

CCS NEWS

CERTIFIED CONTRACTING SOLUTIONS, LLC

July 2004

Chief Problem Solver Joins NCMA's Smaller Board of Directors

CCS' Chief Problem Solver, Tom Reid assumed his duties as a member of the National Contract Management Association's Board of Directors on July 1, 2004.

"This has been a very pivotal year for NCMA," said Reid. "We have taken an organization of over 18,000 members and completely revamped the corporate governance system in some very positive ways"

Since its inception NCMA had arranged its governance to allow each of the chapters to have a member on the Board of Directors. With over 180 chapters and national officers, governance was becoming a bit unwieldy.

"What is important now," said Reid, "is that we find the right 24 people to serve on the Board. The need for truly qualified corporate governance individuals has never been greater."

Last year Reid served on the larger Board of Directors as the Vice President Elect for the South Central Region. Such regionally named positions have been eliminated under the new governance structure

CCS supports the principles promoted by NCMA and encourages all of our problem solvers to seek and maintain CPCM certification.

Coalition Provisional Authority in Iraq Issues Procurement Principles and Rules

On May 14, 2004, the Coalition Provisional Authority (CPA) issued CPA Order # 87 establishing a set of public procurement principles and rules. Under the authority of UN Security Council resolutions 1483 and 1511 (2003), this order sets up a system that is intended to conform to international standards for transparency, predictability, and fairness. It also is intended to promote dispute resolution, freedom from corruption and undue influence, and provide overall "best value" for the new government in Iraq.

Based on Iraqi law, with a fair dose of "modernization," the order sets forth six basic principles and establishes an Office of Government Public Contract Policy. It then establishes contracting authority in non-political appointees, and establishes the practices of full and open competition, negotiated procurement, standard provisions, contract types, statements of work, procurement integrity, funds certification, and dispute resolution.

The principles are designed to mimic the concepts behind the American Bar Association (ABA) Model Procurement Code, procurement statutes and FAR regulations in the U.S., and the World Trade Organization Procurement Agreement in all major respects.

There will be numerous opportunities to pursue business under the new government, but it is still a war-torn nation. This introduces a host of insurance and hostile territory requirements. While it is a potentially lucrative market, CCS does not encourage its small business clients to press for business in Iraq.

Client Question

In each issue of our newsletter we select a question from one of our clients and provide the answer to everyone. We always protect the identity of our client, but our experience has shown that if one of you has a question, many of you have the same question.

The current question is: **At a recent Chamber meeting an attorney was talking about revised corporate sentencing guidelines. There's no way my company can do everything he was discussing. Should I care?**

CCS offers the following from our Chief Problem Solver, Tom Reid:

The short answer is “yes,” but please remember that the sentencing guidelines are a very legalistic matter and should be reviewed with competent legal counsel if you have any specific questions.

But speaking generally, even small businesses should be concerned. In effect the sentencing guidelines suggest ways in which a company can avoid or minimize the sanctions when found guilty of a criminal offense. Under the guidelines, a small business is defined as one with less than 200 employees. While the guidelines recognize that smaller companies might not be able to put all of the safeguards in place that a larger company can (such as having “high level personnel” dedicated solely to ensuring compliance), the guidelines still expect compliance. This includes that the “governing authority” needs to directly manage the compliance and ethics program of the company, training employees on ethics and compliance matters, observing employees’ behaviors, and modeling its compliance and ethics programs on the “best practices” that larger companies have developed.

While no company ever expects to get in trouble with the law, it sometimes happens. Actions of some employees can be imputed to the company and can result in criminal convictions of the individual and the company. A solid ethics and compliance program goes a long way toward insulating the company from those individuals’ actions, if not preventing them in the first place.

In the words of the U.S. Sentencing Guidelines Manual, “Small organizations shall demonstrate the same degree of commitment to ethical conduct and compliance with the law as large organizations.”

So what can you do to demonstrate compliance? First, conduct regular risk assessments of your operations. While it can be done using internal personnel, an outside perspective is often very helpful. Second, conduct regular training and awareness activities on ethics and compliance. To effectively do this, publish your policies and procedures on ethical and compliance expectations and make every employee document their awareness of them.

Finally, make ethical conduct part of your culture. This is a constant and on-going effort that must begin with the highest levels of the organization. Those of you who may be or seek to become publicly traded, these same actions will assist you in complying with Sarbanes-Oxley Act as well. If you require any assistance in discussing these actions further, or in preparing a plan to conduct a proper risk assessment, call on CCS to help. We are experienced in policy development, training, and risk assessments.

Unless Congress acts between now and November, the guidelines as presently published will become final.

***NOTE:** CCS is not authorized to practice law or accounting. This information should not be relied on in any particular facts you may have without checking with a properly licensed professional.*

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Business Tip

How will you ever know if you can paint that picture, run that business, sell that vacuum cleaner, earn that degree, hold that office, make that speech, win that game, marry that girl, write that book, bake that soufflé, build that house--unless you try it!

Richard M. Devos
Cofounder of Amway Corp.

SAFETY Act Certifications Issued

The Department of Homeland Security (DHS) issued the very first Certifications under the Support Anti-Terrorism by Fostering Effective Technologies Act (SAFETY Act) on June 18, 2004. These certificates were issued to Michael Stapleton Associates (MSA), Teledyne Brown Engineering (Teledyne), Lockheed Martin, and Northrop Grumman.

Some excellent friends of CCS at the law firm of McKenna Long & Aldridge LLP (MLA) provided essential assistance related to the SAFETY Act applications filed by Teledyne and MSA to secure Certification from the Department of Homeland Security.

According to a press release from MLA, the SAFETY Act “provides broad tort reform to encourage the development of safe, effective anti-terrorism products and services critical to national security. This legislation not only protects certified companies, but the customers of these companies. The SAFETY Act is the first ever successful tort reform effort undertaken at the Federal level, having been signed into law by President George W. Bush on November 25, 2002.”

Congratulations to MLA and its clients.

NCMA Pitch

If you are not currently an NCMA member, and you are serious about pursuing federal, state, or local contracting, you should give very serious consideration to joining your local chapter.

More information is available at www.ncmahq.org.



**"Imagination is more important
than knowledge."**

– Albert Einstein

How NOT to Prepare a Proposal

It is often tempting to slap some corporate information together in response to an RFP, but it is very unwise. That would seem to be obvious, but there was actually a protest to the Court of Federal Claims alleging that an offer had not been properly evaluated. According to the court, the offeror's proposal was simply a compilation of material that the company had submitted for other projects. Important information was omitted which was required by the solicitation and the evaluation criteria, and the proposal even failed to address most of the issues emphasized in the RFP. Important technical requirements were addressed, if at all, with generic information about the corporation and its organization. A superficial response to the agency's request for details about its subcontractor selection and management process was given and pages from its corporate brochure were used to describe its corporate organization and key personnel.

For more information on CCS, check out our updated website at www.certifiedKsolutions.com.

Lagniappe

In each newsletter, CCS offers clients and friends something free, a little something extra, or for our N'awlins friends, lagniappe.

Ethics training is critically important to companies of all sizes, as this issue's question clearly shows. (See Page 2). CCS has provided Ethics compliance and training for several of its clients and has an overview presentation that it has successfully given in several forums. If you would like a copy of this presentation, please let us know.

**For a free copy simply e-mail your request to Freeoffer@certifiedKsolutions.com.
We will mail the CD out to you right away!**

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Certified Contracting Solutions, LLC

PO Box 270352

Louisville, CO 80027

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