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# PTAC Link

PROCUREMENT TECHNICAL ASSISTANCE CENTER - CONNECTING BUYERS & SUPPLIERS

Progress Through Regional Cooperation In The Alleghenies

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### Upcoming Events with SAP&DC's PTAC...

As part of our continuing efforts to bring Government Contracting knowledge to our region, the PTAC at SAP&DC is proud to announce the following events in the second half of 2015:

**PA COSTARS - : This has been cancelled due to the state budget - will keep you apprised of the new date.** A reprise of a presentation done in 2014, a representative from the Pennsylvania Dept. of General Services COSTARS Program will speak and give a half-day class on the program and how it can benefit your company. It will take place in State College, and the cost is free.

**Fulton County Government Contracting 101, Part 2 - October 28, 2015, 5 PM to 8 PM:** Due to popular demand, we'll be presenting our Government Contracting 101 in Fulton County in October. [Registration can be found here:](#)

We will make social media announcements, email blasts, and

## Why Federal CIO Tony Scott Hates the End of Year IT Spending Spree

The end-of-the-year spending spree -- in which agencies cram contract spending into the last quarter of the fiscal year -- is a time-honored tradition in government contracting.

And Tony Scott, one of the Obama administration's top tech officials, hates it.

Since being named the federal chief information officer in February, the former corporate IT exec with stints at VMware, Microsoft and Disney said he's come to learn about the "use-it-or-lose-it" nature of federal IT funding that fuels the annual spending spike.

"That's just a really bad way to run IT," he said Wednesday during a presentation at the Digital Government Institute's 930Gov conference in Washington.

The end-of-the-year pressure drives agencies into "exactly the wrong behavior," Scott said: more short-term, even frivolous, spending and less of a focus on longer-term investments.

Since 2009, agencies have spent about one-third of their annual contract dollars on average in the last quarter of the fiscal year, according to a recent [Bloomberg Government analysis](#). Analysts say this year will be no exception.

The annual spending spree -- and criticism of the practice -- is nothing new. "[Hurry-up spending](#)" first drew congressional ire when a Senate subcommittee issued a scathing report on the practice in 1980.

More recently, [research from the Harvard Kennedy School of Government](#) in 2010 found an end-of-the-year "spending surge" in all major federal agencies.

But critics, such as Scott, have a point.

The Harvard researchers, who analyzed IT Dashboard data, found that the annual spending spree contributes to "lower-quality" acquisitions, because agencies spend funds on "low-value projects" that have been pushed off to the end of the year because "the increased volume of contracting at the end of the year will lead to less effective management of those acquisitions."

web site changes for these events. If you have any questions on these, or have suggestions for other outreaches, please contact James Gerraughty, PTAC Program Manager, at [jgerraughty@sapdc.org](mailto:jgerraughty@sapdc.org) or (814) 949-6528.

### DBE Fraud: \$5 Million Settlement In Pass-Through Case

A large business has agreed to pay nearly \$5 million to resolve False Claims Act allegations that it participated in a "pass-through" scheme designed to take advantage of the Department of Transportation's Disadvantaged Business Entity program. According to a [Department of Justice press release](#), HD Supply Waterworks conspired with subcontractors to list a non-defunct Native American-owned company as a subcontractor, when in fact the subcontractor's work was passed through to Waterworks. According to the press release, in 2008, the government began investigating various prime contractors that claimed to have conducted business with the Native American-owned firm, American Indian Builders & Suppliers, Inc. The investigation revealed that although AIB had been listed as a subcontractor on several projects, AIB had not performed commercially useful functions on those projects. Instead, "a third party that would not itself qualify as a DBE performed the work or supplied the materials, and received much of the financial benefit." AIB, in turn, would collect a small percentage of the subcontract amount as a pass-through fee.

The government alleged that Waterworks conspired with several prime contractors to falsely represent that AIB would perform subcontract work, when in fact the prime contractors and Waterworks had agreed to use AIB as a pass-through. According to the government, AIB would simply collect Waterworks' invoices, add its own markup, and pass those invoices through to the prime contractors. The government alleged that this scheme allowed

The problems, as Scott sees it, is that the mad dash to load up the shopping carts at the year end may also be contributing to a lack of long-term investment in new development.

Overall, about 73 percent of the federal government' total planned \$79 billion in IT spending this year is budgeted for operations and maintenance -- not new projects, according to an [analysis](#) by the Government Accountability Office from earlier this year.

Spending on legacy systems as a share of the overall IT spending looks to be on the rise, Scott said.

"The trend from the preliminary data I see looks like it's headed the wrong way, and I don't like that," he said. Scott declined to provide more specifics but said the updated data would be made public in the coming months and may come with a new strategy for right-sizing the makeup of federal IT spending.

"My concern is that it's heading the wrong way, and this will happen naturally when you have an environment...where budgets are constrained," he said. CIOs are told to keep costs down "and they cut the easiest thing there is to cut, which is spending on new application development and refreshing infrastructure," Scott explained, adding, "it's just a natural phenomenon."

Coming up with a new model for IT budgeting could be key in freeing up more breathing room for longer-term investments.

Some agencies already benefit from more flexible IT budgeting. The Department of Veteran Affairs budgets in two-year cycles, and since 1992, the Justice Department has been allowed to roll over unused IT funds year over year. The Harvard researchers found DOJ made "higher-quality" purchases and reported a much smaller "spending spike" there at the end of the year.

Scott said he's open to looking at ways to change the IT budget model, "so that you can either take that money with you that would [otherwise] be -- I'll say -- frivolously spent at the end of the year and make that available for seed funding," for future projects.

"I think we've got to figure out a way," Scott added. "You can't sort of sit here responsibly and watch all of this decay and feel good about it. You've got to figure out a way to something."

*Article posted courtesy of  
Jack Moore,  
[Nextgov.com](http://Nextgov.com)*

## 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

the prime contractors to falsely claim that AIB had performed subcontract work, when in fact that was not the case.

The pass-through scheme shows up across government contracting preference programs - from the [SDVOSB program](#) to the [8\(a\) program](#) and beyond. It is good to see that the government continues to aggressively pursue these cases. Hopefully, potential fraudsters will start to get the message that pass-through crime doesn't pay.

*Article posted courtesy of Steven Koprince*

### **Federal Government Can Revoke Acceptance Years Later and Demand Replacement of Work**

Many contractors mistakenly think that once the government accepts work and pays for it, that the work is well, "accepted." Some also believe that the one-year warranty provided in the Federal Acquisition Regulation (FAR) means that the contractor is in the clear after, well, one year. Those contractors would be wrong.

In *JJK Group Inc. v VW International Inc.*, a federal court in Maryland recently ruled that the government could revoke its prior acceptance years later and require the contractor to replace an entire system because the system contained "latent defects." The court cited the FAR clauses which provide that the one-year warranty only applies to work that has been "accepted" and that acceptance may be revoked if the government later finds "latent defects." Further, the contractor is required under the "Disputes" clause to do whatever the government demands, and then fight about it later. If the contractor wants to fight it later and can prove that the work has not "latently defective," it can be compensated for the extra costs but it cannot refuse to perform. In this case, the loss fell on a subcontractor because the general knew enough to have a strong "pass through" language in the subcontract, and to have the sub bonded.

- 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
- 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!



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Article posted courtesy of  
Susan McGreevy, Stinson Leonard  
Street

### 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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