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AEIOU and Sometimes IDIQ – Indefinite Delivery/Indefinite Quantity Contract Use Remains Proportional.

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As we previously discussed both on this blog and elsewhere, observational and indirect evidence told us that the use of Indefinite Delivery/Indefinite Quantity ("IDIQ") contracts was expanding. As it turns out, from 2011-2015, IDIQ usage actually remained flat, but the amount of dollars spent is still staggering. GAO, in response to a request by Senator Claire McCaskill, Ranking Member of the Committee on Homeland Security and Governmental Affairs issued a report on April 13, 2017, with metrics and insight into Agency use of IDIQ contracts. *See* GAO-17-329 at https://www.gao.gov/products/GAO-17-329.

IDIQ contracts, defined under FAR Subpart 16.5, are contracts under which a government agency issues a Request for Proposals and awards one or more contracts for the order of products or services where it may not know its full needs at the time of award. What is purchased spans the full panoply of goods and services the government purchases, from construction to commercial, off-the-shelf products and technical services. The only real limitation associated with IDIQ contracts is that, for purposes of contractual consideration, the Agency must guarantee a certain minimum amount of purchasing and the contractor must meet its obligation up to a stated maximum. IDIQ contracts first came into vogue in the mid-1990's but saw a significant uptick in use in the 2000's. We saw that uptick continue into the second decade of this century, but then flatten, as GAO has now confirmed.

GAO found that between 2011 and 2015 over $130 billion was obligated annually to IDIQ contracts, with the Departments of Defense, Homeland Security, Health and Human Services and Veterans Affairs being the lead users of these contract vehicles.

For the period observed, GAO found that roughly 2/3s of government-wide IDIQ obligations related to services, with the remaining 1/3 related to products. One concern about the use of IDIQs is the large number of IDIQ contracts that are "single-award", meaning that only one contract is awarded under a given IDIQ solicitation. This is distinguished from the "multiple-award" situation where more than one award is made. Under this latter scenario, the Agency seeks to "prequalify" a competitive range of offerors. Those offerors who are successful are then awarded a contract under which future Deliver or Task Order Contracts ("Order Contracts") are issued, allowing an agency to reduce the likelihood of bid protests when it solicits and awards those future Order Contracts due to statutory limitations on GAO Bid Protest jurisdiction relating to such Order Contracts.

While the Report does not reach any conclusions, and is primarily statistical, it does provide a good

overview and insight into some of the reasons why contracting officers prefer the use of IDIQ contracts. This may provide potential offerors some valuable assistance in developing bidding/proposal strategies on a going-forward basis.