

Interesting Times for Government Contractors

BY GREGORY A. GARRETT AND FRANK J. BEATTY

It is very clear the days of unprecedented U.S. federal government spending have come to an end; well, at least for a few years. The new Republican-controlled House of Representatives has come to Washington, DC, on a mission, from the majority of U.S. citizens, to reduce government spending, reduce the national deficit, and improve the economy. So, what does this mean and how will it affect the tens of thousands of companies who sell products, services, and systems to the government? In this article, we will address the following key aspects of how government prime contractors and subcontractors will be impacted by Congress, including:

- Decreasing government spending levels for 2011 and 2012,
- Increasing bid protests,
- Increasing requests for equitable adjustment (REAs) and contract claims,
- Increasing contract terminations,
- Increasing pro small business legislation, and
- Decreasing government in sourcing practices.

U.S. Federal Government Spending

FIGURE 1 illustrates the spending growth of the government during the past two years, not including the cost of the War on Terror or entitlement programs. In fiscal

year 2008, the government, via over 60 departments, agencies, and commissions, spent \$538.1 billion purchasing a wide range of products, services, and systems.¹ In fiscal year 2009, the Office of Federal Procurement Policy (OFPP) reported federal baseline spending increased to \$550 billion.² However, OFPP did not include the \$150 billion in government contracts and grants in their baseline, which were funds obligated per the American Recovery and Reinvestment Act (ARRA).³ Thus, the real total of government spending for acquiring products, services, and systems for fiscal year 2009 was about \$700 billion. Likewise, in fiscal year 2010, OFPP reported a decline in the federal baseline spending level to \$535 billion.⁴ Once again, OFPP did not include the approximate \$350 billion of funds obligated via ARRA contracts and grants in fiscal year 2010. Thus, the real total of government spending for fiscal year 2010 was approximately \$885 billion.

Clearly, no one really knows how much money the government will spend in fiscal years 2011 and 2012. Currently, continuing resolutions are being enacted since a real budget has not been passed for fiscal year 2011. The House Republicans are largely united and focused on returning government agency spending to the previous levels of fiscal year 2008, at about \$538 billion. We anticipate in fiscal year 2012, the rate of federal spending for discretionary products, services, and systems will increase to \$554 billion, which represents a three-percent increase vs. 2011 estimates.

Numerous federal agencies have been instructed by the administration and/or their respective department/agency leadership to re-baseline their spending to fiscal year 2008 levels. As a result, many government agencies, which have benefited by large increases in funding in fiscal years 2009 and 2010, are going to have to make significant cost reductions to operate at a much lower budget, as illustrated in **FIGURE 1**. Thus, late fiscal year 2011 and 2012 may prove to be more challenging times for many government prime contractors and subcontractors amidst shrinking federal budgets and less discretionary spending for products, services, and systems.

Increasing Bid Protests

As government agency budgets are reduced, more intense competition naturally develops amongst government contractors to obtain fewer government contracts, especially higher value contracts. An expected direct impact of shrinking federal budgets is an increase in bid protests filed by government contractors. Most government contractors do not file bid protests, often for fear of upsetting their important government clients

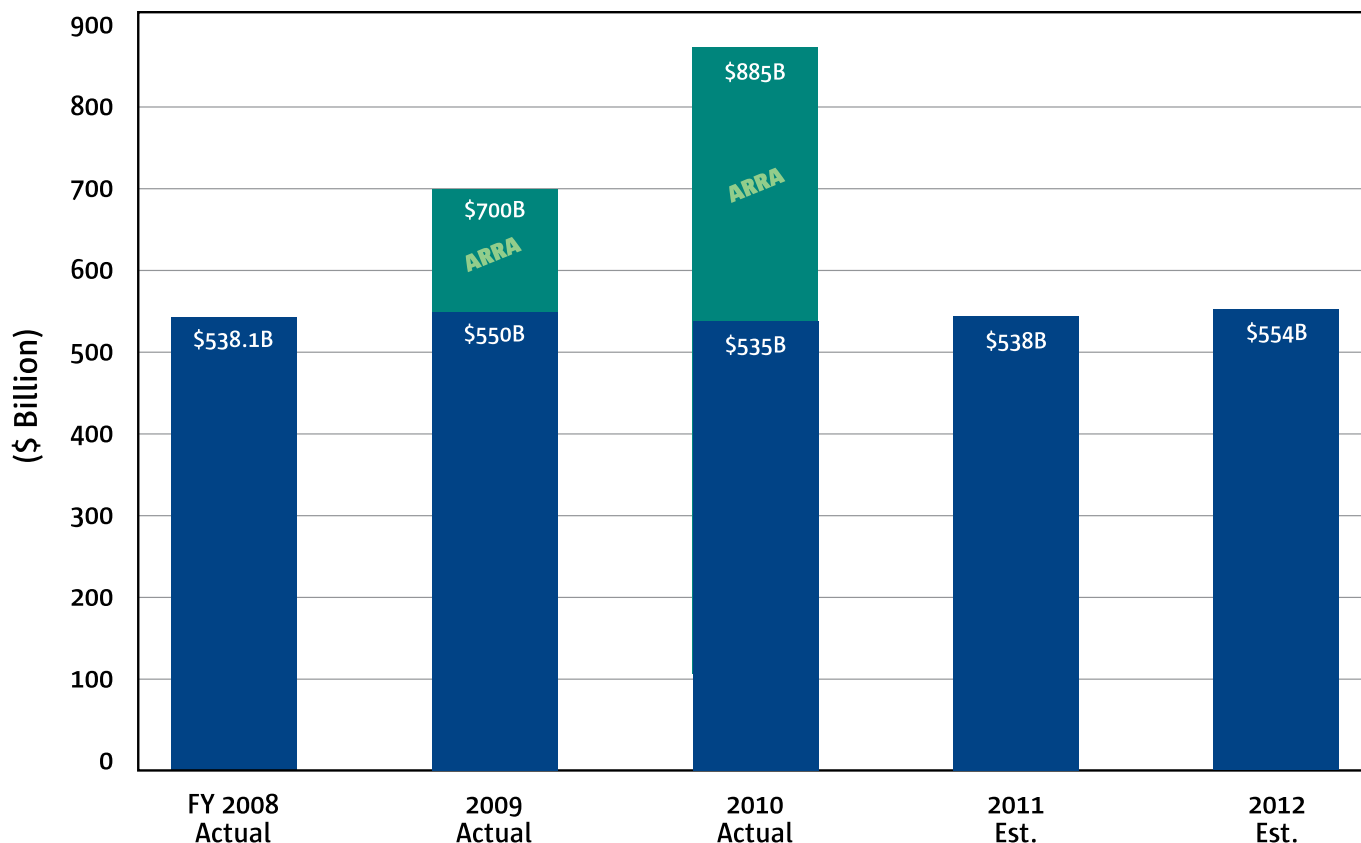


FIGURE 1. U.S. FEDERAL GOVERNMENT SPENDING

or simply recognizing that the solicitation and source selection process was executed in a fair, reasonable, and legally compliant manner by the government. Increasingly, we believe more bid protests will be filed during fiscal years 2011 and 2012 due to the greater spirit of competition of reduced resources/funding.

Increasing REAs and Contract Claims

With the significant federal spending during fiscal years 2009–2010, we have seen a record level of contract modifications, task orders, and purchase orders via basic ordering agreements, Federal Supply Schedule/Multiple Award Schedule contracts, and indefinite delivery/indefinite quantity contracts. Given the shortage of qualified, experienced, and well-trained people in the federal acquisition workforce—especially contracting officers, contracting officer’s technical representatives, program managers, and system engineers needed

to manage the volume of new contracts awarded—we expect a significant increase in the number of REAs and contract claims being submitted by government contractors due to government cause delays, disruptions, and mismanagement.

Increasing Contract Terminations

Recognizing the need to reduce federal budgets and their spending for products and services, it is very likely that many government prime contractors will face full and/or partial contract terminations for convenience by the government. Many federal contracts, which are funded on an annual basis, may not have sufficient money available for the government agency to continue purchasing all of the previously anticipated products, services, or systems.

The vast majority of federal government contracts are valued at \$150,000 or less, which is the current simplified acquisition

threshold, and those contracts are set aside for small businesses. Thus, it is quite probable that many small businesses in the United States will be significantly impacted by reduced federal spending levels, resulting in far more contract terminations.

Increasing Pro Small Business Legislation

The new House of Representatives is highly focused on helping to improve the U.S. economy. Since small businesses really do drive U.S. employment and spur our national economy, the House is planning numerous new bills to reduce non-value-added government regulations, taxes, and healthcare expenses on small businesses.

Reducing Government In-Sourcing

According to numerous recent reports and analyses by the Government Accountability Office, Department of Defense (DOD), U.S.



Army, and others, the practice of increasing federal government employees, called “in-sourcing,” has not proven successful in decreasing overall federal expenses. DOD has decided to reduce (and in some cases halt) its hiring of new federal employees, except for critical acquisition functions. Instead, DOD plans to use more contractors (especially small businesses) to provide needed acquisition management, logistics management, and other technical support services as funds are available.

Summary

It is anticipated that there will be several key impacts on government contractors as a result of the new Congress and its focus on reducing federal spending and decreasing our national debt. The new Congress is expected to have numerous, profound effects on thousands of government prime contractors and subcontractors during the next 18

months. As an old Chinese proverb relates, “It is best to live in interesting times.” Clearly, government contractors have been and will continue to live and operate in most interesting times! **CM**

ABOUT THE AUTHORS

GREGORY A. GARRETT, CPCM, NCMA

FELLOW, C.P.M., PMP, is the managing director and practice leader in the Navigant Consulting, Inc., Government Contractor Services practice office. He is an international educator, best-selling author, highly respected consultant, and the recipient of numerous national and international business awards.

FRANK J. BEATTY, CPA, is a director in the Navigant Consulting, Inc., Government Contractor Services practice office in Vienna, Virginia. He is a Certified Public Accountant in the Commonwealth of Virginia.

This article and the viewpoints reflected are solely the opinions of the authors and do not necessarily reflect the views of Navigant Consulting, Inc., or NCMA.

Send comments about this article to cm@ncmahq.org.

ENDNOTES

1. Office of Federal Procurement Policy, Federal Procurement Data System Next Generation report, January 2011.
2. *Ibid.*
3. ARRA Report, www.recovery.gov, January 2011.
4. OFPP, see note 1.