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UPDATE FOR FEDERAL CONTRACTORS

Small Business Size & Integrity Rule

DECEMBER 6, 2011
PEAK SERIES CIO BREAKFAST

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Small Business Size & Integrity

- SBA Proposed Rule issued Friday, October 7, 2011
  Comments are due by December 8, 2011

- Regulations were required by the Small Business Jobs Act of 2010, which established a statutory presumption of loss equal to the value of the contract when a concern willfully seeks and receives an award by misrepresentation.

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Small Business Size & Integrity

- Certain actions are deemed affirmative, willful and intentional certifications
  - Submission of a bid or proposal or registration on any federal data base for the purpose of being considered for:
    - Federal Grants
    - Contracts
    - Subcontracts
    - Cooperative Agreements
    - Research & Development Agreements
  - "reserved, set-aside, or otherwise classified as intended for small business" or
  - "which in any way encourages a federal agency to classify the bid or proposal, if awarded, as an award to a small business

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- Penalty:
  - Value of contract performed
- Additional Penalties:
  - Suspension or debarment
  - False Claims Act civil penalties
- Applies to all programs–misrepresentation as to status as:
  - HUBZone
  - 8(a)
  - SDB
  - SDVOSB
  - WOSB
  - SBC

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- Limitation of Liability for:
  - Unintentional errors or
  - Technical malfunction
- Defenses may include:
  - Firm's internal management procedures
  - Efforts made to timely correct the erroneous certification

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QUESTIONS?

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