



Romanyk Consulting
Focusing on what matters

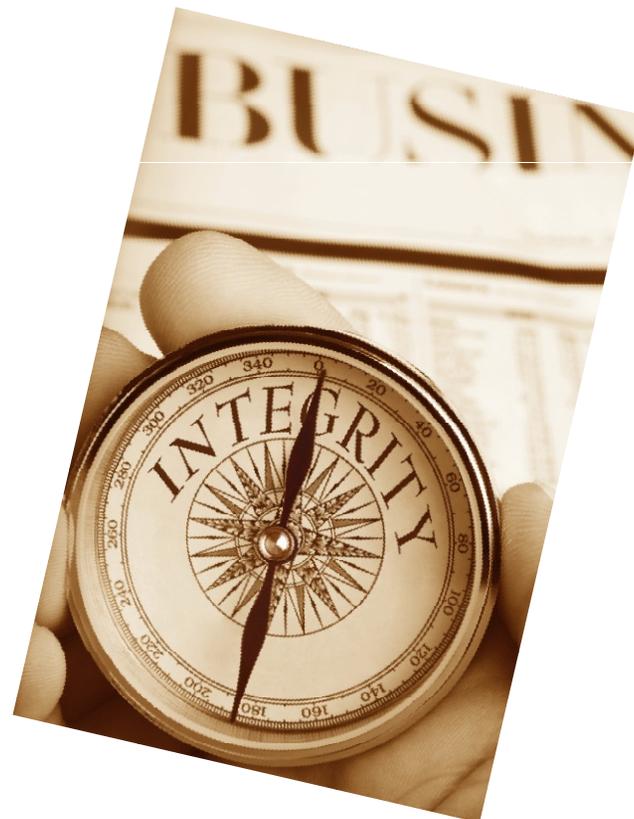
Federal Government Ethics Compliance Training

Federal Acquisition Regulation

Presentation Overview



- ◆ **Historical overview of Federal Acquisition Regulation**
- ◆ **Compliance and requirements**
- ◆ **Code of Ethics**
- ◆ **Ethical scenarios**
- ◆ **Questions**



Historical Overview



Timeline

2009

1865

Federal Acts and Penalties

◆ **False Claims Act (FCA)**

- ◆ Provides civil penalties for those who submit a claim for anything of value to the government that is knowingly false

◆ ***Qui tam* lawsuit**

- ◆ Allows a 3rd party to bring suit against alleged violators on behalf of the government for a portion of the recovery



Historical Overview



Timeline



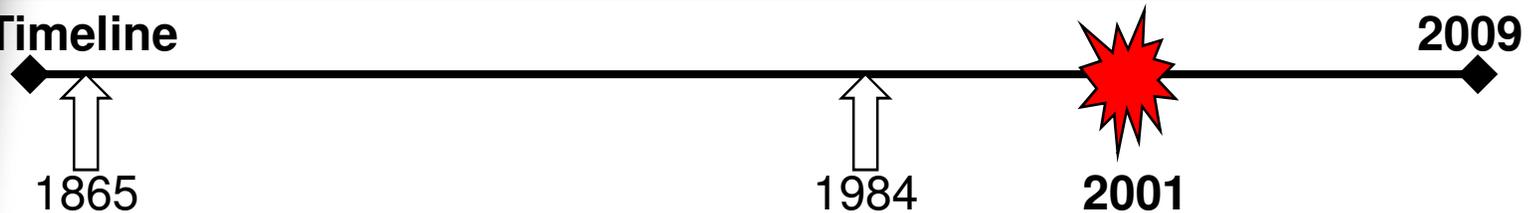
Federal Acquisition Regulation Created

- ◆ **What is Federal Acquisition Regulation (FAR)?**
 - ◆ Process through which the government purchases "acquires" goods and services
 - ◆ Set of policies and procedures for the award, management, and completion of federal contracts as well as governing body
 - ◆ Created by the Office of Federal Procurement Policy Authorization Act
 - ◆ References and incorporates most of Title 18 and 42 offenses and thereby prohibits, in a general sense, unethical conduct by contractors
- ◆ **Why was FAR created?**
 - ◆ Increased government spending forced re-evaluation of procurement practices and contractor compliance

Historical Overview



Timeline



Enron Debacle puts Ethics in Spotlight

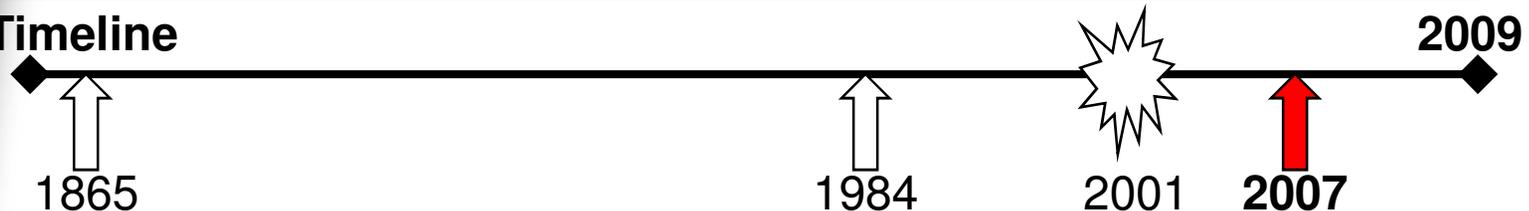
- ◆ **Need for ethical monitoring and compliance**
 - ◆ Prior to 1997, no provision in FAR relating to contractor business ethics
 - ◆ Monitoring corporate compliance of ethical standards becomes a priority
 - ◆ Changes to the Federal Sentencing Guidelines establishes, as a mitigating factor, corporate internal monitoring of code of conduct compliance



Historical Overview



Timeline



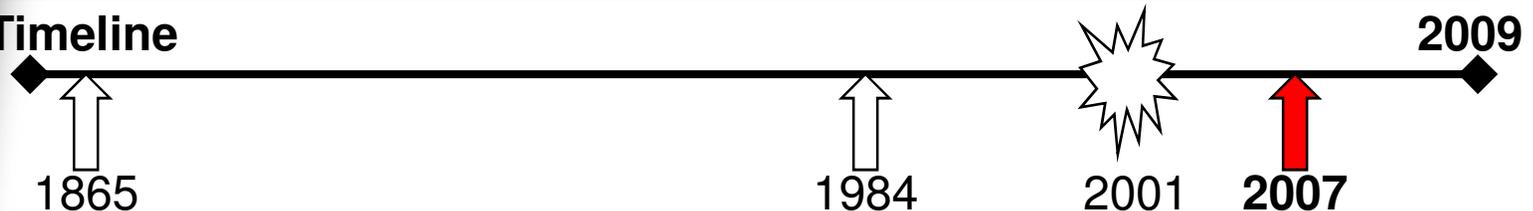
Ethics and Integrity Re-visited

- ◆ **Request from the Department of Justice**
 - ◆ Establish rules relating to integrity reporting for all entities seeking to do business with the federal government as well as existing entities who are qualified contractors
- ◆ **New additions to FAR**
 - ◆ FAR 52.203.13 and 52.203.14 become effective for all new federal contracts incorporating mandatory ethics compliance
- ◆ **Intent of new FAR additions**
 - ◆ Reduce contract fraud
 - ◆ Reduce waste and mismanagement of tax dollars
 - ◆ Enhance the integrity of the procurement system
 - ◆ Promote clarity and consistency in agency requirements
- ◆ **Trend at the time was self-monitoring, with no actual penalties in place for a failure to comply**

Historical Overview



Timeline



◆ What do the 2007 additions to FAR require?

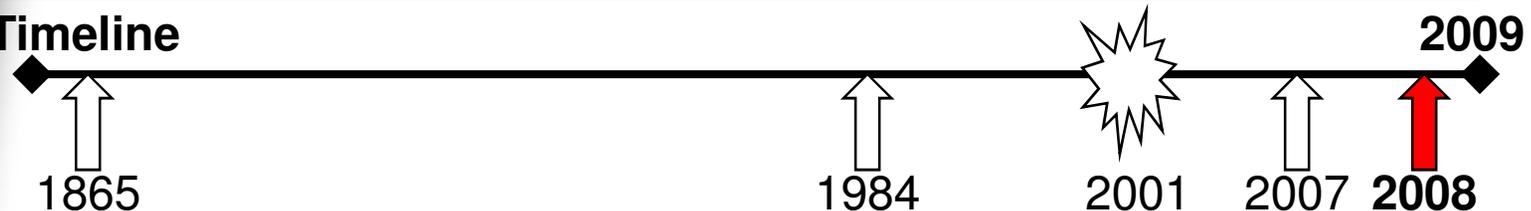
1. Within thirty (30) days after a government contract is awarded, the contractor shall have a written code of ethics and conduct
2. Contractors must provide a copy to each employee engaged in performance of the contract
3. Within ninety (90) days after contract award, contractors must establish an internal control system to facilitate timely discovery of improper conduct and ensure corrective measures are properly employed
4. Provisions in all subcontracts awarded adopting the contractor's code of ethics
5. Display of hotline posters in all common areas where contract is being performed and on the contractor's website to alert employees and others of the method to report ethical concerns



Historical Overview



Timeline



Enforcement and Failure to Comply

◆ **Additional Request from the Department of Justice**

- ◆ Establish regulations which contain the actual enforcement provisions missing in 2007 changes

◆ **Amendments to FAR**

- ◆ Part 3 (which is where 2007 changes are found)
- ◆ Part 9 (which sets out who is qualified to contract with the federal government)

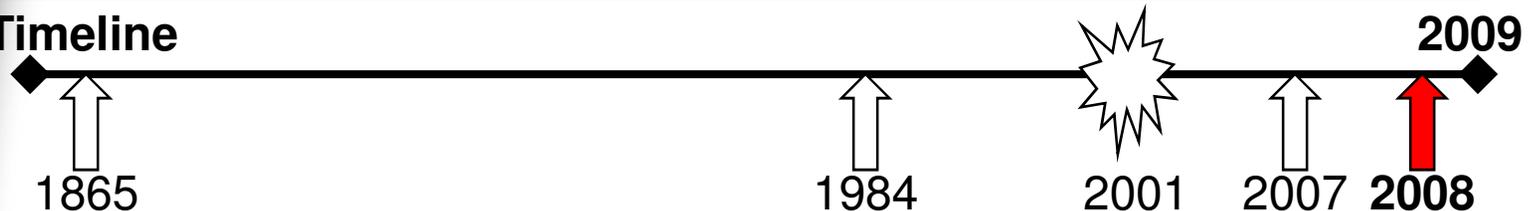
◆ **Failure to comply with new regulations results in the following**

- ◆ Negative past performance rating (death knell for future contract procurement)
- ◆ Breach of contract (cause for termination of contract)
- ◆ Suspension or debarment (noted on the ineligible contractor list)

Historical Overview



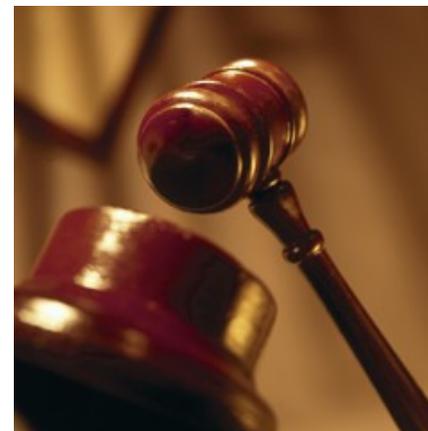
Timeline



2008 Amendments to FAR

◆ Part 3

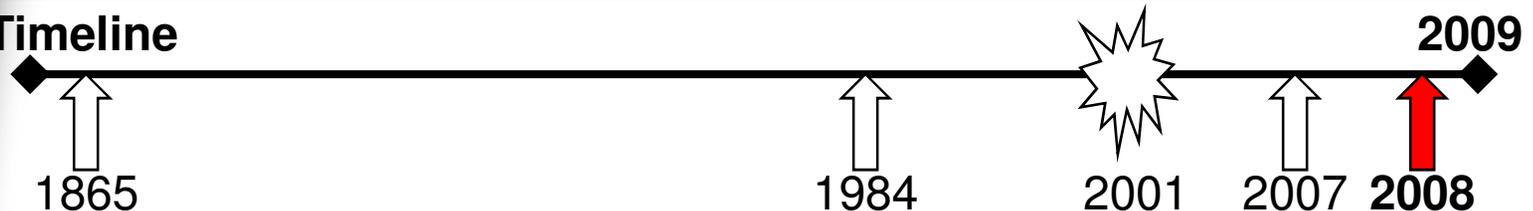
- ◆ In contracts awarded after December 12, 2008, a clause may be inserted which requires mandatory disclosure to the Office of Inspector General (OIG), in connection with the award, performance, or closeout of the contract or any subcontract there under, *credible evidence* that a principal, employee, agent, or subcontractor of the contractor has committed a violation of federal criminal law or a violation of the FCA (Failure to comply with clause constitutes a breach of contract)
- ◆ Small businesses must adopt a written code of ethics/conduct and promote a culture of ethical compliance (employee training)



Historical Overview



Timeline



2008 Amendments to FAR

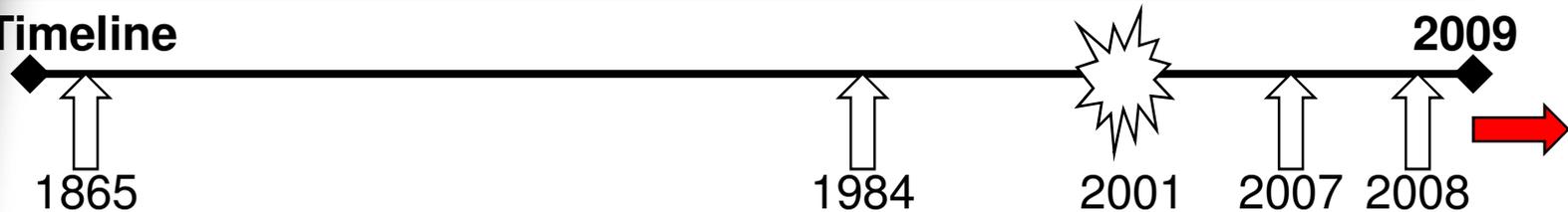
◆ Part 9

- ◆ Add a cause for suspension or debarment a principal's knowing failure, until 3 years after final payment on any government contract, to timely disclose to the Government, in connection with the award, performance or closeout of the contract or subcontract, *credible evidence* of: a violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations; a violation of the FCA; or a significant overpayment on the contract
- ◆ Applied to all government contracts regardless of type, contractor, or amount

Compliance and Requirements



Timeline



Looking Ahead

◆ FAR Requirements of Romanyk Consulting as a Government Contractor

- ◆ Be aware of and utilize Romanyk Consulting's hotline for answers to any ethical or conduct issue and to report potential violations of the Code of Ethics
- ◆ Include Romanyk Consulting's Code of Ethics in all future subcontracts and require compliance by subcontractors of Romanyk Consulting's core values
- ◆ Make sure that all of your actions undertaken as part of the Romanyk Consulting team comply with our core values
- ◆ Read and acknowledge Romanyk Consulting's Code of Ethics

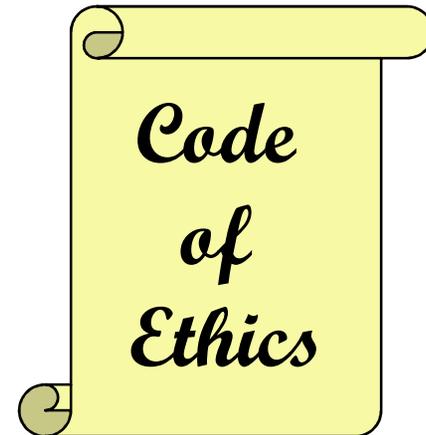


Code of Ethics



Looking Ahead

- ◆ **Advocate and Adhere to our Code of Ethics**
 1. Act with honesty and integrity, avoiding actual or apparent conflicts of interest in their personal and professional relationships
 2. Provide information that is accurate, complete, objective, fair, relevant, timely, and understandable
 3. Comply with rules and regulations of federal, state, provincial and local governments, and other appropriate private and public regulatory agencies
 4. Act in good faith, responsibly, with due care, competence, and diligence, without misrepresenting material facts or allowing one's independent judgment to be subordinated
 5. Respect the confidentiality of information acquired in the course of one's work except when authorized or otherwise legally obligated to disclose



Code of Ethics Continued



Looking Ahead

◆ **Advocate and Adhere to our Code of Ethics**

6. Confidential information acquired in the course of one's work will not be used for personal advantage
7. Share knowledge and maintain professional skills important and relevant to stakeholders' needs
8. Proactively promote and be an example of ethical behavior as a responsible partner among peers, in the work environment, and in the community
9. Achieve responsible use, control, and stewardship over all Romanyk Consulting assets and resources that are employed or entrusted to you
10. Not unduly or fraudulently influence, coerce, manipulate, or mislead any authorized audit or interfere with any auditor engaged in the performance of an internal or independent audit of Romanyk Consulting's financial statements or accounting books and records



Spotting Ethical Concerns: Exercise



Looking Ahead

◆ *Company Growth on a Foundation of Ethics and Principle*

- ◆ Romanyk Consulting's Code of Ethics covers each of the following scenarios. These are just examples of the challenges we face everyday as government contractors. Upholding Romanyk Consulting's core values is our privilege and responsibility, and guarantees that we will continue to be at the forefront of our industry



Spotting Ethical Concerns: Scenarios



Scenario #1

- ◆ A software supplier wants you to view new product available for use in current and future Defense Department contracts. The supplier will fly the team to Las Vegas for a software convention where the product will be showcased. The trip includes airfare, hotel reservations and dining at the newest celebrity chef restaurant. May you attend?

Scenario #2

- ◆ The post commander at Ft. Detrick asks the company to sponsor a benefit to honor returning servicemen and servicewomen. The company has ongoing projects at Ft. Detrick. May the company sponsor the gala?



Spotting Ethical Concerns: Scenarios



Scenario #3

- ◆ The company has several IDIQ contracts for professional services with the Dept. of the Interior. Appropriations for Phase 1 of the first contract have been met although the company has not yet completed performance parameters. Work to complete Phase 1 will be utilized in performance of the second contract. May the company bill the cost to complete the performance parameters under the second contract?

Scenario #4

- ◆ There is a team-building meeting scheduled with the contracting officer, the project supervisor, and the company's team. The company would like to start early and provide a continental breakfast for attendees. May the company do so?



Spotting Ethical Concerns: Answers



Scenario #1

- ◆ No, the anti-kickback statute prohibits accepting anything of value for the purpose of obtaining or rewarding favorable treatment in connection with a contract or subcontract. If you would tend to favor this particular supplier because of the perks you receive, you are in violation.

Scenario #2

- ◆ No, the company cannot sponsor the gala.

Scenario #3

- ◆ No, this would be a violation of the FCA, and something that the DCAA would immediately pick up in an audit.

Scenario #4

- ◆ No, this would fall within the FAR \$20/\$50 rule. Gifts to government employees cannot exceed \$20 actual cost, with a \$50 annual limit. So as long as the cost of the breakfast is less than \$20, this is probably permissible.

Our Mission



Mission Statement

- ◆ **At Romanyk Consulting, our mission is to focus on what matters most to our clients. We provide the highest caliber expertise to assist organizations in the definition as well as execution of organizational strategies in order to deliver measurable and significant improvements in financial, operational, planning, and information technology.**



Questions

