



James River Consulting

Better IT & Services Contracting

www.jamesriverllc.com

A professional services firm specializing in IT and business services contracts, outsourcing, on demand, e-contracting, contracts processes, and contracts management staffing

# Newsletter

Q3 2009

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## Feature Article

### Obama Acquisition Reforms, ARRA Will Open Up Government Marketplace to SMBs Outside the Beltway

In addition to reshaping the auto industry and overhauling health care, President Obama plans to reform Federal government acquisition as outlined in a March 4 White House memorandum. Obama opposes 1) the continued frequent use of cost reimbursement contracts, 2) any outsourcing of "inherently" governmental functions, and 3) awards of non-competed contracts. Recommendations by the Office of Management and Budget (OMB) are due back by September 30 of this year.

Acquisition reform has continued to gather steam ever since. The General Accounting Office (GAO) issued a June, 2009, report criticizing Government agencies for purchasing information technology services through General Services Administration (GSA) schedules. The schedules are priced on a time and materials basis, and by using them agencies avoid having to go through a lengthier formal competitive bidding process. Specifically, agencies have not been justifying use of the labor rates on the schedules instead of fixed price services; regulations direct agencies to use fixed price whenever possible. GSA has promised to clarify whether services sold through the schedules are subject to the fixed price preference.

The effect of curtailing t&m buying through the GSA schedules is a potentially enormous one because the schedules are the main gateway through which SMBs both inside and outside the Capital Beltway gain entrance into the Government marketplace to sell all kinds of services

including IT, management, and engineering services.

The potential enormity of restricting the way business is transacted through GSA schedules is compounded by the critical role the schedules will play in getting American Reinvestment and Recovery Act (ARRA) monies out of the Federal budget and into the economy. In March the GSA awarded \$100 million in contracts to acquisition support companies to gird itself for the coming tidal wave of ARRA related contracting through schedule buying.

The Government contracting "establishment" inside the Capital Beltway isn't quite sure what if anything it should do in response to acquisition reform. Groups like the Smart Contracting Caucus, Federal Acquisition Innovation & Reform (FAIR), and the Professional Services Council have all made cautionary statements about changes but for the most part are in a wait and see mode.

What might the Government services market look like a year from now and what can SMBs and start ups in a down economy and hungry for new revenue streams do to take advantage of ARRA and acquisition reform?

Going back to the March 4 White House memo, the word "risk" appears several times in the text. Risk in Government contracting means the contract type used: fixed price, cost reimbursement, incentive, t&m. SMBs and startups outside the Beltway, who are more accustomed to taking risk than the established contracting community inside the Beltway, can seize an early advantage by following strategies to offer "commoditized" services based on project, subscription or other unit pricing (as pointed out in the GAO report, labor hour rates are not

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## About James River

James River Consulting specializes in the development, negotiation, and management of IT and business services contracts with emphasis on IT and business outsourcing and on software-as-a-service/cloud computing/managed services. James River's offerings range from short-term staffing of contracts personnel, to sales contract processes, to e-Contracts, to competitive bidding, to SaaS and BPO contracts negotiation and management. James River's president, Eric Esperne, has over 15 years experience as an in-house legal counsel and director of contracts for both large and small IT companies.

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## Feature Article continued

fixed prices). Doing so will in fact follow an already existing trend in that direction. For example, offshore outsourcing has been moving to a fixed price services menu model for some time. On demand applications and remote infrastructure management services are offered as subscriptions. The net effect will be GSA schedules including fixed price commoditized services in addition to labor rates.

The second prediction is that competitive bidding will become a renewed practice within the Government, though it will likely be more streamlined than the elaborate bidding of the past and will be relieved of the onerous prospect of bid protests. Proposal shops and staff who specialize in proposal preparation are standard operations for contractors inside the Beltway. To be ready to competitively bid on ARRA and other Government projects, SMBs and startups will need to develop core competencies in assembling resumes and past performance records as well as become ISO and CMMI certified.

Maybe most important, SMBs and startups will need to

reorient their thinking about the importance of contracts and contracts management. Whereas contracts are often thought of as simply a protection against legal liability in the private sector, in the Government they have much greater importance because they serve to protect against fraudulent and wasteful use of taxpayer money. Besides the prime contract with the Government, for services provision there are usually subcontractors involved. Sometimes the subcontracts are mandated by the Government. Companies who wish to do business in the Government's space must have the competency and the resources to manage these contracts.

Complicating the situation, there has been a shortage of contracts management personnel within the Government for many years. Often contractors find themselves in the strange position of having to educate Government contracting office personnel about acquisition regulations and contract management practices.

Having said all that, there is \$787 billion dollars waiting to make its way into someone's business account.

## Company News

### Articles Published in NCMA, IACCM and ISM Magazines

James River had articles published in a "trifecta" of professional associations in the contracts field.

The National Contract Management Association published "Outsourcing: The Real Question is not 'Why?' but 'How?'" in the June, 2009, issue of *Contract Management* magazine.

The International Association for Contract and Management published "Managing Risk in SaaS, Cloud

Computing, and other on demand and web 2.0 IT contracts" in the June, 2009, newsletter *Contracting Excellence*.

And the July, 2009, issue of *Inside Supply Management* magazine (Institute of Supply Management) will feature an article on relational contracting in outsourcing.

Go to the Resources page at [www.jamesriverllc.com](http://www.jamesriverllc.com) to link to the online versions of all three articles.



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