



Look, Up in the Sky! It's an REA! It's a Claim! No—It's a Proposal!

GATE 6 Solutions, Inc. (GATE 6), Executive Consultants, Bruce Bowland and Mike Foley have written another article that will be published in NCMA Contract Management magazine in December, 2011. This article focuses on a disturbing trend evolving over the last few years in Federal Government contracting, and the administration of Government contracts that deviates from regulatory guidance. Contracting Officers have been espousing that when it comes to their dealing with contractor **Proposals, Request for Equitable Adjustments, and Claims** they think they are one in the same and misapplying FAR Part 15 rules (Contracting by Negotiation, i.e. the Government acquisition process) to the Contract Management Process (FAR Part 43) of adjudicating REAs.

This article addresses how Contracting Officers are misusing regulatory guidance published in the Federal Acquisition Regulations, how it potentially impacts business, and what can be done to combat it. Stay tuned. Once the article is published, GATE 6 will post a link to the article on our website: <http://www.gate6solutions.com/pages/news.php>

WHAT WE'VE BEEN UP TO

“REA” ...it's all about being “Ready” for “Every” “Argument”....

A GATE 6 client has received favorable recovery in early 2011 of about 90% of its Request for Equitable Adjustment (REA) on its firm fixed price (FFP) delivery order with the Department of Energy (DOE). This client had earlier entered into a long term energy savings agreement with the DOE to provide conservation services for Federal Government facilities located in the DOE Southeast Region of the United States. This energy savings agreement allowed the DOE to acquire specific energy conservation measures to reduce energy, water consumption and associated utility costs, and energy-related operations and maintenance costs.

A team of GATE 6 consultants assisted the client Project Team with the preparation, presentation, and negotiation of the REA with the DOE. GATE 6 successfully demonstrated that these additional costs were recoverable under the FFP agreement and could be supported by the performance period cash flow, payback, and delivery order term constraints based on the level and reasonableness of the clients proposed energy savings and preliminary financial schedules using rough order of magnitude (ROM) cost and schedule data and expected near term market finance rates.

IN OTHER NEWS....

BSIG/GATE 6 Negotiate Large Cost Reimbursable Award Fee Contract

In the last week of August, 2011, BSIG's Managing Director, Bruce Bowland and GATE 6 Principal Consultant, Mark Trygstad, participated in a multi-million dollar, multi-year contract reconciliation/re-negotiation of a cost reimbursable, award fee contract with the NNSA/DOE. The effort was several months in the making and final face-to-face negotiations were scheduled to take place over a three-day period in Las Vegas, NV.

Bruce and Mark prepared for the worst and hoped for the best. The months of discussions and planning ahead between Bruce, Mark and the contracting officer (CO), resulted in the actual face-to-face contract negotiation taking only 20 minutes, without discussion. BSIG's client received a much higher award fee pool than they had on the contract previously, or were willing to settle for going into the negotiation.

GATE 6 PUBLISHED PAPERS

Check out five of our published articles in the NCMA Contract Management magazine that are on our website www.gate6solutions.com that GATE 6 Consultants have written:

- *Protecting Proprietary Data without Compromising Regulatory Compliance, by Bruce P. Bowland and J. Michael Foley, January 2010*



- *Small Business Administration Joint Venture Rules*, by Bruce P. Bowland and J. Michael Foley, February 2010
- *Unpopulated Joint Venture Limited Liability Companies: Formation and Exit Strategies*, by Bruce P. Bowland, March 2010
- *Contract Administration of Unpopulated LLCs: Managing the Contract, Performance Reporting, and Compliance*, by Bruce P. Bowland and J. Michael Foley, December 2010
- *Contractor Performance Assessment Reports: Past Performance Evaluations and What to do with Them*, by colleague Hatcher Graham, Esq., January 2011



BUSINESS SERVICES INTEGRATION GROUP, LLC

Undergoes Change

Business Services Integration Group, LLC (BSIG), an unpopulated limited liability company was formed in January 2010 by a partnership spearheaded by GATE 6 and Strategic Consulting Solutions, Inc. (SCS), Oak Ridge, TN. In the summer of 2010, SCS expressed its intent to end its participation as a partner in BSIG, but rather, wished to remain as a preferred subcontractor in spite of BSIG doing nearly \$1M in business in its first full year of operation.

GATE 6 has continued to maintain BSIG as an ongoing TN business concern throughout 2010 and into 2011, and has continued to perform work for existing BSIG clients, adding new clients, and pursuing new opportunities. BSIG has also been in meaningful discussions with several companies since late 2010, in VA, TN and AL as possible prospective partners. We will keep you informed as progress is made.

Be sure to check out next month's newsletter to find out what VEPMS is, and how BSIG, GATE 6, and several of our technology partners developed this new process. This new technology is already changing business models!

EMPLOYEE NEWS

As a reminder, GATE 6 representative, Mr. Bruce Bowland, Executive Vice President and Director of Government Contractor Services will be hosting a Champagne Opening Reception at the 12th Annual ETEBA Opportunities Conference being held on November 1st through the 3rd in Knoxville, Tennessee.

MARKET TRENDS

GAO Is Advising DOE/NNSA To Get Real Or Get Ready...

The General Accounting Office (GAO) continues to express its concerns over the inability of Federal Government Agencies to complete major capital projects on time and budget claiming that more emphasis should be placed on more comprehensive initial project estimating and addressing project cost and schedule risks.

GAO reported in January 2010 (GAO-10-199) that the DOE has not had a policy in place for over a decade that establishes standards for cost estimating, and its guidance is outdated and incomplete. The report goes on to say that DOE does not have appropriate internal controls in place that would allow its project managers to provide contractors a standard method for building high-quality cost estimates.

GAO reported in November 2010 (GAO-11-103) that NNSA's plans for its Uranium Processing Facility (UPF) at the Y-12 National Security Complex located in Oak Ridge, TN should better reflect funding estimates and technology readiness. GAO found that the UPF will cost more than double NNSA's 2004 estimate of between \$600 million and \$1.1 billion. Costs for project engineering and design, which are less than 50% complete, have increased about 42%. GAO also found that NNSA does not expect any of the 10 new technologies to achieve the level of maturity called for by best practices until after making critical decisions regarding cost and schedule performance baselines and the start of construction. For more of GAO's findings visit the GAO website <http://www.gao.gov/>

Look for more market trends in *The GATE Post* to be out next month, so that your company is proactive and not reactive in today's economy.