

# PTAC Link

PROCUREMENT TECHNICAL ASSISTANCE CENTER – CONNECTING BUYERS & SUPPLIERS

Progress Through Regional Cooperation In The Alleghenies

Issue No.  
12-15

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We here at the Southern Alleghenies PTAC wish all of our clients and stakeholders a warm and happy holiday season! We also look forward to serving you in 2016! Happy Holidays!

Sincerely,  
James, Brandon & Gloria

## SBA Moving Closer To "Universal" Mentor-Protégé Implementation

The SBA is moving toward implementing its [proposed "universal" mentor-protége program](#) for all small businesses.

According to [testimony](#) presented

## Offeror's Winning Bid of \$0.00 Was Acceptable, Says GAO

Under certain circumstances, the winning bidder on a fixed-price contract may offer \$0.00.

In a recent decision, [LCPtracker, Inc., eMars, Inc., B-410752.3 et al \(Sept. 3, 2015\)](#), the GAO held an offeror submitting a zero-dollar offer (that is, an offer for \$0.00) was eligible to receive a fixed-price contract because both the Government and the contractor would receive benefits under the contract.

In *LCPtracker*, the Department of Housing and Urban Development sent a solicitation for web-based payroll tracking services to three small businesses: eMars, Inc., LCPtracker, Inc. and Elation Systems, Inc. The successful offeror was to provide web-based services for over 6,000 users dispersed throughout the nation. The solicitation did not request technical proposal submissions, only price quotations. HUD planned to pay for the entire service, which meant offerors would not be able to charge fees to third party users.

HUD received three bids in response to its solicitation. Elation submitted a price of \$0.00, while eMars and LCPtracker submitted bids of \$449,000 and \$1,015,950, respectively. Concerned that Elation's \$0.00 bid would negatively impact its ability to perform, HUD awarded the contract to eMars.

Elation and LCPtracker promptly protested, and HUD responded by reevaluating the proposals.

During its reevaluation, HUD asked Elation to confirm that it understood the contract requirements and was still submitting a no-cost bid. Elation responded that it fully understood it would be liable for ensuring contract performance for its proposed price and would not be able to charge third parties for access. After the SBA issued Elation a Certificate of Competency, HUD awarded the contract to Elation at a fixed prices of \$0.00.

LCPtracker and eMars filed GAO bid protests. Among the protest grounds, LCPtracker and eMars alleged that the contract with Elation should be void for lack of consideration. In other words, the protesters argued, \$0.00 fixed price was legally

by the SBA's Associate Administrator for Government Contracting Business Development at a recent Congressional hearing, the SBA has put together a Mentor-Protégé Program Expansion Project Team to oversee the implementation of the new program.

On October 27, the U.S. House of Representatives Committee on Small Business held a hearing on "Maximizing Mentoring: How are the SBA and DoD Mentor-Protégé Programs Serving Small Business?" At the hearing, the Small Business Committee took testimony from A. John Shoraka, the SBA's Associate Administrator, Government Contracting Business Development.

In his written testimony, Mr. Shoraka stated that the SBA is moving ahead with the implementation of its proposed universal mentor-protégé program:

*On February 5, 2015, SBA issued a proposed rule to establish a Government-wide small business mentor-protégé program, and the comment period for that proposed rule has officially closed. We are currently drafting a final rule that will then be sent to the Office of Information and Regulatory Affairs (OIRA) for interagency review. SBA has begun planning for implementation and has stood up a Mentor-Protégé Program Expansion (MPP) Project Team to oversee the expansion and implementation of its new Government-wide mentor-protégé program.*

For prospective mentors and protégés, it is good to hear that the SBA is progressing with the implementation of its new universal mentor-protégé program. But companies wishing to take advantage of the new program as soon as possible will have to be patient—given that SBA is still in the process of writing the final rule, the program likely won't take effect until sometime next year.

Mr. Shoraka's testimony, and that of his DoD counterpart, Kenyatta

improper.

Consideration is a longstanding principle of contract law that requires parties to a contract to each receive some meaningful benefit from their bargain. The consideration requirement is usually satisfied with money, but there are other methods. As the GAO explained:

*To be enforceable, a contract with the United States government requires an offer, acceptance of the offer, and consideration. A contract is supported by adequate consideration if it involves mutual promises of the contracting parties whereby each party obtains a benefit. Consideration for a contract need not be monetary, and this Office has repeatedly concluded that adequate consideration exists where a contractor promises to perform certain services, the government promises to grant the contractor the right to perform the procured services, and both parties obtain benefits from the arrangement.*

Examining Elation's proposal, the GAO concluded there was adequate consideration because both parties would mutually benefit from contract performance: HUD was to receive payroll tracking software from Elation and, in return, HUD was going to expose Elation's system to over 6,000 users (and potential customers) nationwide. The GAO noted that "Elation projects that the extensive visibility it will obtain through performance of the HUD contract will substantially increase its share of the national market, and that this increase, along with the marketing cost savings, will more than offset Elation's costs to perform the requisite services without monetary compensation." The GAO denied this basis of protest.

At first blush, it sounds strange that a contractor would offer to perform services for the government for free. But, as *LCPTracker* demonstrates, there may be valid reasons for a contractor to propose a fixed-rate offer of \$0.00. In such a case, the offeror might be legally acceptable, so long as the contractor benefits from the arrangement.

[Article posted courtesy of Steven Koprince](#)

## How Vendors Can Make the Most of SLED Procurement Opportunities

Vendors with a data-driven strategy for allocating sales resources among all five levels of the fragmented state, local and education (SLED) government contracting market are most successful, according to a new [Onvia report](#).

Procurement data shows city and state agencies comprise the largest project bid volume, but the agencies most actively issuing awards are a small percentage of the market.

The SLED market, estimated at \$1.5 trillion, is about three times larger than the federal market with more than 90,000 procurement entities and 400,000 annual bids and request for

Wesley, also revealed a few other interesting (at least to me!) nuggets about the current SBA and DoD mentor-protégé programs:

- \* There are 389 active 8(a) mentor-protégé agreements in SBA's portfolio.
- \* Although there are 389 active 8(a) mentor-protégé agreements, there are only 141 SBA approved 8(a) mentor-protégé joint ventures.
- \* On average, those 141 mentor-protégé joint ventures are doing quite well. Collectively, the joint ventures were awarded \$1.42 billion in 8(a) and on-8(a) contracts in Fiscal Year 2015. That's more than \$10 million, on average, for each joint venture.
- \* The DoD mentor-protégé program is lagging behind SBA's 8(a) program in terms of participation. The current program has 49 mentors and 64 protégés.
- \* Among DoD mentor-protégé participants, 18 are operating under agreements providing subcontracting credit, 44 under agreements providing reimbursement, and two under agreements providing both credit and reimbursement.

In addition to the written testimony, the Committee staff prepared an excellent, thorough [memorandum on the current status of federal mentor-protége programs](#). It is well worth a read.

[Article posted courtesy of Steven Koprince](#)

### Want DoD To Be More Innovative? Sorry, Government Is Inefficient on Purpose

Think the government is overly bureaucratic, inefficient and stifles innovation?

Well, you're probably right in a lot of ways. But it was designed to be that way.

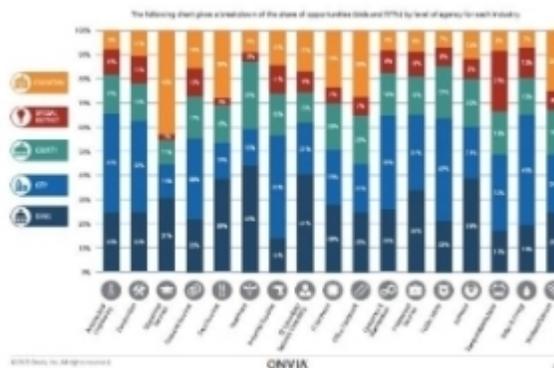
That's according to Adam Tarsi, chief of staff at the Combating

proposals (RFPs), per the report:

While identifying the share of bids and RFPs at each agency level represents a good starting point for planning and sales strategy, it's not the only decision factor available: Vendors can also consider factors such as award values, win rates, agency relationships, competitive challenges, etc.

Knowing the size and composition of the vendor's target market is critical, according to the Seattle-based government business intelligence company, with each SLED level's share of total annual bids and RFPs as follows: 33.8 percent for cities; 26.6 percent for states; 17 percent for counties; 11.7 percent for education like school districts; and 10.9 percent for special districts like utilities.

Onvia broke down opportunities among the five SLED levels between 17 major industry segments, as seen here:



State contracting is strong across most industries but lowest when it comes to industrial supplies opportunities and higher than all other SLED levels for healthcare opportunities.

The education SLED level and educational services industry segments are two very different animals, with state agencies like public universities and education departments major procurement players.

Other findings of note: The overall average contract across all industries is worth \$2.4 million, and while the top 10 city agencies account for 13 percent of all contract dollars, they only represent 5 percent of all opportunities - both small slices of the total market.

Terrorism Technical Support Office, a small arm of the Pentagon designed to facilitate rapid research and development of tools to fight terrorism.

The many rules and procedures that make up the federal acquisition system are in place to protect the country's financial resources, he explained during an event Thursday on innovation in government hosted by the Professional Services Council, the Northern Virginia Technology Council and TandemNSI.

Despite pockets of innovation -- Tarsi's office, for example -- large parts of the government are purposefully inefficient, he said.

"You can't have the entire U.S. government or the federal acquisition regulations change so we can do innovation," he said during the event held in Arlington, Virginia. "I have tons of customers that think if I give [them] \$10 million, tomorrow a FedEx box full of innovation is going to show up."

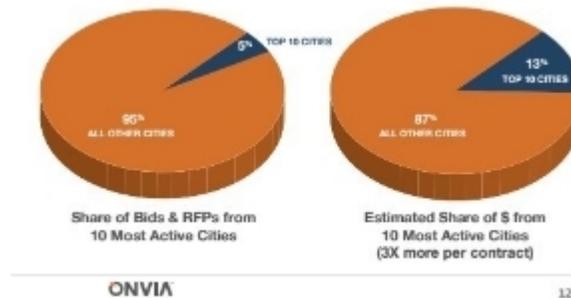
The layers of rules and processes are designed to protect the government from needless risk, he said.

For example, building a Joint Strike Fighter or any other complex military machine should not involve absorbing risk, he said.

That doesn't necessarily mean there's no room in the federal government for a little innovative risk taking.

Prizes and challenges are another useful option for tapping innovative outsiders without requiring an agency to open itself up to a huge amount of risk, Tarsi explained. It allows the government to swap paying for research and development and instead pay for just results.

"In a broad agency announcement, I'm looking for a neat idea where I can partner with that company, pay them to build that thing they said they can build," Tarsi said. "In a challenge, I'm rewarding the guy who actually built it."



Onvia's full report also looks at opportunities by award value, typical SLED project values and award values by agency type and can be found [here](#).

*Article posted courtesy of Dave Nyczepir*

## 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 to increase your share of contact awards.

### PTAC Resources

- Electronic Bid Matching for products and services
- Military/Commercial specifications and standards

Prizes and challenges give agencies the opportunity to broaden the field of innovation they're soliciting from, which can serve to reduce risk, he explained.

*Article posted courtesy of  
Hallie Golden - Nextgov.com*

- Past procurement information and pricing histories
- State and Federal regulations guidance
- Professional training and outreach events
- Quality assurance and packaging guidance

Contact us today at [The PTAC at SAP&DC](#) to get started!

## Become a PTAC Client

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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