

GOVERNMENT CONTRACTS - Fall 2009 (Law 230; 2.0 Credits)

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Case materials will be provided on TWEN. The Federal Acquisition Regulation (in Title 48 of the Code of Federal Regulations) is known as “the FAR” and is an important source of rules and regulations that relate to the federal procurement system. You can access the current version of the FAR for class purposes at the following website:
<http://acquisition.gov/far/index.html>.

Class 1 (August 20) – Introduction; Authority to Contract; Sovereign Immunity

- FAR Subpart 1.6
- Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380 (1947)
- United States v. Winstar Corp., 518 U.S. 839 (1996) (Read only: §§ II.A.1, II.B, III.A [headnotes 7, 8, 15, 16, 18-19 only], IV [headnotes 27-30, 35-42 only]; Breyers concurrence is optional)
- In re Catel, Inc., ASBCA No. 54627, 2005 WL 1077494, 05-1 BCA ¶ 32966 (2005)

Class 2 (August 27) – 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 3 (September 3) – 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 4 (September 10) – 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)
- Emery Worldwide Airlines, Inc. v. United States, 264 F.3d 1071 (Fed. Cir. 2001)

Class 5 (September 17) – 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)
 - Information Technology & Applications Corp. v. United States, 316 F.3d 1312 (Fed. Cir. 2003)

Class 6 (September 24) – Bid Protests

- 28 U.S.C. § 1491
- FAR Subpart 33.1
- 4 C.F.R. Part 21
- Statistica, Inc. v. Christopher, 102 F.3d 1577 (Fed. Cir. 1996)
- RAMCOR Servs. Group, Inc. v. United States, 185 F.3d 1286 (Fed. Cir. 1999)
- Reilly’s Wholesale Produce v. United States, 73 Fed. Cl. 705 (2006)
- Blue & Gold Fleet, L.P. v. United States, 492 F.3d 1308 (Fed. Cir. 2007) (through § II.B.2 of decision only)

Class 7 (October 1) – Contract Changes & Delays; Pricing of Adjustments

- FAR Part 43; FAR 52.243-1
- FAR 31.201 - 31.204
- FAR 52.249-14
- 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)
- Fraser Constr. Co. v. United States, 384 F.3d 1354 (Fed. Cir. 2004)

Class 8 (October 8) – 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, Inc. 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, Inc. v. United States, 178 F.3d 1260 (Fed. Cir. 1999)

Class 9 (October 15) – 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)
- Am-Pro Protective Agency, Inc. v. United States, 281 F.3d 1234 (Fed. Cir. 2002)

Class 10 (October 22) – Default Terminations

- FAR 52.249-8; FAR Subpart 49.4
- DCX, Inc. v. Perry, 79 F.3d 132 (Fed. Cir. 1996)
- McDonnell Douglas Corp. v. United States, 567 F.3d 1340 (Fed. Cir. 2009)

Class 11 (October 29) – 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 12 (November 5) – Ethics in Government Contracting

- Ethics in Government Act, 18 U.S.C. §§ 207-216
- Procurement Integrity Act, 41 U.S.C. § 423; FAR 3.104
- Anti-Kickback Act, 41 U.S.C. §§ 51-54
- FAR Subpart 3.10; FAR 52.203-13; FAR 52.203-14
- United States v. Mississippi Valley Generating Co., 364 U.S. 520 (1961)

Class 13 (November 12) – 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 14 (November 19) – False Claims; Defective Pricing

- FAR 15.401-15.403
- 31 U.S.C. §§ 3729-3731
- Wynne v. United Technologies Corp., 463 F.3d 1261 (Fed. Cir. 2006)
- Daewoo Eng'g & Constr. Co. v. United States, 557 F.3d 1332 (Fed. Cir. 2009)
- Daewoo Eng'g & Constr. Co. v. United States, 73 Fed. Cl. 547 (2006)

Exam: December 17 at 6:00 p.m.

Additional Notes:

We currently anticipate a take-home 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 class 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.