

Government Business: *Opportunities and Barriers to Entry*

July 11, 2002

1:00 to 5:00 p.m.

Followed by a Cocktail Reception

Network Meeting Center

Techmart

5201 Great America Parkway

Santa Clara, CA

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The United States Government is the nation's largest single purchaser of products and services. Its purchases are incredibly diverse and include information technology, weapons systems and subsystems, research & development, telecommunications, biotechnology, and a range of related services.

Since September 11, 2001, Congress has increased programs and funding for contracts to aid the fight against global terrorism, both within DOD and in other agencies. On June 6, 2002, President Bush proposed the formation of a new Cabinet Department, the Department of Homeland Security. This change will enable Homeland Security to have substantially more integrated and focused powers than it currently has. As outlined by the President, the new Department's mission will require procurement of new technology and services.

Does it make sense for your company to do business with the U.S. Government? Can you do more? What are the rewards? What are the risks? How can you get business with a reasonable investment while also reducing your risks?

Learn about the opportunities of doing business with the U. S. Government and the relevant barriers to entry.



Network Meeting Center
Techmart
5201 Great America Parkway
Santa Clara, CA
408.562.6111
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Sponsors

AeA—Advancing the Business of Technology

Advancing the business of technology, AeA is the nation's largest high-tech trade association. AeA represents more than 3,000 member companies that span the high-technology spectrum, from software, semiconductors and computers to Internet technology, advanced electronics and telecommunications systems and services. With 18 regional U.S. councils and offices in Brussels and Beijing, AeA offers a unique global policy grassroots capability and a wide portfolio of valuable business services and products for the high-tech industry.

Mayer, Brown, Rowe & Maw

Mayer, Brown, Rowe & Maw is among the 10 largest law firms in the world. Founded in Chicago in 1881, the firm has more than 1,300 lawyers in seven U.S. cities (Chicago, Charlotte, Houston, Los Angeles, New York, Palo Alto, and Washington, D.C.) and six European cities (Brussels, Cologne, Frankfurt, London, Manchester, and Paris) as well as an independent correspondent relationship with Jáuregui, Navarrete, Nader y Rojas, S.C., one of Mexico City's most respected law firms.

Registration

There is no registration fee to attend this program. However, space is limited and registration will be taken on a first-come/first-served basis. To register via e-mail, send your message to Denise Judilla at djudilla@mayerbrownrowe.com. Be sure to include your name, title, company name, and contact information. Or you may call Denise at 650.331.2006.

Program

1:00 p.m. to 1:15 p.m.

Introduction

Speakers: Marcia Madsen
Chair of the Government Contracts Practice
Mayer, Brown, Rowe & Maw

Mark Albertson
Senior Vice President, Western Region
AeA

1:15 p.m. to 1:45 p.m.

The Special Challenges for Technology Companies in Supporting the War on Terrorism

Speaker: The Honorable Angela B. Styles
Administrator
Office of Federal Procurement Policy
U.S. Office of Management & Budget

Ms. Styles will address the Administration's approach to and priorities in procurement.

- What are the key issues in government contracting today?
- What are the barriers to entry in government contracting?
- How does the War on Terrorism affect contracting with the Government? How will the new Department of Homeland Security obtain necessary items and services?

1:45 p.m. to 2:45 p.m.

Contracting Opportunities—Real or Ephemeral? How to Market/Obtain Government Business

Panel 1: What contract vehicles are there for selling to the Government? Which ones work?

- What does the Government buy? How does the Government buy it?
- How can you best assess the market and decide whether it is worth the investment for your company?
- Multiple Award Schedules for commercial items - How to get them. How to make them work.
- IDIQ Contracts - Special challenges.

Panel 2: What is involved in setting up a sales and marketing force for Government contracts? What should the sales force do? How should the sales force interact with the legal department?

- Can you market the Government as though it were a commercial customer?
- How do your target customers and contract vehicles affect the approach you should take?
- What government relations approaches are beneficial?

2:45 p.m. to 3:05 p.m.

How AeA Can Help Your Company—The AeA Procurement Initiative

Speakers: Mark Albertson
Senior Vice President, Western Region
AeA

Julia Ostrowski
Director, Member Information
AeA

Government procurement executives are searching for new, critical technologies to address national security and e-government requirements.

AeA's database marketing initiative connects companies with government agencies.

- How does the database marketing initiative work?
- What on-line tools are being used?
- What progress is being made in connecting procurement executives with the high-tech community?

3:05 p.m. to 3:15 p.m.

Break

3:15 p.m. to 4:00 p.m.

The Sovereign United States is not Your Ordinary Customer—Unique Risks of Doing Business With The Government: Costs, Audits, and Liability Limitations

The Government is not your ordinary customer. When it contracts, the Government gets special rights and privileges and contractors are subject to special rules that differ—sometimes greatly—from commercial practice.

- What are the special risks of doing business with the Government?
- Are there effective strategies to mitigate risk?
- Can the Government act "commercially"? How can you convince the Government to do so?
- When and how does the Government regulate costs?
- What audit rights will the Government have in your contracts?
- What liability limitations can you obtain?

4:00 p.m. to 4:30 p.m.

Safeguarding Your Assets—Intellectual Property, Trade Secrets, and the Risks of Giving the Government Access

Intellectual property assets are vital to any company's survival. Can contracting with the Government put your assets in jeopardy? How can you best protect them? What can you do if they are compromised?

- What rights can the Government acquire in intellectual property?
- How can your property best be protected from the Government and your competitors?
- What rights can you obtain in intellectual property that you develop for the Government?

4:30 p.m. to 5:00 p.m.

Disputes With the Government and Other Contractors—Avoiding, Mitigating, and Resolving Disputes

Contracts sometimes lead to disputes. Are disputes different with the Government? What are your options in the event of a dispute? How can you avoid or mitigate disputes?

- How are disputes among contractors different than commercial litigation? What strategies can you employ to your advantage in such disputes?
- What are the options for disputes? Is the Government interested in alternative dispute resolution (ADR)? How does it work?
- How does the Government view disputes? What mistakes or pitfalls does it think contractors make?
- What is the False Claims Act? How does it work?

5:15 p.m.

Reception (Renaissance Room)

Speakers

The Honorable Angela B. Styles

Administrator, Office of Federal Procurement Policy • White House Office of Management & Budget

The mission of the Office of Federal Procurement Policy (OFPP) is to provide overall direction of Government-wide procurement policies, regulations, procedures, and forms for executive agencies and to promote economy, efficiency, and effectiveness in the procurement of property and services by the Executive Branch. As OFPP Administrator, Ms. Styles executes OFPP's statutory mandates, fulfills the President's acquisition priorities, and provides leadership to the acquisition community. Prior to being confirmed by the Senate as OFPP Administrator, Ms. Styles practiced law in Washington, D.C. Before entering the practice of law, Ms. Styles worked in Washington, DC as a legislative aide for Congressman Joe Barton and former Governor Will P. Clements in the Texas Office of State-Federal Relations.

Mark Albertson

Senior Vice President, Western Region • AeA

Mark Albertson is responsible for overseeing eleven of AeA's eighteen councils in the western United States, which includes approximately two-thirds of the association's total membership. In addition, he is responsible for AeA's State Policy Action Network (SPAN) which represents the interests of the high technology industry in state capitals across the country. Prior to joining AeA, Mr. Albertson was Vice President of Corporate Relations for Amdahl Corporation in Sunnyvale, California. In this role, he was responsible for managing the company's worldwide internal communications functions as well as the state and local government relations programs. Previously, Mr. Albertson worked for National Semiconductor in Sunnyvale, California where he was the Manager of Corporate Communications. Mr. Albertson serves on the Board of Directors of the Santa Clara County Chapter of the American Red Cross and is a graduate of the Community Leadership San Jose Program. Mr. Albertson holds a bachelor's degree from Stanford University.

David F. Dowd

Partner • Mayer, Brown, Rowe & Maw

Mr. Dowd focuses his practice in the areas of government contracts and litigation. He counsels clients regarding issues such as contract negotiations, teaming and strategic alliances, commercial items, Multiple Award Schedule contracts, delivery and task order contracts, biodefense, mergers and acquisitions, and cost or pricing data. Mr. Dowd's litigation experience includes prime/sub disputes, claims, and cost accounting issues. He also has successfully litigated bid protests involving military systems, information technology, and telecommunications.

Robert K. Huffman

Partner • Mayer, Brown, Rowe & Maw

Mr. Huffman concentrates his practice in the areas of government contracts, False Claims Act enforcement, health care, and intellectual property. He has extensive litigation experience in the federal district courts, the Court of Appeals for the Federal Circuit and other federal appellate courts, the Court of Federal Claims, and the Armed Services Board of Contract Appeals. Mr. Huffman counsels health, defense, and other companies on government contract matters and represents them in disputes with the government and other companies over issues affecting contract performance, pricing, termination, and technical data rights. He also represents companies in fraud investigations, prosecutions, and qui tam suits. Past president of the Court of Federal Claims Bar Association, Mr. Huffman has been an adjunct professor at Georgetown University Law Center since 1976. He has written extensively on the False Claims Act and related issues.

Colonel Alexander W. Purdue

United States Air Force

Colonel Purdue is the Chief Trial Attorney for the Air Force and Director, Contract Disputes Resolution, Air Force Material Command Law Office, Wright-Patterson AFB. As Chief Trial Attorney, he is responsible for the agency's litigation throughout the country on a range of matters, including contracts and intellectual property. Prior to assuming that position, Colonel Purdue served as the Deputy Staff Judge Advocate from 1997 through July 2000 and as Chief of the Commercial Litigation Division, Air Force Legal Services Agency from 1995 to 1997, where he was responsible for over \$2 billion in Air Force contracts and intellectual property cases in litigation before the federal courts.

Marcia G. Madsen

Partner • Mayer, Brown, Rowe & Maw

Ms. Madsen focuses her practice in the areas of government contracts and litigation, advising clients on contract formation, teaming and strategic alliances, contract and subcontract negotiations, performance disputes, audits, terminations, outsourcing, cost accounting and allowability, technical data rights and trade secrets, and fraud/false claims investigations. Her areas of concentration include aerospace and defense, telecommunications and information technology, health care and environmental remediation, and research and development contracts. She litigates in federal courts, before boards of contract appeals and the GAO, and has handled numerous ADR proceedings. Ms. Madsen has been awarded the Court of Federal Claims Golden Eagle Award for outstanding service to the Court and the Bar. Past Chair of the American Bar Association Section of Public Contract Law, Ms. Madsen has held numerous other Section offices. She is a member of the Court of Federal Claims Advisory Council, the Editorial Board of BNA Federal Contracts Report, and was President of the Board of Contract Appeals Bar Association.

Donald M. Falk

Partner • Mayer, Brown, Rowe & Maw

Donald M. Falk is a partner in the Supreme Court and appellate practice group at Mayer, Brown, Rowe & Maw in Palo Alto. A substantial part of his practice involves intellectual property, competition, and high technology. Among his recent matters was the *Festo* patent case recently decided by the Supreme Court, in which he helped prepare the merits briefs for the successful petitioner.

Julia Ostrowski

Director of the Member Information Department • AeA

Julia Ostrowski manages AeA's database marketing program where she is responsible for maintaining quality data on AeA's more than 3,000 member companies and marketing member information to government agencies, among other constituencies. Previously, she worked for three years with AeA's California lobbying team where she focused primarily on education policy advocacy and grassroots lobbying. Prior to her work with AeA, Ms. Ostrowski was a legislative liaison for former Bay Area State Senator Nicholas Petris.