Government Approved Purchasing System

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OUTLINE

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• When is a contractor eligible to obtain an approved system
• What are the benefits of an approved system
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The Importance of Government Compliant Procurement System

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
What is Government Approved Purchasing System

• **A Purchasing System**
  - Includes all the activities required by FAR Subpart 44 that relate to a Prime Contractor’s purchasing of goods and services.

• **Approved**
  - “Passed” a Contractor Purchasing System Review (CPSR) done by a federal regulatory agency
  - Usually Defense Contract Management Agency (DCMA)
  - DOE and NASA have review/approval programs
Approved Purchasing System Eligibility

FAR 44.3 - Contractor’s sales to Government are expected to >$25M during next 12 months, excluding:
- Competitively awarded fixed price contracts
- Sales of FAR Part 12 commercial items

- The ACO determines a CPSR is needed based on past performance, subcontracting volume, complexity, and dollar value
- First step in getting ACO to request a review
Approved System Benefits

• To the Government
  o Confidence in subcontracting methods
  o Adequate cost control
  o Effective management of supply chain
  o Contract/Regulatory compliance

• To the Contractor
  o Reduced government transactional oversight
  o Limited notification or consent requirements
  o Reduced cycle-time
  o Increased contract opportunities in future evaluated procurements
Reduced Transactional Oversight

• FAR 44.201-1 – Consent to Subcontracts requirements. - (a) If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the contracting officer in the contract.

• If the contractor does not have an approved system, and the prime is a “cost-type” contract or FFP with unpriced options, contracting officer approval of subcontracts is required
  o FFP over SAT ($150K), 5 percent of the total estimated cost of the contract
  o All “cost-type” subcontracts (T&M, LH, CR)
Approved System Subcontract Consent

• Under Part 44.201-1 (a)
• ACO/CO will provide a list of subcontracts types that will require consent (and advance notice)
  o Required to adequately protect the government for certain subcontracts
  o Based type, complexity, or value, or because the subcontract needs special surveillance
    • Labor laws – Davis/Bacon, Service Contract Act
    • Buy American Act(s)
  o Can change approvals requirements based on latest CPSR, ACO/CO review of consent request documentation, or other reviews
The Process Begins

- The ACO/CO may provide notice requiring the submittal of a system for review - as here
- The contractor may request permission to submit a system for review if the contractor is eligible
- The decision is based on the benefit to the government
- The approval process is costly and time consuming for the government as well as the contractor
FAR 44.303 – Specific Attributes Needed

- The degree of price competition
- Pricing policies and techniques, including methods of obtaining accurate, complete and current cost or pricing data
- Methods of evaluating subcontractor responsibility, including the use of the Excluded Parties List System (see FAR 9.404)
- Treatment accorded affiliates and other concerns having close working arrangements with the contractor
- Policies and procedures pertaining to small business concerns
- Planning, award, and post-award management
- Compliance with Cost Accounting Standards in awarding subcontracts
- Management control systems, including internal audit procedures, progress payments to subcontractors, etc.
What is the Purpose of a CPSR

- Provide confidence requirements of FAR Part 44 are addressed
- Evaluate efficiency and effectiveness with which Contractor spends government funds
- Assure compliance with government laws and policies
- Provide a basis for approving (or not approving) Contractor’s purchasing system
CPSR Process

• The overall purpose is to do an assessment of the purchasing system’s **financial, quality and delivery** exposure posed by contractor operations

• **Process risks**
  o Adequacy of contractor’s processes
  o Adherence to those processes
  o Compliance with prime contract
  o Compliance with applicable laws

• **Business risks**
  o Adequate price competition
  o Cost reasonableness/analysis
  o Financial risks in procurement
CPRS More Specifics

- DFAR 252.244-7001 - Contractor Purchasing System Administration, has 24 system criteria that must be present in all contractor purchasing systems in order for a purchasing system to be “acceptable”
- DCMA CPSR “checklist” contains 55 items to be examined
- Insight into the DCMA CPSR process – DCMA CONTRACTOR PURCHASING SYSTEM REVIEW GUIDEBOOK
CPSR Risk Assessment

- For contractors without an Approved System (no previous CPSR reviews)
  - Government contract mix: cost-type, firm fixed-price, etc
  - Direct material and material overhead as a percentage of total sales
  - Sales to the Government as a percent of the contractors total sales
  - DCAA audit reports
  - ACO/CO input
    - Performance issues
    - Property control system
    - Education, training, experience of purchasing staff
    - Contractor's self assessment and internal auditing efforts
CPSR Compliant Procurement System

- Key Indicators of an adequate system
  - Maximizing competition
  - Justified single/sole source
  - Obtaining cost or pricing data
  - Effective cost and price analyses
  - Negotiation effectiveness
  - Providing ACO sufficient information when consent is required
  - Maximizing subcontractor performance
  - Maintaining satisfactory SB program
  - Monitoring subcontractor compliance with other contract terms (cost accounting standards, labor laws, other flowdown clauses)
  - Self-Assessment and Oversight
Procurement System Specifics

• Requisition
  o Authority to initiate
  o Required information for procurement
  o Approval
    • Financial
    • ES&H
    • Quality
    • Etc

• Planning
  o Market research
  o Approved vendors
  o Source selection cycle time
  o Source selection team
Procurement System
Specifics cont

- **Acquisition Process**
  - Adequate Price Competition
  - Subcontract type
  - Source Selection - Best Value
  - Determining Prices Fair and Reasonable
  - File Documentation

- **Subcontract Administration**
  - On-time Delivery
  - Inspection
  - Acceptance
  - Payment
  - Closeout
  - Resolving performance issues
  - Vendor performance evaluation
Procurement System Specifics cont

• Self-Assessment and Oversight
  o Approval thresholds
  o Pre-award approval
  o Post-award administration reviews
  o Procurement Management oversight
  o Senior Management reporting

• Policies and Procedures
  o Cost or Pricing Data
  o Cost Accounting Standards
  o Conflict of Interest (COI)
  o Excluded Parties List System
  o Reps and Certs
Procurement System Specifics cont

- **Subcontract Terms and Conditions**
  - Anti-Kickback
  - Equal Opportunity
  - Affirmative Action
  - Labor Laws – Davis/Bacon and Wage Determinations
  - No texting while driving

- **Mandatory flowdown requirements from prime**
- **Implemented with proper work scope**
- **Implemented a proper contract value**
Training Program

• **Train to your system**
  o Government procurement courses are often contradictory to a Contractor’s processes and creates confusion
  o Government procurement courses can create confusion to inexperienced staff

• **Document training**
  o Content
  o Participation and hours
  o Best done on a regular basis
  o Make sure to provide training on all procedure/subcontract clause revisions

• **Examples**
  o Policies and Procedures
  o Contract terms
  o Labor law
  o Source selection techniques
  o Subcontract administration
Contractor Data Requirements

- Segregate government and commercial
- Number of transactions
- Total value
- Transactions by
  - Contract type
  - Business Size
  - Value
- Number (by number and value) of sole/single source transactions
- Letter subcontracts and Unpriced options
- Cost saving reporting
Contractor Data cont

- Standard contract forms and terms and conditions
- Standardization program
- Value engineering program
- Make-or-buy policies and procedures
- Major subcontract administration
- Contractor’s Purchasing Organization
- Training and Experience of senior staff
- Purchasing policies and procedures
- Purchasing reports to higher management
- Purchasing cost saving reporting
Contractor Data cont

- Supplier evaluation and rating methods
- Purchasing from sources restricted by the Government
- Implementation of corrective action on previously identified deficiencies
How to Prepare

• Start early
  o This takes time and funding
  o Have a Project Lead

• Ensure business systems can generate needed information

• Have internal or independent “pre-review” to identify weakness and areas in need of improvement

• Train staff on CPSR process and what to expect

• Train senior management on CPSR process
Cost and Schedule for an Approved System

• Start Planning before the $25M threshold
  o ID key roles and commit funding
  o Must have process and must be using it effectively
• Budget the effort
  o Takes effort (min 3 FTE)
  o Difficult to do in “spare time”
  o Budget (~ $750K)
• Be Patient and Persistent
  o 98% failure rate for first CPSR
  o Will provide a list of recommendations for corrective action
Summary

• Must have a contract that is eligible to request a CPSR
• Must have a ACO/CO sponsor
• Must have the system up and running by the review
• Must have an adequate accounting and data retrieval system as well
• Approval has advantages both in current operations but future competitions
• Commit to complete the entire process – time and funds
Contact Information

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