

Preserving Contract Value During Corporate Restructuring

Financial distress does not automatically disqualify a company from federal contracting, but it introduces a minefield of compliance challenges. Companies operating under Chapter 11 bankruptcy protection often rely on their existing government contracts to provide the steady cash flow needed to reorganise and emerge successfully. However, the federal government protects itself aggressively against risky vendors. The intersection of bankruptcy law and federal procurement regulations is complex, and your entity profile is where these two worlds collide.

During a restructuring, the status of your **SAM renewal** becomes critical. The government has the right to terminate contracts if they believe the vendor is financially incapable of performing. An expired registration during a bankruptcy proceeding is a death knell. It gives the government an easy administrative excuse to stop payments or terminate for default. Conversely, maintaining an active, transparent profile demonstrates to the bankruptcy court and the contracting officer that the company is still "open for business" and operationally viable.

Debtor-in-Possession (DIP) Financing and Bank Accounts

When a company enters Chapter 11, it often opens new "Debtor-in-Possession" (DIP) bank accounts to manage its funds under court supervision. The federal government must pay into these new accounts. This requires an immediate update to the banking information in the federal profile. However, changing bank accounts triggers a validation check. If the company name on the new DIP account ("Acme Corp, Debtor in Possession") doesn't match the legal name in the registration ("Acme Corp"), the validation fails. Expert coordination is needed to navigate this name-match nuance without disrupting the critical DIP funding.

The "Present Responsibility" Standard

To hold a government contract, a vendor must be "presently responsible." Filing for bankruptcy can trigger a review of this status. Suspension and Debarment Officials (SDOs) will look at the company's profile. If they see that the company has failed to keep its records updated or has ignored administrative notices, it supports the narrative that management has lost control. A meticulously maintained profile helps argue that the financial issues are isolated

and that the operational management of the company remains sound and compliant.

Novation in Distressed Asset Sales

Often, the outcome of a restructuring is the sale of the government contracts to a healthy buyer (a "363 sale"). As discussed in M&A, this requires novation. In a distressed scenario, speed is essential. The value of the assets degrades every day. The seller must keep the entity registration active up until the very moment of transfer. If the registration lapses while the sale is pending court approval, the buyer may walk away, fearing they cannot legally take possession of the contracts.

Reporting Proceedings to the Government

Contractors are required to report certain civil and criminal proceedings, including bankruptcy filings, in the "Proceedings" section of their profile (formerly FAPIIS). Hiding the bankruptcy is not an option; it is a cause for debarment. The profile must be updated to reflect the filing accurately and within the required timeframe. This transparency, while painful, is legally mandated. It is better to self-report and control the narrative than to have a contracting officer discover the filing through a third party.

Conclusion

Restructuring is a fight for survival. In this fight, your federal contracts are your lifeline. Protecting that lifeline requires aggressive administrative maintenance. By keeping your entity registration active and accurate even in the midst of financial chaos, you preserve the option value of your contracts and give your company the best chance at a successful turnaround.

Call to Action

Navigate the complexities of restructuring without losing your government contracts by consulting our experts.

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