliance plans. Failure to comply may result in financial penalties, termination for default, suspension or debarment, and potential litigation, including false claims suits.

This Final Rule will become effective on March 2, 2015. The FAR Council has recommended that Contracting Officers to include the Final Rule in Indefinite Delivery/Indefinite Quantity (IDIQ) contracts with task orders remaining after March 2 through bilateral modification, so both new and existing contracts will be subject to the Final Rule after that date.

To supplement and implement the new FAR provisions in Department of Defense (DoD) contracts, DoD is issuing a final rule in the form of its Defense Federal Acquisition Regulation Supplement (DFARS) at Subpart 252.235-7004. In addition, DoD Procedures, Guidance and Information (PGI) can be found at [PGI 222.17](#).

*Article posted courtesy of Georgia Tech Procurement Assistance Center*

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To take advantage of the services and resources provided by The PTAC at SAP&DC, complete the [New Client Sign-Up form](#).

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