Getting an Edge Over Your Competition with Approved Purchasing Systems

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KEY DISCUSSION TOPICS

- Who Needs an Approved Purchasing System?
- Benefits of an Approved Purchasing System
- Elements of an Approved Purchasing System
- Tips on Preparing for a DCMA Review of your Purchasing System
- Recent experiences with a DCMA CPSR
Who Needs an Approved Purchasing System?
THE IMPORTANCE OF COMPLIANT GOVERNMENT PURCHASING

“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
APPROVED PURCHASING SYSTEM ELIGIBILITY

Per FAR 44.302(a), the ACO determines the need for a CPSR based on past performance of the contractor, volume, complexity and dollar value of subcontracts. Specifically, the ACO will review the:

- Contractor’s sales to the Government are expected to exceed $25M during the next 12 months, excluding:
  - Competitively awarded firm-fixed price and fixed-price with economic price adjustment contracts
  - Sales of Commercial Items (FAR Part 12)

FAR 44.302 (b) states “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.”
APPROVED PURCHASING SYSTEM ELIGIBILITY

- Prime contractor wins a Government contract that contains **DFARS Clause No. 252.244-7001, Contractor Purchasing System Administration (or equivalent from another agency)**. Prime contractor, even with no requirement to have an “approved” purchasing system (i.e., no pending audit), must maintain an “approvable” purchasing system as a requirement of their Government contract.
BENEFITS OF AN APPROVED PURCHASING SYSTEM

Developing an approved purchasing system may not seem like a “high priority”; however, there are many benefits contractors are missing out on by not having an approved system.

- Minimize Government oversight of a contractor’s procurement activities
- Increase contract opportunities when an approved purchasing system is a solicitation requirement
- Opportunity to earn additional proposal evaluation points for GSA schedule and other agency solicitations
- Reduce contractor procurement workload through the use of standardized processes and procedures
- Reduce/eliminate need for advance notification and consent requirements of FAR Clause 52.244-2, Subcontracts
WHY START DEVELOPING AN APPROVED PURCHASING SYSTEM NOW?

Developing and implementing an approvable purchasing system takes **TIME!**
- The process is long and complex which requires coordination with and input from many Corporate functions.
- Need time to train purchasing and other employees, as needed, on purchasing policy and procedures
- During a CPSR, DCMA will generally review eligible procurement awards made during one full year under the new purchasing system – need to implement quickly.
WHY START DEVELOPING AN APPROVED PURCHASING SYSTEM NOW?

- 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 requirements (FAR 52.244-2)
- 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
WHY START DEVELOPING AN APPROVED PURCHASING SYSTEM NOW?

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<td>CohnReznick reviews existing Contractor purchasing policy and/or procedures</td>
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<td>CohnReznick works with Contractor to ensure compliant Purchasing Policy and Procedures Manual</td>
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<td>CohnReznick provides training at Contractor site for all personnel impacted by Purchasing System</td>
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<td>Contractor creates purchasing files in accordance with compliant Purchasing System</td>
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<td>CohnReznick reviews newly-created purchasing files for compliance; provides initial Internal Review Report</td>
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CONTRACTOR RESOURCE REQUIREMENTS

PURCHASING/CONTRACTS ORGANIZATION

- Must be separate division from Program Management and have absolute authority over direct purchases on federal contracts
- Must be owned by “C” level executive (but not CEO or Company Owner)
- Should have at least 2 personnel (for mid-size companies) dedicated to purchasing/buying
- Purchasing System involves all personnel who interact with subcontractors/vendors/suppliers
  - Business Development
  - Program/Project Management
  - Contracts/Purchasing
  - Accounting/Timekeeping personnel
  - Accounts Payable
Elements of an Approved Purchasing System
Many contractors assume they have an adequate purchasing system because they are CMMI compliant. **Don’t make this mistake!**

- Use DFARS and DCMA criteria as a checklist to review your purchasing system processes and procedures.
- Make sure you are confident your purchasing system is compliant **before** DCMA arrives!
WHAT ELEMENTS ARE REQUIRED IN AN APPROVABLE BUSINESS SYSTEM?

- Evaluate current contracting/procurement environment and resources
- Evaluate current procurement policy and procedures manual (PPM), if present, and identify potential deficiencies
- Work with client to implement a PPM that best accommodates the client’s work environment

- Conduct periodic procurement file reviews to ensure purchases comply with compliant PPM
- Conduct procurement staff interviews to evaluate general knowledge of procurement requirements and identify potential knowledge gaps that can be addressed through training

- Provide procurement system implementation training based on compliant PPM
- Develop and conduct targeted training on Government procurement-related topics, tools, and techniques

- Assist in the development of an electronic filing system that meets Federal requirements
- Following implementation of new procurement PPM and generation of procurement files under new purchasing system, conduct a “mock” CFR to evaluate client compliance with requirements

CohnReznick
WHAT ELEMENTS ARE REQUIRED IN AN APPROVED PURCHASING SYSTEM?

POLICY AND PROCEDURES

➢ Must have written policy and procedures that address the DCMA and DFARS system criteria (DFARS Clause 252.244-7001 – Contractor Purchasing System Administration)

➢ Policies and procedures must provide an adequate description of how your system operates and roles/responsibilities (Minimum of 60 to 90 pages)

➢ Policies and procedures will be the first item DCMA requests for review prior to the CPSR

➢ DCMA CPSR Guidebook (Dated March 1, 2018)
WHAT ELEMENTS ARE REQUIRED IN AN APPROVED PURCHASING SYSTEM?

PURCHASING TRAINING

- Personnel participating in the purchasing process must be trained annually on purchasing policy and procedures
- Periodic topic-specific training for areas identified during compliance reviews
- Training on new regulations/requirements and changes made to purchasing policy and procedures manual
- Documentation of provided training must be retained (i.e. training materials)
- Employees must have proof of having received training (i.e. sign-in sheets, rosters)
WHAT ELEMENTS ARE REQUIRED IN AN APPROVED PURCHASING SYSTEM?

PURCHASING FILES

- Establish and maintain adequate documentation to provide a complete and accurate history of purchase transactions to support selected vendors and prices paid.
- At least one year’s worth of purchasing files created under compliant purchasing policies and procedures
- Maintain procurement file checklists
WHAT ELEMENTS ARE REQUIRED IN AN APPROVED PURCHASING SYSTEM?

AUDIT REPORTS

- At least one review of your purchasing system by either your:
  - Compliance Officer
  - Internal Quality Control Group
  - Internal Audit Team
How to Prepare for a CPSR
WHY IS A CPSR CONDUCTED?

**DEFINITION:**
- A CPSR is a special review conducted by 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

UNDER REVIEW
TYPES OF CPSR REVIEWS

INITIAL/COMPREHENSIVE REVIEW:
- An initial review is a complete, first-time analysis of a contractor’s purchasing system
- A comprehensive review is performed if a contractor has an approved purchasing system

SPECIAL REVIEW:
- An investigation of specific weaknesses identified in any contractor’s purchasing system, using the same techniques from initial or comprehensive review

FOLLOW UP REVIEW:
- Performed when a contractor’s purchasing system is disapproved by the CO
- Purpose is to determine if contractor has effectively implemented a Corrective Action Plan (CAP)
WHAT DCMA OR GOVERNMENT AUDITOR WILL DO

- Request and review purchasing policies and procedures
- Request and review sales data and list of all eligible procurement actions awarded during the audit period
- Conduct entrance conference briefing
- Sample purchase orders and subcontracts at various award levels; specific actions to be audited (procurement files) will not be identified before the audit begins
- Conduct daily reviews with contractor purchasing personnel
- Interview contractor purchasing personnel
- Conduct exit conference briefing
- Create draft report for ACO (corrective action requests)
- Create report for ACO in final format (after receipt of corrective action plans)
HOW TO PREPARE FOR A CPSR

WHAT CONTRACTORS NEED TO DO BEFORE REQUESTING A DCMA CPSR

- Ensure purchasing policy and procedures comply with 24 DFARS criteria AND DCMA checklist (available on www.GovCon360.com)
- Ensure purchasing staff is trained on purchasing policy and procedures
- Create at least one year’s worth of purchasing files based on compliant purchasing policy and procedures
- Conduct audit of purchasing files to ensure they are compliant with purchasing policy and procedures; create audit report

WHAT CONTRACTORS NEED TO DO BEFORE REQUESTING AN NON DOD CPSR

- All of the above because that is what the Agency Auditor will follow less any uniquely DoD requirements
TYPICAL FINDINGS OF DCMA CPSR AUDITS

- Written policies and procedures do not adequately address an applicable FAR or DFARS requirements (i.e. policies do not exist for certain requirements or are poorly written)
- Noncompliance with public laws, regulations, and prime contract requirements
- Lack of competition, too many sole/single source and lack of adequate justifications
- Failure to adequately perform and/or document price analysis and source selection
- Failure to adequately conduct and document commercial item determinations;
- Failure to obtain required certifications at time of award (i.e. TINA, CAS, suspension/debarment, limitation on use of appropriated funds)
- Lack of adequate documentation (i.e. PR, quotes, memos, price analysis, etc.)
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

DCMA 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 DCMA CPSR EXPERIENCES

CORRECTIVE ACTION REQUESTS (CARs)
- DCMA and ACO will issue Corrective Action Requests (CARs) to contractor with response required within 30 days
- Contractor has 30 days to respond with Corrective Action Plan (CAP)
- CAP responses will be taken into consideration in the DCMA final report

DCMA REPORT TIMEFRAME
- 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 FOLLOW UP REVIEW
- Performed when the contractor’s purchasing system is disapproved by the CO
- DCMA will typically conduct when they have been notified by the contractor that all of the deficiencies have been corrected
RECENT CPSR EXPERIENCES

FOCUS ON COMMERCIALITY DETERMINATIONS IN FY16 NDAA

- The FY2016 NDAA instructs the Secretary of Defense to issue guidance to ensure that acquisition officials comply with 10 U.S.C. § 2377, which establishes a preference for commercial items, and to conduct market research before engaging in procurements above the simplified acquisition threshold to determine if a commercial item exists to satisfy the agency's needs.

- DCMA has established Commercial Item Centers for Excellence (CoEs) staffed by engineers and price/cost analysts to advise contracting officers with respect to commercial item determinations.

- DCMA will look for contractors to have adequate documentation on market research regarding commercial items and reference DFARS 244.402 in the procurement manual.

- Once a commerciality determination is made, contractors need to take full advantage and follow the reduced commercial procurement requirements.
RECENT CPSR EXPERIENCES

ELECTRONIC COUNTERFEIT PARTS

- GAO report dated February 2016 found that “DOD Needs to Improve Reporting and Oversight to Reduce Supply Chain Risk”
  - GAO recommended that DOD clarify criteria to contractors for their electronic counterfeit parts detection systems
  - DOD partially agreed with the recommendation to clarify criteria, stating it did not agree with providing specific implementation details

- DOD recently proposed to make specified costs allowable that are associated with discovering and correcting counterfeit or suspect counterfeit electronic parts if the following 3 conditions are met:
  - Contractor has an electronic counterfeit parts program compliant with the requirements of the 2012 NDAA
  - Contractor has detected the counterfeit part
  - Contractor has notified the Government in a timely manner (within 60 days) of the discovery of the counterfeit part
RECENT CPSR EXPERIENCES

Ms. JoAnne Dukeshire
Vice President, Contracts, Procurement & Property
Vencore, Inc.

Amy Benton
Procurement Director
Vencore, Inc.
Key Takeaways
KEY TAKEAWAYS

- Must have a contract that is eligible to request a CPSR
- Requires ACO/CO sponsor
- The system must be up and running prior to DCMA’s review
- Must have an adequate data control and retrieval system as well
- Approval has advantages both in current operations and future opportunities
- Commit to complete the entire process – it takes time!
QUESTIONS?
GovCon360 keeps you abreast of the ever-changing regulatory environment that is Government contracting. From reference materials, like searchable pdf copies of the FAR and DCAM, to our past Lunch and Learn seminar slide decks and thought pieces on industry matters, we’ve got it covered. Subscribe to our RSS feed to receive short alerts on recent industry changes. It’s always been our job to help our clients maintain a competitive advantage by staying ahead of the curve. This website is an extension of the services we’ve been providing for over 35 years by putting useful resources and up-to-date information at your fingertips.

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