

**Government Contracts**  
**Law 230-R01; 2 Credits**  
**Spring 2022**

Thursdays, 8:10-10:10pm (Online)

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Office Hours: Appointments Welcome for Phone or Online Support

**DESCRIPTION:** This course will examine the statutory and regulatory principles that govern the award, administration and performance of U.S. Government contracts. Discussions will focus on how federal government contracting differs from commercial contracting under state law, and will address special topics unique to government contracting, such as ethical and socioeconomic requirements, protests, contract disputes and terminations.

**LEARNING OUTCOMES:** By the end of the course, students should have acquired:

- An understanding of the basic principles of government contracting, and how those principles differ from commercial contracting.
- Practical skills for interpreting and complying with unique government contracting requirements.
- An overview of the types of disputes that can arise during the performance of government contracts, and the forums available to government contractors to resolve such disputes.

**CLASS MATERIALS:** Class materials are available online, with cases accessible through Westlaw or Lexis. The Federal Acquisition Regulation (“FAR”) can be accessed at the following website: <https://www.acquisition.gov/browse/index/far>.

**GRADING PROCEDURES:** Grades for this course will be based on a final exam. The exam will be open book, with a mixture of short answer questions and one or two essay questions. Students will have 24 hours to complete the exam. Given the importance of class participation to foster lively discussion on the topics to be addressed this semester, a student’s class participation (in the sole judgment of the instructor) may be used to make a single-increment upward adjustment to the student’s final grade (e.g. from “B” to “B+”).

**Class 1 (January 20) - Introduction; Government Contract Authority; Fiscal Considerations**

- FAR 1.101, 1.102, 1.601, 1.602
- Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380 (1947)
- Janowsky v. United States, 133 F.3d 888 (Fed. Cir. 1998)
- Hercules, Inc. v. United States, 116 S. Ct. 981 (1996)

**Class 2 (January 27) - The Instruments the Government Uses to Procure Goods and Services: Types of Contracts, Agreements and Payment Methods**

- FAR 16.202, 16.301-306, 16.401, 16.500-501, 16.601-603

- FAR 8.401-402
- 10 USC 2317b
- American Electronic Laboratories v. United States, 774 F.2d 1110 (Fed. Cir. 1985)

**Class 3 (February 3) – How the Government Buys Goods and Services: Competition Rules and Procurement Methods**

- FAR Subpart 6.1, 6.3
- FAR 19.501, 19.502-1
- 41 USC §§ 2101 – 2105
- Palantir USG, Inc. v. United States, 904 F.3d 980 (Fed. Cir. 2018)

**Class 4 (February 10) - Who is Eligible to Receive Government Awards: Contractor Responsibility and Ethical Requirements**

- FAR 9.103, 9.104
- FAR Subpart 9.4
- 41 USC §§ 8701-8707
- 18 USC § 207
- FAR Subpart 3.10
- Agility Defense & Gov't Servs. V. Dep't of Defense, 739 F.3d 586 (11th Cir. 2013)

**Class 5 (February 17) - Challenges to Government Contract Award Decisions: Protests**

- FAR Subpart 33.1
- DynCorp International, LLC v. United States, 153 Fed. Cl. 490 (2021)
- Oracle America, Inc., B-416061, 2018 CPD ¶ 180

**Class 6 (February 24) - Contract Claims: The Contract Disputes Act and the Tucker Act**

- FAR Subpart 33.2
- 28 USC §§ 1346(a) and 1491(a)
- Reflectone, Inc. v. Dalton, 60 F.3d 1572 (Fed. Cir. 1995)
- M. Maropakis Carpentry, Inc. v. United States, 609 F.3d 1323 (Fed. Cir. 2010)

**Class 7 (March 3) - Sources of Contract Disputes: Changes, Delays, Differing Site Conditions and Contract Interpretation Issues**

- FAR 52.243-1, 52.242-17, 52.249-14, 52.236-2
- Servidone Constr. Corp. v. United States, 19 Cl. Ct. 346 (1990)
- Northrop Grumman Corp. v. United States, 41 Fed. Cl. 645 (1998)
- Essex Electro Engineers, Inc. v. Danzig, 224 F.3d 1283 (Fed. Cir. 2000)

**Class 8 (March 10) – Contract Disputes Continued: Incurred Cost Claims**

- FAR Subpart 31.2
- ATK Thiokol, Inc. v. United States, 598 F.3d 1329 (Fed. Cir. 2010)
- Raytheon Co. & Raytheon Missile Sys., ASBCA 59435, 2021 WL 753661

**Class 9 (March 24) – The Government’s Unique Termination Rights: Terminations for Convenience vs. Terminations for Default**

- FAR 52.249-2, 52.249-8
- Torncello v. United States, 681 F.2d 756 (Ct. Cl. 1982)
- Lisbon Contractors, Inc. v. United States, 828 F.2d 759 (Fed. Cir. 1987)
- G.L. Christian & Assoc. v. United States, 312 F.2d 418 (Ct. Cl. 1963)

**Class 10 (March 31) - Prime Contractor and Subcontractor Dynamics: Types of Agreements, Required Flow-Downs, and Socioeconomic Programs**

- FAR Subpart 9.6, Subpart 44.2
- FAR 19.702
- Threshold Technologies, Inc. v. United States, 117 Fed. Cl. 681 (2014)
- Cyberlock Consulting, Inc. v. Information Experts, Inc., 939 F.Supp.2d 572 (E.D. Va. 2015)
- L’Garde, Inc. v. Raytheon Space & Airborne Systems, 2013 WL 12113998

**Class 11 (April 7) – Government Contracting Considerations Affecting Mergers and Acquisitions**

- 42 USC § 6305, 31 USC § 3727
- FAR Subpart 42.12
- ASRC Federal Data Network Technologies, LLC, B-418028, 2019 WL 7370424

**Class 12 (April 14) - Unique Risks of Government Contracting: False Claims and Defective Pricing**

- 31 USC §§ 3729-3731
- Universal Health Servs., Inc. v. United States ex rel. Escobar, 136 S. Ct. 1989 (2016)
- Daewoo Eng’g & Constr. Co. v. United States, 557 F.3d 1332 (Fed. Cir. 2009)
- 41 USC §§ 3501-3503,
- FAR 15.406-2, 15.407-1

**Class 13 (April 21) – Recap/Make-up**