

Top 5 Government Contracts Of 2021

By **Jennifer Doherty**

Law360 (December 22, 2021, 3:15 PM EST) -- The first year of the Biden administration saw the U.S. Department of Defense recalibrate its cloud computing aspirations, bring private companies into space programs, set aside record amounts for small business and continue the march against COVID-19.

Here are five of the biggest government contracts of 2021.

After JEDI, the Pentagon Seeks a New Hope for Cloud Computing

In July, the DOD abandoned the Joint Enterprise Defense Infrastructure program, its \$10 billion deal with Microsoft Corp. to shift the military's legacy information technology systems to the cloud amid unrelenting legal challenges from Amazon Web Services Inc. and Oracle Corp.

Replacing the single-award contract is Joint Warfighting Cloud Capability, a multiple-award indefinite-delivery, indefinite-quantity contract with an undetermined cost ceiling.

"The department is still evaluating the contract ceiling for this procurement, but anticipates that a multibillion-dollar ceiling will be required," the Pentagon said in its pre-solicitation notice this summer.

John Sherman, the DOD's acting chief information officer, attributed the switch to the department's changing needs, not the lawsuits arising from JEDI.

"In light of new initiatives like [**Joint All Domain Command and Control**] and AI and Data Acceleration (ADA), the evolution of the cloud ecosystem within DOD, and changes in user requirements to leverage multiple cloud environments to execute mission, our landscape has advanced and a new way ahead is warranted to achieve dominance in both traditional and nontraditional warfighting domains," Sherman said in a July statement.

In November, the Pentagon announced that it had **tapped three of the companies** involved in the JEDI litigation, as well as Google LLC, to bid. IBM, the country's other hyperscale cloud service provider and a former JEDI contender, was notably absent from the list.

SpaceX Joins NASA's Next Moonshot

Elon Musk's Space Exploration Technologies Corp., better known as SpaceX, advanced its decadelong relationship with NASA this year, signing a \$2.9 billion contract to land U.S. astronauts on the moon for the first time since 1972.

"We are honored to be a part of NASA's Artemis program to safely land the first woman and next man on the surface of the moon, as the first of many, many more people to follow," the company said in an April statement announcing the deal.

NASA has tasked SpaceX with developing the Human Landing System that will set astronauts down on the lunar surface. The company is developing a spacecraft called Starship for the task.

The Artemis program was already years behind schedule and **billions over budget** at the end of 2020, and a **protest over the SpaceX award** brought by Jeff Bezos' commercial spaceflight firm, Blue Origin LLC, slowed things down more, NASA said last month after the U.S. Court of Federal

Claims **dismissed the suit.**

"Returning to the moon as quickly and safely as possible is an agency priority. However, with the recent lawsuit and other factors, the first human landing under Artemis is likely no earlier than 2025," NASA Administrator Bill Nelson said in a statement.

Blue Origin also notched a \$130 million win with NASA this month when the company's Orbital Reef venture was one of three companies selected to design "space stations and other commercial destinations in space" as the International Space Station moves closer to retirement and NASA continues to expand its relationship with private space companies.

STARS III Opens New Horizon in Small Biz Spending

The General Services Administration rolled out the third version of its Streamlined Technology Acquisition Resource for Services initiative in June, more than doubling the governmentwide acquisition contract to \$50 billion.

STARS III launched with an initial cohort of 426 small business IT service providers approved to serve federal agencies' general tech needs. The approved companies are part of the GSA's 8(a) program, which covers small businesses that are majority owned by people considered "economically and socially disadvantaged," including certain minorities and individuals who have been denied access to education, employment, credit or capital.

Beyond being bigger than STARS II, the updated contract also came with a new focus on cybersecurity and emerging technologies.

Last year's STARS III solicitation advised companies to prepare to take part in the DOD's Cybersecurity Maturity Model Certification, launched last month. The CMMC program covers the information security protections contractors must have to work with defense agencies.

Feds Expand COVID-19 Toolbox as Variants Increase

By the end of fiscal year 2021, the federal government had obligated more than \$4 trillion to mitigate the effects of COVID-19. About \$1.9 trillion of that came from the American Rescue Plan Act, enacted in March, which covered a round of stimulus checks, state and local emergency funds, homeowner and rental assistance, and other relief measures.

Over \$364 billion has been spent by the U.S. Department of Health and Human Services. In line with 2020's Operation Warp Speed, the Biden administration hit the ground running early in 2021 with more spending on vaccines, treatment and testing.

In February, the new administration paid \$3.65 billion for 200 million doses of Pfizer-BioNTech's and Moderna's vaccines, a move President Joe Biden said would put the country on track to vaccinate 300 million Americans by July. The government renewed its orders during the year, ordering 200 million more Moderna shots for \$3.3 billion in May, and 500 million Pfizer doses for international donation in August and another 200 million in November.

The government also kept buying experimental treatments, including GlaxoSmithKline PLC and Vir Biotechnology Inc.'s sotrovimab, which gained emergency use approval in May, as well as experimental antivirals from Merck and Pfizer. All three won billions from the government last month, along with Eli Lilly's antibody therapies bamlanivimab and etesevimab.

Pfizer's antiviral pill, Paxlovid, became the first oral antiviral to gain emergency use authorization on Dec. 22.

In May, Clinical Enterprise Inc., PerkinElmer Health Sciences Inc. and Battelle Memorial Institute won deals totaling \$640 million to increase testing in underserved communities and congregate settings including schools and homeless shelters across the country.

"Confusing" \$50B NIH Solicitation Prompts Protests

In May, the National Institutes of Health opened bidding on a governmentwide acquisition contract worth up to \$50 billion over the coming decade, a vehicle the acting director of NIH's Information Technology Acquisition and Assessment Center touted as potentially "revolutionizing the way agencies acquire IT."

Chief Information Officer Solutions and Partners 4, or CIO-SP4, is meant to allow federal agencies to order IT services quickly across 10 task areas such as health, biomedical and scientific solutions, drawing from a list of up to 510 approved CIO-SP4 vendors whose contracts would cover five years with optional five-year extensions.

The agency's request for proposals quickly drew criticism from a trade group, however, which said that after multiple amendments the solicitation was **too confusing to bid on**. At least seven companies filed pre-award protests.

In October, the U.S. Government Accountability Office dismissed a protest from Tata America International Corp., a unit of Indian conglomerate Tata Group, which challenged a requirement obligating bidders to **share information about their past customers**. The requirement put Tata at a disadvantage, the company said, since it was bound by confidentiality agreements, but the GAO found nothing wrong with the NIH's use of past contracts to verify companies' experience.

In November, however, the GAO sustained part of a protest brought by CWS FMTI JV LLC, a joint venture of Computer World Services Corp. and a small business called Fusion Mastech Inc. The partnership is classified as a mentor-protégé joint venture, which qualifies the pair for small-business benefits.

CWS FMTI opposed a requirement in the CIO-SP4 request for proposals that limited the number of examples the mentor firm could provide to demonstrate depth of experience, saying that the rule was unnecessarily restrictive and that it would be unfair to judge their capabilities based on Fusion Mastech's past deals.

On Dec. 15 the agency issued an amendment — the CIO-SP4 solicitation's 12th — specifying that no more than two of a mentor-protégé venture's examples could come from the mentor firm, and the protégé only needed to provide one. The NIH also extended the submission deadline through Jan. 21 to allow bidders to modify their submissions. Yet another amendment with guidance on revising and resubmitting is scheduled to come in the first week of 2022.

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