Advantages of Having an Approved Purchasing System

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AGENDA

- Introduction to CPSR
- Who Needs an Approved Purchasing System
- Elements of an Approved Purchasing System
- DCMA Purchasing System Review Components
- Purchasing System Criteria
- Preparing for DCMA’s CPSR
- Recent CPSR Experiences
The Importance of Compliant Procurement

Public money ought to be touched with the most scrupulous conscientiousness of honor. It is not the product of riches only, but of the hard earnings of labor and poverty.

Thomas Paine, February 1792

The Driving Philosophy of Government Procurement
WHAT IS A PROCUREMENT SYSTEM REVIEW CALLED?

CPSR:

- CONTRACTOR
- PURCHASING
- SYSTEM
- REVIEW

Conducted by the Defense Contract Management Agency (DCMA) in accordance with FAR Subpart 44.3
WHY IS A CPSR CONDUCTED?

**CPSR:** A special review conducted by the DCMA of procurement processes and activities across an organization

**Purpose:** To evaluate the adequacy of a purchasing system and make recommendations for improvement, if necessary

**Objective:** To evaluate the efficiency and effectiveness with which a contractor spends Government funds and its compliance with Government policy when procuring goods and services
Why does a contractor want to have an approved purchasing system?
• **Saves time**
  Helps to relieve the contractor of the requirements to: 1) provide the Government with advance notification of the intended award of certain procurement actions, and 2) request and receive Government consent prior to purchasing or subcontracting

• **Helps win proposals/get new business**
  – An approved system is required to propose on most large Government contracts
  – Past performance requirement
Who Needs an Approved Purchasing System
WHO NEEDS AN APPROVED PURCHASING SYSTEM

PER FEDERAL ACQUISITION REGULATION (FAR) 44.302:

(a) The Administrative Contracting Officer (ACO) shall determine the need for a CPSR based on, but not limited to, the past performance of the contractor, and the volume, complexity, and dollar value of the subcontracts. If a contractor’s sales to the Government (excluding competitively awarded firm-fixed-price and competitively awarded fixed-price with economic price adjustment contracts and sales of commercial items pursuant to Part 12) are expected to exceed $25 million during the next 12 months, perform a review to determine if a CPSR is needed. Sales include those represented by prime contracts, subcontracts under Government prime contracts, and modifications. Generally, a CPSR is not performed for a specific contract.
WHO NEEDS AN APPROVED PURCHASING SYSTEM

PER FAR 44.302:
(b) Once an initial determination has been made under paragraph (a) of this section, **at least every three years the ACO shall determine whether a purchasing system review is necessary.** If necessary, the cognizant contract administration office will conduct a purchasing system review.
WHO NEEDS AN APPROVED PURCHASING SYSTEM

OTHER FACTORS:

- Current total contract award value is below the FAR 44.302 regulatory threshold, but the contractor anticipates large contract awards in the future.
- Current total contract award value is below the FAR 44.302 regulatory threshold, but the contractor wants to increase market competitiveness and attractiveness to the Government.
- Contractor wants to demonstrate due diligence and a strong desire to show the Government that it recognizes the importance of the prudent expenditure of public monies.
- Required by Prime Contractor for 1st Tier Subcontractor that is purchasing in support of the Prime Contractor.
WHO NEEDS AN APPROVED PURCHASING SYSTEM

OTHER FACTORS:

• Contractor wants to minimize Government oversight of its procurement activities
• Contractor wants to maximize opportunities for future contracts because an approved purchasing system is more credible with Government customers
• Provides the contractor with significantly more autonomy in procurement activities
• Contractor wants to reduce/eliminate need for advance notification and consent requirements of FAR 52.244-2
WHY A CONTRACTOR SHOULD START DEVELOPING AN APPROVABLE PURCHASING SYSTEM

- Time: Developing and implementing an approvable purchasing system is a long and complex process involving coordination with and input from many corporate functions
- Time: Need time to train purchasing and other employees as needed on purchasing policy and procedures
- Time: During a CPSR, DCMA will generally review eligible procurement awards made during one full year under the new purchasing system – need to implement quickly

IT JUST TAKES TIME
WHY A CONTRACTOR SHOULD START DEVELOPING AN APPROVABLE PURCHASING SYSTEM

• Ensure compliance with Government procurement policies as soon as possible following award of eligible contracts
• Maximize efficiency with which the contractor spends Government funds – prudent expenditure of public monies
• Reduced contractor workload through the use of standardized processes and procedures and fewer advance notification and consent (FAR 52.244-2) requirements
WHY A CONTRACTOR SHOULD START DEVELOPING AN APPROVABLE PURCHASING SYSTEM

• Maximize Government confidence in the fairness and reasonableness of procurement expenditures
  – Improved past performance history
  – Provides documentation of decisional process that is durable and reviewable
  – More competitive proposal values – lowest possible subcontract and purchasing prices
Elements of an Approvable Purchasing System
WHAT ELEMENTS ARE REQUIRED IN AN APPROVABLE PURCHASING SYSTEM

IS YOUR SYSTEM ADEQUATE?

• Don’t think that just because your system has been operational for X number of years that it is adequate
• You should use the DFARS and DCMA criteria as a checklist to review your system and policies and procedures
• You should be confident it is compliant before the DCMA arrives
WHAT ELEMENTS ARE REQUIRED IN AN APPROVABLE PURCHASING SYSTEM

POLICIES AND PROCEDURES

• You should have written policies and procedures that address the 40 DCMA and 24 DFARS system criteria (DFARS 252.244-7001)
• This will be the first item that DCMA requests
• Document(s) need to describe, in adequate detail, how your system operates and who does what
WHAT ELEMENTS ARE REQUIRED IN AN APPROVABLE PURCHASING SYSTEM

PURCHASING TRAINING

• Personnel participating in the purchasing process need to be trained annually on purchasing policy and procedures
• Documentation of the training provided needs to be saved (training material)
• Employees must have proof of receiving training (sign in sheets)
WHAT ELEMENTS ARE REQUIRED IN AN APPROVABLE PURCHASING SYSTEM

PURCHASING FILES

• At least a year’s worth of purchasing files created under compliant purchasing policy and procedures
• Procurement file checklists
WHAT ELEMENTS ARE REQUIRED IN AN APPROVABLE PURCHASING SYSTEM

AUDIT REPORT

• At least one review of your purchasing system by your Compliance Officer or Internal Quality Control Group
DCMA Purchasing System Review Components
WHAT PURCHASING SYSTEM COMPONENTS ARE REVIEWED BY DCMA IN A CPSR

POLICIES AND PROCEDURES

• Ensure your policy documents are up to date
  – A revision date of five years ago isn’t exactly current
• Policies should agree with what is actually happening and agree with your financial system as well as your purchasing system
• Employees need to be trained on Policies and Procedures and have access to them for reference
• Documents should be based on your business and how you do purchasing
• Policy and Procedures need to include Organizational Chart of your Purchasing Department and how that Department fits within your Company
WHAT PURCHASING SYSTEM COMPONENTS ARE REVIEWED BY DCMA IN A CPSR

PROCUREMENT FILES

• Document, Document, Document all decisional processes
  – Make or Buy, sourcing, small business considerations, contract type, price analysis, technical analysis, negotiations, award decision, subcontractor management, evaluation, closeout

• Have file checklists
  – Non-commercial, commercial, micro-purchases

• File contents should follow file checklists (electronic or paper)

• Use forms, but don’t just check the box; include support for decision
WHAT PURCHASING SYSTEM COMPONENTS ARE REVIEWED BY DCMA IN A CPSR

EMPLOYEE INTERVIEWS (DCMA Option)

• Procurement Employees who do the actual purchasing
  – Need to be aware of Purchasing Policy and Procedures
  – Need to have management support of purchasing process and restrictions
Purchasing System Criteria
ACCEPTABLE PURCHASING SYSTEM

Business System Rule defines an acceptable purchasing system as one that complies with the 24 criteria of the DFARS rule. However:

- Your purchasing system will be reviewed by DCMA using its DCMA CPSR Guidebook
- The DCMA CPSR Guidebook and DFARS clause have differences
- Follow both to be sure your purchasing system will be found “Acceptable”
THE 5 PHASES OF PURCHASING

Phase 1
Program Setup

Phase 2
Pre-Solicitation

Phase 3
Solicitation

Phase 4
Award

Phase 5
Subcontract Administration
PHASE 1: PROGRAM SETUP

PURCHASING POLICY AND PROCEDURES

• Who, when, where, and how (purchasing procedures)
• Lines of authority, approvals, organization (charts and matrices)
• Reviews, how often and by whom (audit)
PHASE 1: PROGRAM SETUP
(DCMA CPSR CHECKLIST)

(6) Conflicts of Interest (Ethics and Gratuities, Internal Audit, Hotline, Whistleblower Protection, Vendor Relations)
(7) EEO Compliance
(11) Berry Amendment/Specialty Metals (only where applicable)
(24) Purchase Requisition Process
(28) Procurement Authority
(31) Supply Chain Management Process
(36) Small Dollar Awards/Micro-Purchases/Purchase Cards
PHASE 1: PROGRAM SETUP
(DFARS CRITERIA)

(1) Have an adequate system description, including policies, procedures, and purchasing practices that comply with the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS);

(3) Maintain an organization plan that establishes clear lines of authority and responsibility;

(18) Perform internal audits or management reviews, training, and maintain policies and procedures for the purchasing department to ensure the integrity of the purchasing system;

(19) Establish and maintain policies and procedures to ensure purchase orders and subcontracts contain mandatory and applicable flowdown clauses, as required by the FAR and DFARS, including terms and conditions required by the prime contract and any clauses required to carry out the requirements of the prime contract;

(20) Provide for an organizational and administrative structure that ensures effective and efficient procurement of required quality materials and parts at the best value from responsible and reliable sources;
PHASE 2: PRE-SOLICITATION

Decisional processes that occur prior to issuing a solicitation

• Make-or-Buy, in-source or out-source
• Source Selection Process
  – Selection of team subcontractors/suppliers; strategic rationale, especially if non-competitive
  – Competitive or Sole/Single Source
  – Teaming Agreements/Non-Disclosures
  – Small Business considerations
  – Commercial or non-commercial
• Subcontract type

DOCUMENT THESE DECISIONS
PHASE 2: PRE-SOLICITATION
(DCMA CPSR CHECKLIST)

(4) Small Business Subcontracting Plan
(5) Debarred, Suspended, Ineligible Vendor Certification
(9) Defense Priorities and Allocation System (DPAS) requirements
(14) Competition
(15) Single Source/Sole Source Justification
(17) Best Value
(18) Make or Buy Program
(26) Commercial Item Determination
(30) GSA Letters of Authorization
PHASE 2: PRE-SOLICITATION (DFARs CRITERIA)

(6) Apply a consistent make-or-buy policy that is in the best interest of the Government;

(7) Use competitive sourcing to the maximum extent practicable, and ensure debarred or suspended contractors are properly excluded from contract award;

(9) Require management level justification and adequate cost or price analysis, as applicable, for any sole or single source award;

(13) Ensure proper type of contract selection and prohibit issuance of cost-plus-a-percentage-of-cost subcontracts;

(21) Establish and maintain selection processes to ensure the most responsive and responsible sources for furnishing required quality parts and materials and to promote competitive sourcing among dependable suppliers so that purchases are reasonably priced and from sources that meet contractor quality requirements;
PHASE 3: SOLICITATION

Ensure that everything you need and want is included in the solicitation:

- Flowdown clauses
- Terms and conditions
- Detailed Statement of Work
- Specialty items
- Selection criteria
- Pricing templates (if used)
- Anything that could affect the offeror’s proposed price and performance
PHASE 3: SOLICITATION (DCMA CPSR CHECKLIST)

(1) Truth in Negotiations
(2) CAS 414 (Facilities Cost of Money)
(3) Advance CO Notification for subcontracting
(5) Debarred, suspended, ineligible vendor certification
(6) Restrictions on Lobbying
(7) Representations and Certifications Package
(16) Negotiations Memorandum
(23) Mandatory FAR and DFARS Flowdown Requirements/Terms and Conditions
(35) Intra-/Inter-company Transactions
PHASE 3: SOLICITATION (DFARS CRITERIA)

(2) Ensure that all applicable purchase orders and subcontracts contain all flowdown clauses, including terms and conditions and any other clauses needed to carry out the requirements of the prime contract;

(11) Document negotiations in accordance with FAR 15.406-3;

(12) Seek, take, and document economically feasible purchase discounts, including cash discounts, trade discounts, quantity discounts, rebates, freight allowances, and company-wide volume discounts;
PHASE 4: AWARD

• What decisional processes are required to make an award?
  ‒ Price/Cost evaluation
  ‒ Technical capability
  ‒ Financial stability
  ‒ Negotiations

• Documentation of the award decision
PHASE 4: AWARD (CPSR)

(10/21) Documentation Checklist/File Documentation
(13) Cost/Price Analysis
(19) Subcontract Financing
(20) Excessive Pass-Through Costs
(25) Lead Time
(27) Letter Contracts
(34) Long-Term Purchasing Agreements
(37) Reporting of Intended Performance Outside the United States and Canada
(38) Combating Trafficking in Persons
(40) Counterfeit Parts
PHASE 4: AWARD (DFARS CRITERIA)

(4) Ensure all purchase orders are based on authorized requisitions and include a complete and accurate history of purchase transactions to support vendor selected, price paid, and document the subcontract/purchase order files which are subject to Government review;

(5) Establish and maintain adequate documentation to provide a complete and accurate history of purchase transactions to support vendors selected and prices paid;

(8) Evaluate price, quality, delivery, technical capabilities, and financial capabilities of competing vendors to ensure fair and reasonable prices;

(10) Perform timely and adequate cost or price analysis and technical evaluation for each subcontractor and supplier proposal or quote to ensure fair and reasonable subcontract prices;
PHASE 5: SUBCONTRACT ADMINISTRATION

• Management of the subcontractor’s performance
• Processing of invoices from subcontractor
• Review of subcontractor performance during subcontract performance and evaluation after subcontract completion
• Subcontract closeout
PHASE 5: SUBCONTRACT ADMINISTRATION (DCMA CPSR CHECKLIST)

(2) ACO notice when awarding CAS-covered contract
(12) Federal Funding Accountability and Transparency Act (FFATA)
(22) Internal Review/Self Audit
(29) Vendor Rating
(32) Subcontract Closeout
(34) Processing Changes/Modifications
(39) American Recovery and Reinvestment Act (ARRA)
PHASE 5: SUBCONTRACT ADMINISTRATION (DFARS CRITERIA)

(14) Maintain subcontract surveillance to ensure timely delivery of an acceptable product and procedures to notify the Government of potential subcontract problems that may impact delivery, quantity, or price;

(15) Document and justify reasons for subcontract changes that affect cost or price;

(16) Notify the Government of the award of all subcontracts that contain the FAR and DFARS flowdown clauses that allow for Government audit of those subcontracts, and ensure the performance of audits of those subcontracts;

(24) Establish and maintain procedures to timely notify the Contracting Officer, in writing, if:

(i) The Contractor changes the amount of subcontract effort after award such that it exceeds 70% of the total cost of the work to be performed under the contract, task order, or delivery order. The notification shall identify the revised cost of the subcontract effort and shall include verification that the Contractor will provide added value; or

(ii) Any subcontractor changes the amount of lower-tier subcontractor effort after award such that it exceeds 70% of the total cost of the work to be performed under its subcontract. The notification shall identify the revised cost of the subcontract effort and shall include verification that the subcontractor will provide added value as related to the work to be performed by the lower-tier subcontractor(s).
Preparing for DCMA’s CPSR
HOW TO PREPARE FOR A CPSR

WHAT DCMA WILL DO

• Obtain and review purchasing policy and procedures documents
• Obtain and review sales data and list of all eligible procurement actions awarded during the audit period
• Conduct entrance briefing
• Sample purchase orders and subcontracts at various award levels; specific actions to be audited will not be identified before the audit begins (purchasing files)
• Conduct daily reviews with contractor purchasing personnel
• Conduct exit briefing (verbal only)
• Create report for ACO in Final Format
HOW TO PREPARE FOR A CPSR

WHAT CONTRACTOR NEEDS TO DO BEFORE EVEN THINKING OF REQUESTING A CPSR

• Ensure purchasing policies and procedures comply with 24 DFARS criteria \textbf{AND} 40 item DCMA checklist (available on GOVCON360.com)
• Ensure purchasing staff is trained on purchasing policies and procedures
• Create at least one year’s worth of purchasing files based on compliant purchasing policies and procedures
• Conduct audit of purchasing files to ensure they are compliant with purchasing policies and procedures; create audit report
Recent CPSR Experiences
RECENT CPSR EXPERIENCES

- Significantly larger audit population
  - May review commercial transactions and firm-fixed-price awards even though not in “population” covered by CPSR
- Reviewers stressed that they were there to be value-added participants in the procurement compliance process
  - Very willing to provide guidance and suggestions, but not in writing
  - Worked closely with procurement management to address numerous issues in real-time to avoid need to cite in report; collaborative
  - The goal is for the contractor to have a compliant purchasing system; DCMA wants the contractor to pass the CPSR
  - Fast and professional – reviewers (remember, this is not an audit) were very process-oriented and knowledgeable
RECENT CPSR EXPERIENCES

• DCMA Report Timeframe
  – Draft report must be submitted for internal DCMA review within 30 days after CPSR
  – DCMA provides final report to the ACO within 60-90 days following CPSR
  – ACO will notify contractor of approval status within 2-3 weeks after receipt from DCMA
• DCMA Re-review
  – If deficiencies are found, contractor will be provided time to correct and implement and request and DCMA re-review of the changes that were made
  – DCMA will typically conduct the re-review 9-12 months from date of contractor request to ACO
QUESTIONS/COMMENTS
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