

Services Contracting: A Few Things I've Learned During Nine Years on the Other Side of the Fence



Don Wetekam
June 3, 2016

1. Business Responsibility Determinations are Weak or Totally Lacking

- ❖ **Wide latitude given to contracting officers, SSETs, SSAs**
 - Normally only cursory look
 - Financial resources not reviewed in depth
- ❖ **Very important to a contractor's ability to fulfill the contract**
 - Commercial entities give this much greater consideration despite shorter term
- ❖ **Wide variety of information sources available**
 - Public records
 - SEC and other financial filings
 - BBB scores
 - Bond ratings/changes

2. Imposition of Service Contracting Act (SCA) Standards Tends to Level Price Competition Advantages

- ❖ **50 year-old legislation**
- ❖ **Seemingly intended to ensure a living wage for employees of government contractors**
 - Often in lower paying services sector
 - Possible unintended consequences for higher-skill technical services
- ❖ **Technical skills tend to be less location specific – based more on national market**
 - Example: Aircraft mechanics – SCA rates can vary by 50%; does not reflect commercial market reality

3. Protesting for Profit is a Growing Problem

- ❖ **Apparent increase in number of protests**
- ❖ **Losing incumbent may benefit from protest if only to extend length of the expiring contract**
 - No apparent penalty/cost for frivolous protests
 - Revenue stream extended 3+ months
- ❖ **2017 NDAA may address in some form**
 - Require unsuccessful protestor to pay cost of GAO review as part of process
- ❖ **Other possible remedy**
 - Consider protest record of the vendor in future bids