

# AMADEO LAW FIRM

PROFESSIONAL LIMITED LIABILITY COMPANY

# The Government Procurement Bulletin™

For The Greater Washington, D.C. -  
Baltimore Corridor

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## Supreme Court Rules On “Honest Services” Fraud

By Mark A. Amadeo, Esq.

On June 24, 2010, the U.S. Supreme Court issued a ruling in *Skilling v. U.S.* that limits the application of the federal “honest services” fraud statute only to cases involving bribery and kickback schemes. Since the federal statute frequently had been used by prosecutors in cases involving conflicts of interest or other conduct not covered by other criminal statutes, the Supreme Court’s ruling will invariably impact federal prosecutions of government contractors, as well as federal, state, and local public contracting officials.

Under the federal “honest services” fraud statute, an unlawful “scheme or artifice to defraud” includes a scheme “to deprive another of the intangible right of honest services.” 18 U.S.C. § 1346. In *Skilling*, Enron CEO Jeffrey Skilling appealed his conviction of conspiring to commit “honest services” fraud, arguing, in part, that the “honest services” fraud statute should be void because it is unconstitutionally vague. Declining to invalidate the statute, the Supreme Court, chose instead to limit its scope.

Concluding that the statute codified federal common law that was developed in cases that mostly “involved fraudulent schemes to deprive another of honest services through bribes or kickbacks supplied by a third party who had not been deceived” the Supreme Court ruled that the “honest services” fraud statute should be limited to conduct involving bribes and kickbacks. While recognizing an overlap with the principal federal bribery statute under 18 U.S.C. § 201, the Supreme Court determined that the “honest services” fraud statute’s “application to state and local corruption and to private-sector fraud reaches misconduct that might otherwise go unpunished.”

The Supreme Court rejected the U.S. Government’s argument stating that prohibited conduct under the statute should be construed to include “undisclosed self-dealing by a public official or private employee.” Perhaps anticipating a Congressional response, the Supreme Court stated “[i]f Congress desires to go further, it must speak more clearly than it has.”

In a dissenting opinion, Justice Scalia concluded that even under the majority's limitation, it remained unclear whether the "honest services" fraud statute applies only to public officials, to private individuals who contract with the public, or to corporate officers.

On the same day it reversed the conviction in *Skilling*, the Supreme Court also reversed and remanded two other "honest-service" fraud cases, in light of its ruling in *Skilling*: *Black v. U.S.* and *Weyhrauch v. U.S.*

## PROCUREMENT EVENTS

### Montgomery County

#### July 28, 2010 - SBDC Maryland (Capital Region) - Government Certification 8(a)/SDB/MBE

2:00 pm -5:00 pm, Eastern Montgomery Regional Service Center, Silver Spring, MD

The SBDC will provide guidance on the certification process and how to qualify for Federal and State/Local Certifications. For more info: <http://support.mdsbdc.umd.edu/rc/cal/>.

#### August 4, 2010 - SBDC Maryland (Capital Region) - Federal Government Procurement for Technology Companies

8:30 am -1:00 pm, Capital Region Training Center, College Park, MD

The SBDC will provide a workshop for technology companies in business for two or more years seeking to grow or expand in the Federal Government market. Attendees will learn key strategies for selling to the U.S. government including: market entry approaches; key award winning steps; how to differentiate from competitors; how to present your capabilities to government and prime contractor personnel, Attendees will be provided guidance from industry experts and tips from other small businesses. For more info:

<http://support.mdsbdc.umd.edu/rc/cal/default.asp?date=8-4-2010#event1>.

#### August 26, 2010 - SBDC Maryland (Capital Region) - Government Certification 8(a)/SDB/MBE

2:00 pm -5:00 pm, Eastern Montgomery Regional Service Center, Silver Spring, MD

The SBDC will provide guidance on the certification process and how to qualify for Federal and State/Local Certifications. For more info:

<http://support.mdsbdc.umd.edu/rc/cal/default.asp?date=8-26-2010#event1>.

### ***BITS ON BIDS: Recent GAO Rulings on Bid Protests***

#### *In Re DGR Associates, Inc.*

*In a case involving a decision by an agency to set aside a procurement under the 8(a) program rather than under the HubZone program, the GAO ruled in favor of a HUBZone bid protester. The GAO decided that the HUBZone statute requires a contracting agency to issue a solicitation as a HUBZone set-aside if the conditions for a HUBZone set-aside exist: specifically, if the agency has a reasonable expectation of receiving offers from two or more qualified contractors and the award can be made at a fair market price. The GAO distinguished the 8(a) set-aside statute that gives agencies discretion to solicit bids as set-asides. The GAO also refused to give deference to a Department of Justice memorandum instructing Executive Branch employees to place different categories of small businesses on equal footing.*

#### *In re AlalamiahTechnology Group*

*The GAO denied a protest by a bidder whose proposal was deemed late because it was received by e-mail after the closing time for submission of proposals. In that case, the bidder submitted its proposal by e-mail in three separate volumes, the last of which was sent at 10:00 am - the closing time for bids. The contracting official, however, received the e-mails containing the proposal volumes at 10:03 am, 10:08 am, and 10:11 am, respectively. The GAO concluded that RFP requirements on bidders to "submit" offers by a certain time required offers to be received by that time.*

## Prince George's County

### July 20, 2010 - SBDC Maryland (Capital Region) - GSA Schedule 101: Introduction to the GSA Schedule

9:00 am - 12:00 pm, Bowie City Hall, Bowie, MD

This workshop will provide general information on the basic requirements and regulations governing the GSA Schedule program. Attendees will learn what the Schedule really is, how to determine if your company is qualified and performance-ready, determining Special Identification Numbers, what is required: documented sales & contracts, how the Offer is divided, the importance of Past Performance, how to support your pricing. For more info: <http://support.mdsbdc.umd.edu/rc/cal/default.asp?date=7-20-2010#event1>.

### July 21, 2010 - WSSC - Small Local Business Enterprise Workshop

9:00 am - 12:00 pm, WSSC Headquarters, Laurel, MD

The SLMBE Office is offering a workshop that will assist vendors interested in becoming an approved Small Local Business Enterprise or that need assistance recertifying as a SLBE firm, or that are in the process of becoming and approved SLMBE. To make an appointment: call WSSC's SLMBE Group at (301) 206-8800 or e-mail [slmbe@wsscwater.com](mailto:slmbe@wsscwater.com).

### July 27, 2010 - SBDC Maryland (Capital Region) - GSA Schedule 102: How To Market Your GSA Schedule

9:00 am - 12:00 pm, Bowie City Hall, Bowie, MD

This workshop will provide information on how to avoid mistakes and lose time marketing a GSA Schedule. Companies will learn how to market directly to federal agencies, how to develop a management calendar for a schedule contract, how source selections are made, about GSA Advantage and e-Buy, how BPA's happen, what IDIQ's, GWAC's and Multiple-Award Schedules are, and how to use vendor support programs available through the GSA. For more info: <http://support.mdsbdc.umd.edu/rc/cal/default.asp?date=7-27-2010#event1>.

## Frederick & Washington Counties

### July 15, 2010 - FDBDO & SBDC (Western) - Introduction to Federal Contracting

4 pm, SBDC Business & Employment Center, Frederick, MD

This free monthly seminar by the Fort Detrick Business Development Office and the Small Business Development Center will provide general information on federal government contracting. Pre-registration is required. For more info and to pre-register: call (301) 600-1967.

### August 19, 2010 - FDBDO & SBDC (Western) - Introduction to Federal Contracting

4 pm, SBDC Business & Employment Center, Frederick, MD

This free monthly seminar by the Fort Detrick Business Development Office and the Small Business Development Center will provide general information on federal government contracting. Pre-registration is required. For more info and to pre-register: call (301) 600-1967.

## Carroll, Howard & Anne Arundel Counties

### July 6, 2010 - MDOT Office of Minority Business Enterprise - MBE/DBE Application Assistance Workshop

10:00 am - 1:00 pm, MDOT Headquarters, Hanover, MD

The MBE/DBE Application Assistance Workshop is intended for those firms interested in seeking MBE and/or DBE certification. Attendees will learn the benefits of certification, the five key requirements for certification, and the four steps in the certification process. For more info:

[http://www.mdot.maryland.gov/MBE\\_Program/caldisplay?DISPLAYMODE=DisplayEvent&DETAILVIEWENT=115C41A5D939D32A0390444FD0BD4B4B](http://www.mdot.maryland.gov/MBE_Program/caldisplay?DISPLAYMODE=DisplayEvent&DETAILVIEWENT=115C41A5D939D32A0390444FD0BD4B4B).

**July 14, 2010 - SBDC Maryland (Central Region) - Federal Government 8(a) Certification**

9:30 am - 12:30 pm, Howard County Center For Business and Technology Development, Columbia, MD

This workshop is designed for small businesses seeking an 8(a) certification. This three-hour training session explains 8(a) requirements and how to prepare an 8(a) application, while also reviewing the opportunities and limitations of these certifications. Stories and examples of companies that have previously experienced the 8(a) certification process will be presented. With guidance from a veteran Small Business Administration (SBA) expert, valuable tips will be provided on how to submit a well-structured application, which would be compliant with the SBA rules and regulations. For more info:

<http://www.centralmdsbdc.org/trainings/course.php?ID=2355&m=7&dd=0>.

**August 3, 2010 - MDOT Office of Minority Business Enterprise - MBE/DBE Application Assistance Workshop**

10:00 am - 1:00 pm, MDOT Headquarters, Hanover, MD

The MBE/DBE Application Assistance Workshop is intended for those firms interested in seeking MBE and/or DBE certification. Attendees will learn the benefits of certification, the five key requirements for certification, and the four steps in the certification process. For more info:

[http://www.mdot.maryland.gov/MBE\\_Program/caldisplay?DISPLAYMODE=DisplayEvent&DETAILLEVEL=C813E6F4B57EF2891F3E2195259513C5](http://www.mdot.maryland.gov/MBE_Program/caldisplay?DISPLAYMODE=DisplayEvent&DETAILLEVEL=C813E6F4B57EF2891F3E2195259513C5).

## Baltimore City & Baltimore County

**August 17, 2010 - Baltimore Development Corporation - Small Business Resource Center - Government Contracting**

10:00 am - 12:00 pm, Baltimore, MD

This workshop will include information on Seeking Contracts, Core Basic Contract Standards, Documentation on Contract practices and Proposal Presentation tips. For more info:

[http://www.sbrcbaltimore.com/html/news\\_events/main.aspx](http://www.sbrcbaltimore.com/html/news_events/main.aspx).

## Washington, DC

**July 12, 2010 - GSA - Q&A Webinars for Small Businesses: GSA Schedules & Marketing**

1:00 pm to 2:00 pm, Webinar

This free is designed as a follow-up session to support vendors who have participated in the GSA Multiple Award Schedules webinar and the How to Market to the Federal Government webinar. The Q&A webinar provides an opportunity for vendors to receive additional assistance. For more info:

<http://www.gsa.gov/Portal/gsa/ep/eventView.do?viewType=DETAIL&eventId=5688&occurId=2590>.

**July 21, 2010 - GSA - 8(a) Certification Training**

1:30 pm to 4:00 pm, St. Elizabeth's West Campus, Washington, DC

This seminar by the GSA provides hands on computer training to assist local small businesses in completing and Securing 8(a) certification. Attendees will learn about the policies and procedures for 8(a) Certification, prepare the required documentation in a "Hands On" computer lab, receive onsite technical assistance from GSA and an SBA representative. For more info:

<http://www.gsa.gov/Portal/gsa/ep/eventView.do?viewType=DETAIL&eventId=5812&occurId=2787>.

**July 28, 2010 - SCORE - How to Become an 8(a) Company**

9:30 am to 12:30 pm, SCORE DC, Washington, DC

This workshop reviews 8 (a) requirements and how to apply to become an 8(a) company including the online application, company experience and organization, waivers and many other

"how to" items. For more info: <http://www.scoredc.org/workshops.cfm?class=41>.

**July 30, 2010 - SCORE - Government Contract Accounting**

9:30 am to 12:30 pm, SCORE DC, Washington, DC

This workshop covers Government contract accounting including allowable costs, direct and indirect costs, allocation of costs between projects, audits, accounting software, etc. For more info:

<http://www.scoredc.org/workshops.cfm?class=40>.

**August 6, 2010 - SCORE - Business Development in the Federal Sector**

9:30 am to 12:30 pm, SCORE DC, Washington, DC

This workshop will help attendees understand the federal sector marketplace as well as the process of marketing and selling to the Federal government. For more info:

<http://www.scoredc.org/workshops.cfm?class=7>.

**August 18, 2010 - GSA - 8(a) Certification Training**

1:30 pm to 4:00 pm, St. Elizabeth's West Campus, Washington, DC

This seminar by the GSA provides hands on computer training to assist local small businesses in completing and Securing 8(a) certification. Attendees will learn about the policies and procedures for 8(a) Certification, prepare the required documentation in a "Hands On" computer lab, receive onsite technical assistance from GSA and an SBA representative. For more info:

<http://www.gsa.gov/Portal/gsa/ep/eventView.do?viewType=DETAIL&eventId=5812&occurId=2788>.

**August 24, 2010 - GSA - How to Obtain A GSA Contract**

10:00 am to 12:00 pm, GSA Regional Office Building, Washington, DC

This seminar by the GSA is designed to encourage and support small businesses interested in obtaining a GSA federal contract. For more info:

<http://www.gsa.gov/Portal/gsa/ep/eventView.do?viewType=DETAIL&eventId=5750&occurId=2709>.

**August 27, 2010 - SCORE - GSA Schedules 101**

9:30 am to 12:30 pm, SCORE DC, Washington, DC

This workshop covers topics related to selling to the federal government on a GSA schedule. For more info:

<http://www.scoredc.org/workshops.cfm?class=10>.

**Alexandria & Northern, Virginia****July 13, 2010 - NOVA PTAP - Understanding and Implementing ISO 9001:2008**

6:30 pm, Fairfax, VA

This seminar will provide attendees with information on ISO 9001 and offer proven strategies to achieve timely and cost-effective certification. Attendees will also learn how these standards are designed to be user friendly for small and service oriented businesses. For more info:

<http://www.novaptac.org/eventcalendar/detail.asp?eid=180&sid=614>.

**FEATURED  
PROCUREMENT EXPO****August 5, 2010 -****Contacts & Contracts**

8:00 am - 4:30 pm

The Westin Arlington  
Gateway, Arlington, VA

*This Conference by the National Association of Small Business Contractors and the U.S. Women's Chamber of Commerce brings businesses up to date on current contracting opportunities and connects businesses with federal agency and prime contractor representatives. The Conference features a State of the State address by Margot Dorfman, CEO of the U.S. Women's Chamber of Commerce, agency and prime contractor regional updates, and matchmaking with agency and prime contractors. For more info:*

<http://www.nasbc.org/contacts-contracts-august-2010>.

**July 15, 2010 - FCEDA - 8(a) Compliance and Ethics - Maintaining Corporate Formalities**

7:45 am - 10:30 pm, Vienna, VA

Attendees will learn how to avoid early termination of the company's 8(a) status and observe government contracting ethics rules. For more info: <http://www.fairfaxcountyed.org/events/8a-compliance-and-ethics-%E2%80%93-maintaining-corporate-formalities>.

**July 19, 2010 - NOVA PTAP - Responding to RFP's**

6:30 pm, Fairfax, VA

This course is designed to provide familiarity with the contents of a federal government request for proposal. Students will learn to understand the RFP and how to prepare and submit a compliant and winning proposal. For more info:

<http://www.novaptac.org/eventcalendar/detail.asp?eid=82&sid=652>.

**July 22, 2010 - NOVA PTAP - Applying for a GSA Mission Oriented Business Integrated Services Schedule**

6:30 pm, Fairfax, VA

Attendees will learn what they need to prepare a successful GSA offer for a \$3B GSA schedule. Attendees will explore the forms and techniques needed to match company experience to the schedule requirements. Attendees will also learn how to price the schedule and what to expect from GSA during the negotiations. They will also learn to build complete labor categories structure and what optional forms should be submitted with an offer to expedite its approval. For more info:

<http://www.novaptac.org/eventcalendar/detail.asp?eid=176&sid=636>.

**July 27, 2010 - NOVA PTAP - ISO 27001 - IT Security**

6:30 pm, Fairfax, VA

This seminar will explore the new wave of government mandates which may require ISO 27001:2005 for Information Security Management Systems. Additionally, this seminar will provide a road map for how to get to ISO 27001 certification. For more info:

<http://www.novaptac.org/eventcalendar/detail.asp?eid=267&sid=620>.

**July 28, 2010 - NOVA PTAP - Government Contracts Practical Jump Start: Seven Steps to Success**

6:30 pm, Fairfax, VA

This class identifies seven things that all government contract winners do. This class debunks the myths about government contracting, gives attendees first-class resources that are hard to find, and puts attendees on the path to mastery of success essentials. For more info:

<http://www.novaptac.org/eventcalendar/detail.asp?eid=153&sid=624>.

**August 3, 2010 - NOVA PTAP - Unraveling the Mysteries of G&A, Overhead, and Fringe**

6:30 pm, Fairfax, VA

Attendees will be provided a solid and practical understanding of Government Contract Accounting as it relates to: the nature of indirect vs. direct costs, what can/should be included in indirect rates, varieties of indirect pools, how to calculate indirect rates and more. For more info:

<http://www.novaptac.org/eventcalendar/detail.asp?eid=172&sid=644>.

**August 5, 2010 - NOVA PTAP - Successful Teaming Agreements and Subcontracts**

6:30 pm, Fairfax, VA

This course is designed to teach and help small business develop successful teaming and subcontract relationships with large businesses, other small businesses, and individuals. The course will examine the purpose of these agreements, examine the meaning of various provisions contained in these agreements, and discuss strategies for negotiations. For more info:

<http://www.novaptac.org/eventcalendar/detail.asp?eid=83&sid=640>.

**ABOUT THE LAW FIRM:**

*The Amadeo Law Firm, PLLC, is a litigation and consultation boutique with offices in Frederick, MD & Washington, D.C. The firm represents clients in commercial, employment & employee benefit, and government contracting matters.*

**August 17, 2010 - NOVA PTAP - Accounting For Government Contracts**

6:30 pm, Fairfax, VA

This class covers the basics of accounting for government contracts and explains how to avoid the painful pitfalls that many contractors have found out about the hard (and costly) way. The class is designed for aspiring government contractors, new government contractors, and contractors striving for that next growth level. For more info:

<http://www.novaptac.org/eventcalendar/detail.asp?eid=85&sid=642>.

To subscribe to this complimentary publication e-mail: [newsletters@amadeolaw.com](mailto:newsletters@amadeolaw.com).

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