

GOVERNMENT CONTRACTS - Fall 2007

Martin Willard (202-719-7528) (mwillard@wileyrein.com)

Kara Sacilotto (202-719-7107) (ksacilotto@wileyrein.com)

Class 1 (August 23) – Introduction

- FAR Subpart 1.6

Class 2 (August 30) -- Authority to Contract

- Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380, 68 S. Ct. 1 (1947)
- Yankee Atomic Elec. Co. v. United States, 112 F.3d 1569 (Fed. Cir. 1997)
- Barrett Refining Corp. v. United States, 242 F.3d 1055 (Fed. Cir. 2001)
- Johnson Mgt. Group CFC, Inc. v. Martinez, 308 F.3d 1245 (Fed. Cir. 2002)
- In re Catel, Inc., ASBCA No. 54627, 2005 WL 1077494, 05-1 BCA ¶ 32966 (2005)

Class 3 (September 6) -- Types of Contracts; Appropriations

- 31 U.S.C. §§ 1301, 1341, 1342, 1350, 1351, 1502, 1552, and 1558
- American Electronic Laboratories v. United States, 774 F.2d 1110 (Fed. Cir. 1985)
- Advanced Materials, Inc. v. Perry, 108 F.3d 307 (Fed. Cir. 1997)
- Urban Data Systems, Inc. v. United States, 699 F.2d 1147 (Fed. Cir. 1983)
- AT&T v. United States, 307 F.3d 1374 (Fed. Cir. 2002)

Class 4 (September 13) -- Competition in Contracting; Noncompetitive Procedures

- FAR Part 6
- FAR Subparts 2.101, 12.2, 12.6
- AT&T Communications v. WilTel, 1 F.3d 1201 (Fed. Cir. 1993)
- Systems Management, Inc.; Qualimetrics, Inc., B-287032.3, B-287032.4, 2001 WL 474408, 2001 CPD ¶ 85, (April 1, 2001)
- Adarand Constructors, Inc. v. Pena, 120 S. Ct. 722 (2000)
- Emery Worldwide Airlines, Inc. v. United States, 264 F.3d 1071 (Fed. Cir. 2001)

Class 5 (September 20) – Sealed Bidding and Negotiated Procurement

- Sealed Bidding
 - FAR Part 14 (excluding Subpart 14.5)
 - FAR 5.002 & Subparts 5.1 and 5.2
 - Honeywell, Inc. v. United States, 870 F.2d 644 (Fed. Cir. 1989)
 - Griffy's Landscape Maintenance LLC v. United States, 46 Fed. Cl. 257 (2000)
- Negotiated Procurements
 - FAR Part 15 (excluding Subpart 15.4)
 - Lockheed Missiles & Space Co. v. Bentsen, 4 F.3d 955 (Fed. Cir. 1993)
 - Southfork Systems, Inc. v. United States, 141 F.3d 1124 (Fed. Cir. 1998)
 - Information Technology & Applications Corp. v. United States, 316 F.3d 1312 (Fed. Cir. 2003)

Class 6 (September 27) -- Commercial Item Contracting

- FAR Part 12; FAR 52.212-4
- Mangi Env't'l Group, Inc., AGBCA No. 2005-101-1, 2006 WL 548442, 06-1 BCA ¶ 33233 (2006)
- Individual Dev. Assocs., Inc., ASBCA No. 53910, 2004 WL 2039350, 04-2 BCA ¶ 32740 (2004)

Class 7 (October 4) -- Contractor Responsibility; Suspension and Debarment

- FAR 9.4, 9.5
- Gonzalez v. Freeman, 334 F.2d 570 (D.C. Cir. 1964)
- Caiola v. Carroll, 851 F.2d 395 (D.C. Cir. 1988)
- Impresa Constuzioni Geom. Domenico Garufi v. United States, 238 F.3d 1324 (Fed. Cir. 2001)

Class 8 (October 11) -- Bid Protests

- 28 U.S.C. § 1491
- FAR Subpart 33.1
- 4 C.F.R. Part 21
- Peacock, Myers & Adams, B-279327, 1998 WL 129880, 98-1 CPD ¶ 94 (March 24, 1998)
- Statistica v. Christopher, 102 F.3d 1577 (Fed. Cir. 1996)
- American Federation of Government Employees v. United States, 258 F.3d 1294 (Fed. Cir. 2001)
- Reilly's Wholesale Produce v. United States, 73 Fed. Cl. 705 (2006)
- Blue & Gold Fleet, L.P. v. United States, No. 2006-5064, 2007 WL 1815678 (Fed. Cir. Jun 26, 2007)

Class 9 (October 18) -- Contract Changes; Pricing of Adjustments

- FAR Part 43; FAR 52.243-1
- FAR 31.201 - 31.204
- White v. Edsall Constr. Co., 296 F.3d 1081 (Fed. Cir. 2002)
- Valley View Enterprises, Inc. v. United States, 35 Fed. Cl. 378 (1996)
- Servidone Constr. Corp. v. United States, 931 F.2d 860 (Fed. Cir. 1991)
- Propellex Corp. v. Brownlee, 342 F.3d 1335 (Fed. Cir. 2003)
- Melka Marine v. United States, 187 F.3d 1370 (Fed. Cir. 1999)

Class 10 (October 25) -- Convenience Terminations

- FAR 52.249-2; FAR Subparts 49.1, 49.2
- Torncello v. United States, 681 F.2d 756 (Ct. Cl. 1982)
- Krygoski Constr. Co. v. United States, 94 F.3d 1537 (Fed. Cir. 1996)
- James M. Ellett Constr. Co. v. United States, 93 F.3d 1537 (Fed. Cir. 1996)
- Am-Pro Protective Agency, Inc. v. United States, 281 F.3d 1234 (Fed. Cir. 2002)

Class 11 (November 1) -- Default Terminations

- FAR 52.249-8; FAR Subpart 49.4
- McDonnell Douglas Corp. v. United States, 182 F.3d 1319 (Fed. Cir. 1999)
- DCX, Inc. v. Perry, 79 F.3d 132 (Fed. Cir. 1996)
- McDonnell Douglas Corp. v. United States, 323 F.3d 1006 (Fed. Cir. 2003)

Class 12 (November 8) -- Inspection, Acceptance, and Warranties

- FAR Subparts 46.5, 46.6 and 46.7
- Kaminer Constr. Corp. v. United States, 488 F.2d 980 (Ct. Cl. 1973)
- Radiation Tech., Inc. v. United States, 366 F.2d 1003 (Ct. Cl. 1966)
- Granite Constr. Co. v. United States, 962 F.2d 998 (Fed. Cir. 1992)

Class 13 (November 15) -- Contract Claims; The Contract Disputes Act

- 41 U.S.C. §§ 601-613
- FAR Subpart 33.2
- Reflectone, Inc. v. Dalton, 60 F.3d 1572 (Fed. Cir. 1995)
- Bill Strong Enterprises v. Shannon, 49 F.3d 1541 (Fed. Cir. 1995)
- Burnside Ott Aviation Training Center v. Dalton, 107 F.3d 854 (Fed. Cir. 1997)
- Alliant Tech. Sys. v. United States, 178 F.3d 1260 (Fed. Cir. 2003)

Class 14 (November 29) -- False Claims, Defective Pricing

- FAR 15.401-15.403
- 31 U.S.C. §§ 3729-3731
- Rockwell International Corp. v. United States, 127 S. Ct. 1397 (2007)
- Wynne v. United Technologies Corp., 463 F.3d 1261 (Fed. Cir. 2006)
- Daewoo Eng'g & Const. Co. v. United States, 73 Fed. Cl. 547 (2006)

Exam: December 13 at 6:00 p.m.

Additional Notes:

We intend to have a two-hour exam. We will likely give two questions, which will likely be of the issue-spotting variety. The exam will be open book.

We usually ask one question about contract formation and another question about contract administration/termination.

We will consider participation in grading. We do not anticipate lowering the grade of anyone who regularly attends class, but we may increase the grades of those students whose participation has, in our judgment, made the most significant contribution to the course.

If you have any questions about grading or other such administrative matters, please contact one of us.