

COFFEE TALK

Preparing for a Contractor
Purchasing System Review (CPSR)





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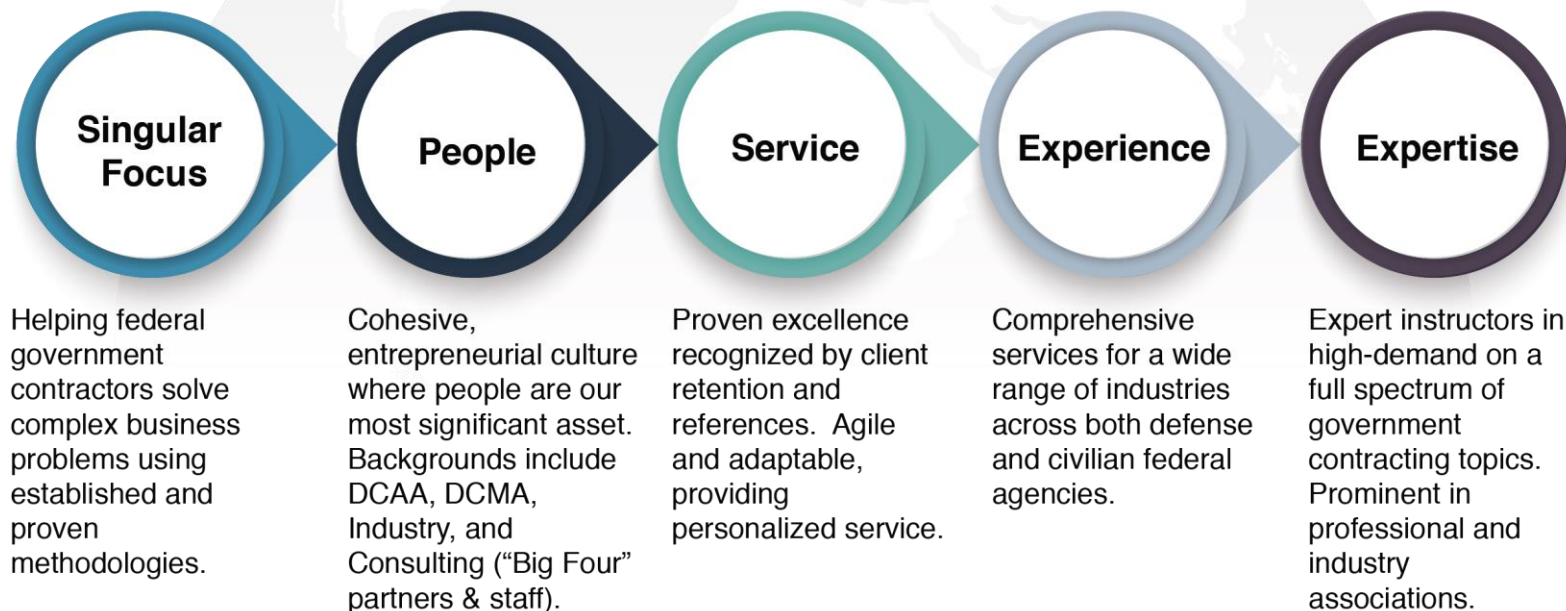
 CPSR Practice Lead

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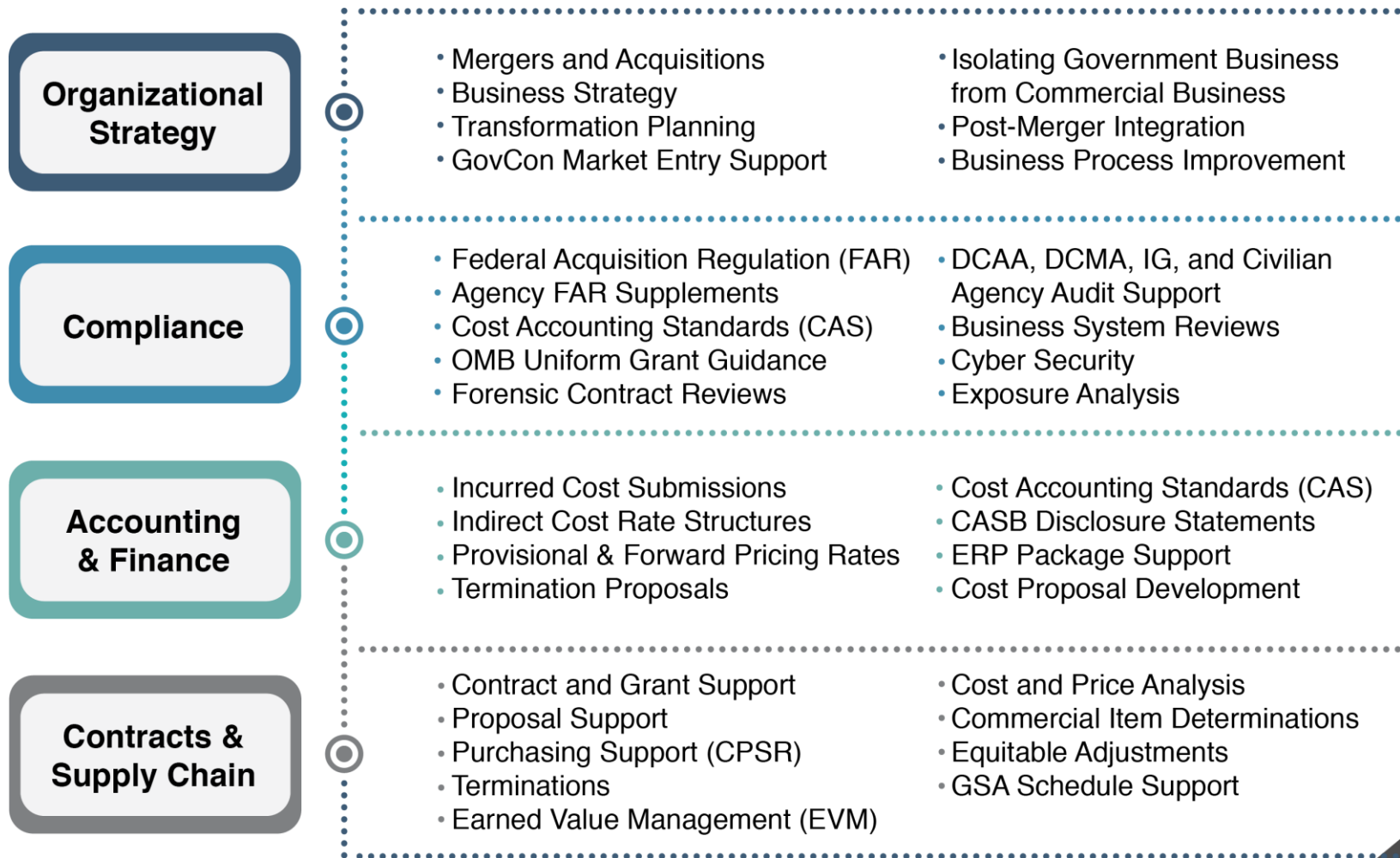
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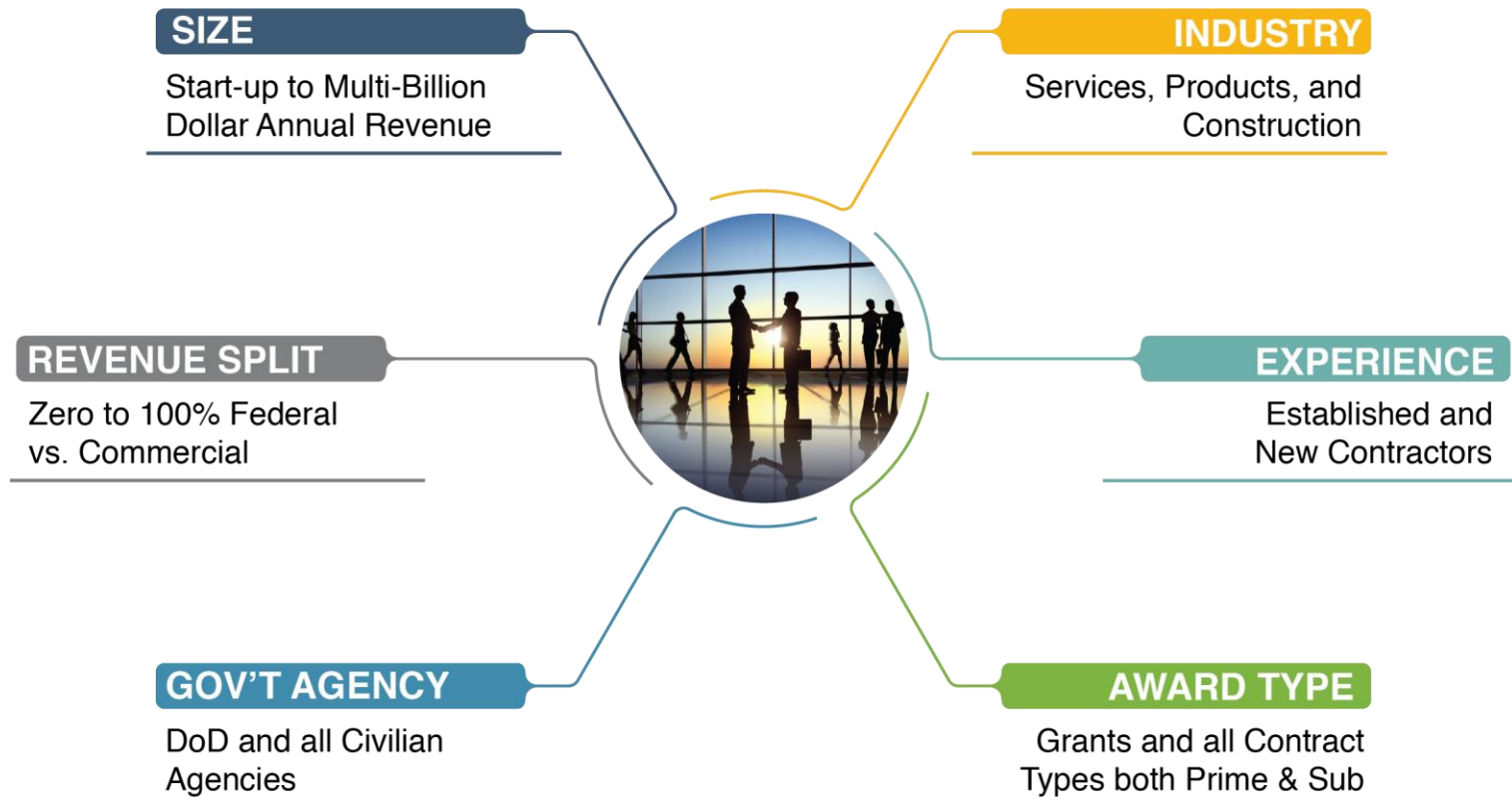


Capabilities Overview



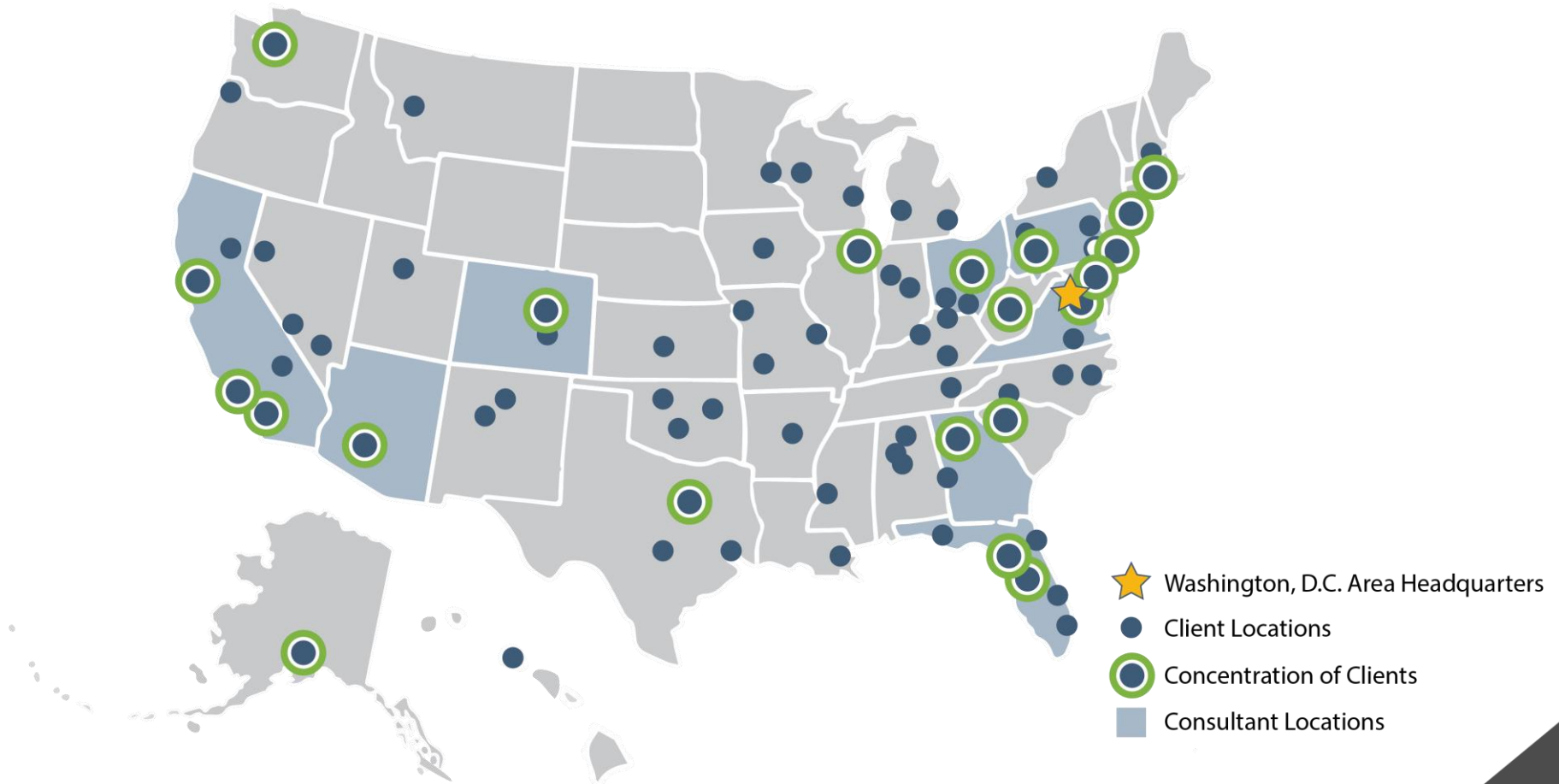
Who We Work With

All entities receiving Federal funding



Presence in the Marketplace

Throughout the U.S. and Around the World



Part 1: DCMA's Current CPSR Scope

Part 2: Notable New Information & Processes

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in Your Next CPSR**

Part 1: DCMA's Current CPSR Scope



- “Ensure that [Government] suppliers’ have purchasing systems in place that contribute to effective subcontract management. Effective subcontract management includes development of, as well as performance to internal policy and procedures, public law and adequacy of cost and prices analyses performed on subcontractors.”

- **“Subcontract”** - any contract as defined in FAR Subpart 2.101 which is entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.
- **“Subcontractor”** - any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.
- **“Contract”** - written commitments obligating the expenditure of funds. Includes bilateral instruments, awards, notices of awards, job orders, task letters under BOAs, letter contracts, orders, mods, etc. Excludes grants and co-op agreements.

- **“Purchasing system”** - the Contractor’s system for purchasing and subcontracting, including make-or-buy decisions, the selection of vendors, analysis of quoted prices, negotiation of prices with vendors, placing and administering of orders, & expediting delivery of materials.
- **“Significant deficiency”** - a shortcoming in the system that materially affects the ability of officials of the Department of Defense to rely upon information produced by the system that is needed for management purposes.
- **“Acceptable purchasing system”** - a purchasing system that complies with the system criteria outlined in 252.244-7001(c) - 24 System Criteria.

252.244-7001(c) *System criteria*. Contractor's purchasing system shall:

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**);
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 prime contract**;
3. Maintain an **organization plan** that establishes clear **lines of authority and responsibility**;
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 subcontract/purchase order files** which are subject to Government review;

252.244-7001(c) *System criteria.* Contractor's purchasing system shall:

5. Establish and maintain adequate documentation to provide a complete and accurate history of purchase transactions to support vendors selected and prices paid;
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;
8. Evaluate price, quality, delivery, technical capabilities, and financial capabilities of competing vendors to ensure fair and reasonable prices;
9. Require management level justification and adequate cost or price analysis, as applicable, for any sole or single source award;

252.244-7001(c) System criteria. Contractor's purchasing system shall:

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;
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;
13. Ensure proper **type of contract selection** and prohibit issuance of cost-plus-a-percentage-of-cost subcontracts;
14. Maintain **subcontract surveillance** to ensure timely delivery of an acceptable product and procedures to **notify the Government** of potential subcontractor problems that may impact delivery, quantity, or price;

252.244-7001(c) System criteria. Contractor's purchasing system shall:

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**;
17. Enforce adequate **policies** on conflict of interest, gifts, and gratuities, including the requirements of the 41 U.S.C. chapter 87, **Kickbacks**;
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;

252.244-7001(c) *System criteria.* Contractor's purchasing system shall:

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, including the requirements of 252.246-7007, **Contractor Counterfeit Electronic Part Detection and Avoidance System**, if applicable;
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, including the requirements of 252.246-7007, **Contractor Counterfeit Electronic Part Detection and Avoidance System**, if applicable;

252.244-7001(c) System criteria. Contractor's purchasing system shall:

21. Establish and maintain selection processes to ensure 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, including requirements of 252.246-7007, Contractor Counterfeit Electronic Part Detection and Avoidance System, and item marking requirements of 252.211-7003, Item Unique Identification and Valuation, if applicable;
22. Establish and maintain procedures to ensure performance of adequate price or cost analysis on purchasing actions;
23. Establish and maintain procedures to ensure that proper types of subcontracts are selected, and that there are controls over subcontracting, including oversight & surveillance of subcontracted effort; and

252.244-7001(c) *System criteria*. Contractor's purchasing system shall:

24. Establish and maintain procedures to timely **notify the Contracting Officer**, in writing, if—
- i. Contractor changes amount of subcontract effort after award such that it exceeds 70% of total cost of work to be performed under the contract, task order, or delivery order. Notification shall identify revised cost of subcontract effort and shall include verification that Contractor will provide added value; or
 - ii. Any subcontractor changes amount of lower-tier subcontractor effort after award such that it exceeds 70 percent of the total cost of the work to be performed under its subcontract. Notification shall identify revised cost of subcontract effort and shall include verification that subcontractor will provide added value as related to the work to be performed by the lower-tier subcontractor(s).

1. Policy and Procedure Manual
2. Truthful Cost or Pricing Data (Truth-In-Negotiations Act (TINA))
3. Cost Accounting Standards (CAS)
4. Prior Consent and Advance Notification
5. Small Business Subcontracting
6. Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment
7. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions (Anti-Lobbying)
8. Defense Priorities and Allocation System (DPAS) Rating
9. Federal Funding Accountability and Transparency Act (FFATA)
10. Counterfeit Parts Mitigation and Surveillance

11. Price Analysis
12. Source Selection (A combination of previously separate elements of Competition in Subcontracting, Sole Source Selection Justification & Best Value)
13. Negotiations
14. Make-or-Buy Program
15. Limitations on Pass-through Charges
16. Documentation
17. Training
18. Internal Review/Self-Audit
19. Mandatory FAR/DFARS Flow Down Requirements/T&Cs
20. Purchase Requisition Process

21. Commercial Item Determination
22. Subcontract Types
23. Procurement Authority
24. Restrictions on the Acquisition of Specialty Metals/Articles containing Specialty Metals
25. Supply Chain Management Process (Vendor Rating System and Cyber Security are now contained here)
26. Subcontracts/Vendor Closeout Process
27. Long Term Purchasing Arrangements
28. Handling Change Orders and Modifications
29. Intra/Inter-Company, Affiliate, or Subsidiary Transactions
30. Buy American Act

Part 2: Notable New Information and Processes

CPSRs recently completed by DCMA:

- FY11 - 40 / FY12 - 43 / FY13 - 57 (goal was 118) / FY14 - 103 (goal was 125)
- FY15 - 101
- FY16 - 133
- FY17 - 129
- FY18 - 103
- FY19 - 119
- FY20 - COVID-19...
- Director Obermeyer wants to continue at the current rate
- Priority = “Initial” vs. “Comprehensive” CPSRs & Comprehensives under the DFARS clause



- Pre-COVID: DCMA was on the precipice of one week onsite reviews
- COVID Pandemic Period: Interested in virtual reviews?
- Director Obermeyer has largely stepped back from the day-to-day
- Pre-arrival and/or Onsite Topic-specific Questionnaires
- Change to PO Universe stratification:
 - Up to \$250K (changed from \$150K)/ \$250K to \$750K / Over \$750K
- CY19 - Sample sizes selected and reviewed (48 – 75)
- Changes in the timing of sample selection disclosure to the contractor
- Quality of the review and risk to you is highly dependent on which analysts review your system
- DCMA CPSR Group Policy and Procedure Assessment Tool
- New topics added to scope in CY19/20? Safeguarding CUI/CDI



- DCMA Commercial Item Group involvement and adjustment to the carrot v. stick mentality (?)
- New DCMA CPSR Guidebook? Not really...June 2019
- New DCMA CPSR dollar “threshold” (from \$25M to \$50M)
 - FAR 44 has not been amended
 - DFARS 244.302 – In lieu of threshold at 44, ACO to determine CPSR need if “sales to the Government are expected to exceed \$50M in the next 12 months”
 - Threshold remains discretionary
- Timeliness of CPSR Report release
- Level 2 CARs processed & managed by Team Lead (not ACO)
- Defined criteria by which a deficiency is determined to be significant or non-significant continues to not exist
- Board of Review – Contractor & Analyst are now afforded “due process”



- **DCMA's CPSR Timeline for Initial/Comprehensive CPSRs:**

- Annual Risk Assessment Form
- CPSR (R)-120 Final Schedule Agreement
- R-120/90/60 CPSR Data Questionnaires to Contractor
- R-30 Policy, Universe & T&C Reviews
- Live Review – Entrance Brief, Daily Outbrief, Exit Conference
- R+20 CPSR Report due to CPSR Management
- R+30 Management review, Report Finalized, Report to ACO
- R+40 CO Approval if no deficiencies, or Initial Determination
- R+70 Contractor response to Initial Determination
- R+100 ACO issues Final Determination (Approval or **Disapproval**)
- **R+145 Corrective Action Plan if requested, due to ACO**
- **R+190 CAP Review and Acceptance by ACO**
- **R+? Contractor communicates full-implementation of CAP to ACO**
- **R+? DCMA CPSR Group schedules Follow-Up CPSR**

Part 3: Most Common Deficiencies Observed by DCMA


- **Based on GFY2019 Reports, DCMA said the “most common material deficiencies” relate to:**

- Debarment (17/119) (44/103)
- Payments to Influence (13/119) (40/103)
- Price Analysis/Cost Analysis (44/119) (55/103)
- DPAS (17/119) (37/103)
- FFATA (29/119) (42/103)
- SSJ (30/119) (40/103)
- P&P Manual (7/119) (14/103)
- CID (12/119) (31/103)
- TINA (9/119) (18/103)
- Negotiations (10/119) (15/103)

***Red denotes GFY18**

- **Based on GFY2018 Reports, DCMA said the “most common deficiencies” relate to:**
 - Training
 - Debarment
 - Cost Analysis/Price Analysis
 - SSJ
 - P&P Manual
 - Documentation
 - Negotiations
 - CID
 - Modifications and Change Orders
 - Mandatory FAR & DFARS Flow-Downs T&Cs

Part 4: CPSR Preparedness Considerations & Managing Risk in Your Next CPSR



- Have you implemented a P&P for each current DCMA CPSR “major purchasing area”?
- Is each such P&P adequate?
- Are your behaviors & resulting file documentation in conformance with those adequate P&Ps?
- Do you practice ongoing system monitoring and continuous improvement?
(Knowledge is power which brings the responsibility and DCMA’s expectation for you to take action on that knowledge)
- Is your ongoing monitoring/internal review program prioritizing CPSR requirements over other areas? Are you relying on ISO, financial/accounting audits, etc. to understand the approvability status of your system/prepare for CPSR?
- Are you tracking systemic corrective actions that have been implemented before the CPSR?
- Do you practice ethical file remediation & enrichment?
- Can I generate an adequate PO Universe in the prescribed format within 15 days?
- Am I able to ensure that DCMA’s selected sample is available to DCMA within their tight timeline parameters?

- Am I able to generate accurate and low-risk responses to the DCMA-provided data call and topic-specific questionnaires?
- Is my “cyber security manager” and team prepared to discuss the cyber posture as it relates to you company’s supply chain risk?
- Do we have the appropriate “audit management” processes, strategies, tactics and safeguards in place throughout the CPSR process?
- Are we prepared for “buyer interviews”? Is there a saboteur in the building?
- Are we prepared to conduct an effective & low risk entrance briefing with DCMA?
- Who is going to liaise with DCMA during the CPSR? Is that individual(s) fully knowledgeable of the CPSR requirements and the process and skilled in rhetorical advocacy?
- Have we established the necessary enterprise-wide strategic and tactical-level positions & themes to employ throughout the review process?
- Are we prepared to develop accurate and low-risk responses to file-specific questions within the 24 hour limit?
- Is our ACO/DACO/CACO/CFAO experienced in the CPSR requirements/process?

- Are my files in a “standalone” format consisting of the complete and accurate history of the transaction?
- Are we able to quickly develop and implement corrective actions during the review?
- Am I in a position to demonstrate an adequate internal review program and training program? What about closeout and intercompany transfer examples?
- Are we capable of challenging the DCMA CPSR analysts in an impactful manner during the CPSR without jeopardizing the relationship?
- Are we capable of developing challenges and arguments to DCMA that they are not already prepared to rebut/discard?
- Will the DCMA CPSR Report provide me all the necessary details to fully understand DCMA’s concerns and what I need to do to adequately address those concerns?
- Should I wait for the CPSR Report to develop my response and/or corrective action plan (CAP)?
- Should I wait to implement the corrective actions after my CAP is submitted/disclosed?

Thank you!



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