



OFFICE OF THE UNDER SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-3000

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AND SUSTAINMENT

FEB 27 2018

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: FY16/17 Procurement Management Review "Year in Review" Newsletter

To facilitate management oversight of the procurement function, the Defense Contract Management Agency (DCMA) leads independent reviews of the procurement function of each Other Defense Agency and Defense Field Activity that performs contracting operations. These reviews assess the effectiveness of the contracting function, analyze and assist in any problem areas, and identify noteworthy practices that may be beneficial to all organizations.

In the interest of enhancing the performance of contracting personnel throughout the Department, the DCMA Procurement Management Review (PMR) team has prepared the attached newsletter to share their observations, best practices, and lessons learned. This issue highlights common Commendations and Recommendations resulting from recent PMRs.

I encourage your wide distribution of the newsletter, as many of the PMR findings have broad application throughout the contracting community and across all DoD Components.

My point of contact for PMRs is Mr. Michael Pelkey, at 703-614-1253 or Michael.f.pelkey.civ@mail.mil. You may also address comments or questions to the PMR program manager, COL Joseph M. Davis, at 804-734-1642 or Joseph.Davis@dcma.mil.

A handwritten signature in black ink, appearing to read "Shay D. Assad", is written over the typed name and title.

Shay D. Assad
Director, Defense Pricing/ Defense
Procurement and Acquisition Policy

Attachment:
As stated

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**DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION & PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING)**

DOD PROCUREMENT MANAGEMENT REVIEW PROGRAM

FISCAL YEARS 2016 & 2017 IN REVIEW

PMR FICTION, FACTS & FREQUENT FINDINGS

This newsletter is our forum for sharing common observations, both good and bad, from the Procurement Management Reviews (PMRs) performed at Other Defense Agencies (ODAs); eleven of which were conducted during fiscal years (FYs) 2016 and 2017. Before we share those observations, we would like to acknowledge that this is a “bi-annual” release of our newsletter and that the PMR Program has been besieged lately with change that has impacted timely release of ODA PMR reports. The short-story is that our PMR Team at Defense Contract Management Agency (DCMA) has experienced a “perfect storm,” including complete turnover in management, attrition

of team members, and loss of PMR document files. Despite the damage, DPAP and DCMA leadership anticipates full recovery in early 2018 and hopes the best for our former teammates. Also, we convey utmost appreciation for the patience and understanding amongst the ODAs impacted by these events.

Let’s now briefly discuss the perceptions surrounding the focus and objectives of the PMR Program and, to do so, we’ll leverage the words from our PMR Manual. Basically, we want to dispel any belief that the PMR Team is an auditing organization. “Determining an agency’s compliance with statutes, regulations and policies is an essential aspect of the program, but it is not its ultimate objective. The ultimate objective is to help enhance the performance of the contracting departments in contributing to the success of their agencies.”

Too often upon their arrival, the PMR Team senses the initial perception of ODA staff that the team is there to conduct three weeks of open-heart surgery on their contracting activity. Once the PMR gets underway, the team’s work and direct

interaction with ODA staff should make clear that the team is pursuing something similar to preventive medicine. The PMR Team is focused on providing “an objective appraisal of the contracting operations at these agencies, the problems they are facing, and the successes they have achieved. Equally as important, the PMR program seeks to provide the agencies with a management consultant service that can identify and assist in problem areas.”

Our objective is to make the PMR experience an open and collaborative exchange of findings, information and ideas. The ODA plays a vital role in coordinating the execution of a successful PMR that facilitates reaching this objective. The most successful PMRs are those at which the ODA makes the requested information conveniently accessible and their personnel available for the scheduled interviews. The PMR teams typically review a hundred contract files. The team attempts to review as many different contract action types as practical. The contracts reviewed are randomly selected from the contracts actions of the three fiscal years immediately preceding the date of the PMR.

PMR findings are categorized in three areas that are addressed as either a “Recommendation,” “Commendable,” or “Suggestion.” When the PMR Team observes a negative trend of significance, they address them with a “Recommendation.” When the final PMR report is issued, the ODA is required to develop and submit a corrective action plan that addresses each “Recommendation” listed in the report. The PMR Team is also focused on identifying outstanding actions and

THE DOD PMR TEAM

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PERMANENT PMR TEAM MEMBERS:

Harry Simmons, DCMA
(Transferred May 2017)
John Klar, DCMA
(Transferred October 2017)

HUGE THANKS TO OUR PMR TEAM

AUGMENTEES:

2016

Elaina Barker, DISA
Brandon, Burton, MDA
Sal Cianci, DAU
Bengt Ekwall, DCMA
Chris Enriquez, DITCO
Elizabeth Fuller, WHS
Kelly Green, USAMRAA
Tiffani Harris, DODEA
Kim Harrison, DCMA
Beth Healey, DLA
Mark Jones, DARPA
Leroy Long, DISA
Khalil Mack, WHS
Tammie Shelton, NGA
Doug Schuetz, MDA
Jennifer Townsend, DoDEA
Patricia Watson, WHS
Treena Wetsel, DISA
John Young, DIA

2017

Frank Argenziano, WHS
Nichole Cabral, DISA
Michelle Cames, USSOCOM
Marcia Carter, DCMA
Andrew Cortesio, USSOCOM
Bengt Ekwall, DCMA
Terri Francoeur, USTRANSCOM
Kim Henderson, DCMA
Caren Jackson, DMEA
Andrea Mouser, USTRANSOM
Steve Paul, DCMA
Gloria Norwood, DISA
Ken Phelps, NSA
Jackie Pinkston, DHA
Kristine Poltrick, DeCA
Dave Tenenbaum, USSOCOM
Lori Williams, DCMA

WANT TO VOLUNTEER FOR A PMR?

Applications are due to DCMA on the first workday in September for the ensuing Fiscal Year. “Call-for-Volunteers” is in the annual memorandum with the upcoming Fiscal Year PMR Schedule, issued by DPAP in the May/June timeframe. Reference related article in newsletter for additional insight and information.

initiatives which, to ensure the ODA and staff are properly recognized and that these efforts are continued, are highlighted as “Commendable” items in the PMR report. When the team observes solitary instances of non-compliance or occasional bad-practice actions, they will address these with a “Suggestion” in the report. It is not necessary to address a “Suggestion” in the corrective action plan and, if they are, their corrective actions are typically limited to immediate measures such as refresher training or an added checklist item or control.

Collectively, the results are conveyed through the PMR report that is distributed only to the Director of the agency reviewed. This limited distribution is intended to foster transparency and cooperation between the ODA and PMR team. If beneficial discussions regarding

positive and negative actions and trends are realized through this collaborative and open dialogue, our objectives are being met.

Within this newsletter you will find common observations and best practices noted in our FY16 and FY17 PMRs. We hope that this information is beneficial to all contracting organizations in their efforts to continuously improve individual acquisition skills and organizational processes and capabilities. In the event of a protest, audit or other investigation, contract files that fail to satisfy regulatory requirements can lead to situations where the open-heart surgery analogy would be appropriate. The recommendations, suggestions and overall wellness-check made by a PMR team may help avoid these situations.

We strive to continuously improve the

PMR process for efficiency and value to the ODA. We also want to refine the process to minimize the disruption to the normal operating rhythm of the ODA prior to and during the PMR. Any ideas or recommendations on accomplishing these aspirations are always welcomed by the PMR Team.

Please take some time to review this newsletter and consider how you can use it to improve your individual and organizational performance. Please feel free to give us your feedback! We welcome any comments you may have on this newsletter or on the PMR process itself and ask that you address them to the PMR Program Manager or DPAP’s point of contact, Mr. Michael Pelkey, via e-mail at Michael.f.pelkey.civ@mail.mil or by phone at 703-614-1253.

QUALITIES OF AN IDEAL PMR TEAM MEMBER:

ACCOMPLISHED

A person with comprehensive acquisition knowledge, a breadth and depth of experience, and the capability to spot policy and procedural issues

COMMUNICATOR

An individual with excellent writing, verbal and briefing skills; someone that can articulate thoughts in any type of group atmosphere

PARTNER

Demonstrates traits of flexibility, adaptability, and decisiveness, and the ability to exhibit and foster cooperation in team efforts and organizational settings

THANK YOU FOR HELPING OUR EFFORTS TO HELP YOU!

The success of a PMR is extremely dependent on the helpful engagement of many individuals at the agencies being reviewed and the PMR Team volunteers. We would like to take this opportunity to thank the ODAs, their designated POCs for the PMR, staff, management, and leadership of agencies visited and our PMR Team volunteers. If you would like to share in this great experience, please consider volunteering to participate on a PMR team. The call for volunteers is included in the FY PMR schedules released by DPAP in the May/June timeframe and posted at <http://www.acq.osd.mil/dpap/policy/policyvault/>. Applications are due to DCMA on the first working day in September for participation in the ensuing fiscal year PMRs.

WHAT GIVES US THE AUTHORITY FOR A CONTRACT MODIFICATION? A Common PMR Observation and Finding

When reviewing files for contract modifications during PMRs, we have noted that the authority allowing us to make change is often not properly identified. Attention to detail and critical thinking are essential in identifying the authority for a contract modification. Citing an improper authority may cause the change to be unenforceable and could result in the government losing its rights to the performance required by that change.

Contract modification is a generic term meaning any written change in the terms of the contract (FAR 2.101). Contract modifications are such a common action for most contracting professionals that it is easy to neglect administrative details. However, it is incumbent upon contracting officers to determine what authorizes the modification. The Standard Form 30 (SF30), "Amendment of Solicitation /Modification of Contract" is used for modification of contracts for other than commercial items. Authority for

the modification is identified in Sections 13A through D of the SF 30.

Administrative changes can be made unilaterally by the Government as long as the changes do not affect any substantive rights of the parties. An example is a change in the appropriation data.

The Changes Clause (FAR 52.243-1 through -6, depending on contract type being used) and other clauses (e.g., FAR 52.245-1, Government Property) provide the Government with authority to make certain unilateral changes in the contract. In such modifications, the Block 13A of the SF 30 should be checked and annotated to cite the clause that provides authority for the change.

Supplemental agreements include equitable adjustments, new procurement modifications, and most other types of modifications requiring negotiation. For such modifications, check Block 13C of the SF 30. For FAR Part 12 contracts for the

acquisition of commercial items, FAR 52.212-4, Contract Terms and Conditions – Commercial Items, requires that changes in the terms and conditions of the contract may be made only by written agreement of the parties. Therefore, modifications to contracts for commercial items will generally check Block 13C of the SF 30. Be careful, though, on bilateral modifications when citing authority pursuant to FAR 43.103(a)(3) and "Mutual Agreement of the Parties," as this is not a favored approach in some agencies. Inquire with your legal advisor or policy staff.

Block 13D of the SF 30 is used for situations where Blocks A through C do not apply. Probably the most common of these situations is an option exercise. In this case, check Block 13D and cite the applicable "Option" clause identified in the contract.

PROCUREMENT MANAGEMENT REVIEW SCHEDULES* AND SEQUENCING

UNDER REVIEW IN FY2018

Jan 29 – Feb 16: Defense Advanced Research Projects Agency (DARPA)
Mar 12 – 30: Missile Defense Agency (MDA)
Apr 30 – May 18: Defense Threat Reduction Agency (DTRA)
Jun 11 – 29: Defense Health Agency (DHA)
Jul 23 – Aug 10: Defense Security Cooperation Agency (DSCA)

ON DECK FOR FY2019

Oct 22 – Nov 9 (2018): Department of Defense Education Activity (DODEA)
Jan 28 – Feb 15: Defense Contract Management Agency (DCMA)
Mar 11 – 29: Defense Human Resource Activity (DHRA)
Apr 29 – May 17: Defense MicroElectronics Activity (DMEA)
Jun 10 – 28: Defense Information Systems Agency (DISA)
Jul 22 – Aug 9: Defense Finance and Accounting Service (DFAS)

& TENTATIVELY PLANNED FOR 2020

Oct 21 – Nov 8 (2019): Defense Intelligence Agency (DIA)
Jan 27 – Feb 14: Washington Headquarters Service (WHS)
Mar 9 – 27: Uniformed Services University of the Health Sciences (USUHS)
Apr 27 – May 15: Defense Commissary Agency (DeCA)
Jun 8 – 27: United States Transportation Command (USTRANSCOM)
Jul 20 – Aug 7: National Geospatial-Intelligence Agency (NGA)

ORDER OF REMAINING ODAs

United States Special Operations Command (USSOCOM)
 National Security Agency (NSA)
 Defense Security Service (DSS)

*** PLEASE NOTE THAT ALL SCHEDULES AND DATES ARE TENTATIVE AND SUBJECT TO CHANGE AS A RESULT OF SUPPLEMENTAL VISITS DETERMINED TO BE NEEDED, AGENCY REALIGNMENT INITIATIVES, ETC.**

**BECAUSE IT’S NOT IN THE TOP-10, DOESN’T MAKE IT LESS IMPORTANT!
The First-Rate and Frequent-Flaws of PMR Findings**

On the following page are just some of the notable “Commendable” actions and initiatives that were identified in our FY2016 and 2017 PMRs. To an appropriate extent, almost all of the Other Defense Agencies (ODAs) have leveraged use of flexible and telework schedules for their proficient and productive workforce. Feedback from both supervisors and employees reveals that this trusted partnership has resulted in reduction of impediments to productivity and increased focus on work-product that has improved and increased workforce output. Most ODAs have also realized that allowing employees to devote a reasonable amount of time in the workday to focus on their health, has paid dividends on sustaining a strong and less stressed

workforce.

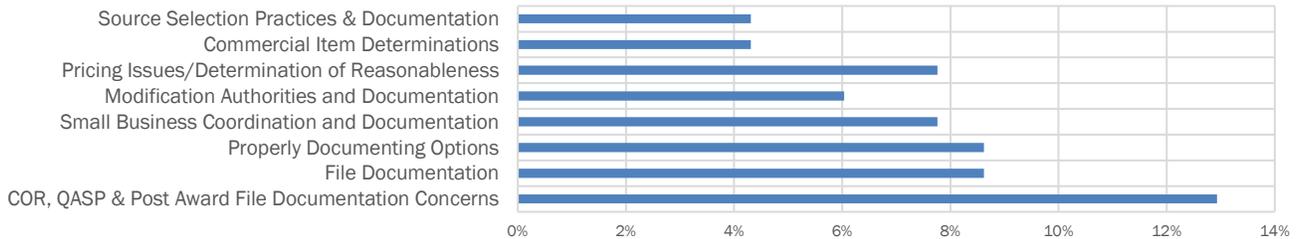
It is important to point out that this list of commendable findings are not a panacea nor are they a one-size fits-all when it comes to deploying any one of them. But we hope you’ll consider whether any are appropriate at your organization.

The twenty-two most common “Recommendations” made during FY2016 and 2017 are provided in the “Top Catch-22 List” at the end of this newsletter. As you may recall from the first article, “Recommendations” are recurring and/or significant findings that must be addressed in a corrective action plan that is developed and submitted by the agency-under-review to DPAP for approval. When reviewing these “Recommendations,” please keep in mind that they are listed

in order of highest to lowest number of observations made. It is important to understand that they are not listed in order of significance or based on the level of consequence that could result from non-compliance. Some could merely cause you future headaches if you are having to re-establish the intent of the parties under contract. Some are likely to cause your agency to lose a protest. There are quite a number that are established through statute and continued non-compliance could result in significant penalties and undesirable impacts on operations, and potentially on professional careers.

Upon reviewing these lists, savvy acquisition professionals will initiate their own internal PMR-like assessment.

8 FOCUS AREAS THAT COLLECTIVELY RESULT IN 60% OF ALL FY16 & FY17 RECOMMENDATIONS



**INTERESTED IN PARTICIPATING ON A PMR?
It Benefits More Than the Individual**

PMR participation is an excellent learning experience and opportunity for professional growth. It is quite enlightening getting insight on Other Defense Agencies (ODAs) acquisition programs and processes. It is also a chance to refresh your knowledge on acquisition lifecycle compliance requirements, obtain awareness on gaps your activity may have, and gain alternative perspectives on how to

approach to problems your ODA may be experiencing. In this regard, it can benefit the individual and their parent-organization. Also, don’t forget that DPAP recognizes each PMR participant with credit for ten Continuous Learning Points.

There are quite a few participants who seek to repeat their PMR experience on an appropriate recurring basis. We find that many of our new

teammates on PMRs have been steered by others in their agency who have experienced and recommend participation. Every ODA is requested to submit one volunteer per year and submissions from the Services are also welcome. It has become a proven approach to make sure their own ODA is “PMR Ready” when the next team comes to visit. See “The PMR Team,” box on page 1 for more information.

TAKE NOTE**Workplace Excellence Enhancing the Mission**

The team observed many exceptional practices and tools that are contributing to mission success. Some of the more noteworthy are:

- The DoD contracting workforce is dedicated and committed to mission success; comprehensive acquisition team collaboration and communication is prevalent; flexible schedules, telework, and wellness programs are a big contributor to high employee morale.
- Several agencies have established great electronic filing systems and are successfully “going paperless.” In addition, they have developed outstanding web-based or electronic libraries which make forms, checklists, policies and procedures easily accessible and readily available, eliminating the need to search multiple portals.
- The Uniformed Services University for the Health Sciences (USUHS) has developed templates and examples to ensure consistency of contract files. They have also established excellent customer service, demonstrating the ability to consistently meet tight timelines.
- The Defense Health Agency (DHA) has established a strategic partnership with GSA to establish a new Federal Supply Schedule specifically for Health IT Services, and an Integrated Product Team with the Military Services to plan, scope and establish a Government-Wide Acquisition Contract for Medical Health Professional Services.
- The Defense Intelligence Agency (DIA) has a dynamic “SuperCOR” Program in which the requiring activity within each of DIA’s four Directorates have an assigned and dedicated senior COR to serve as a conduit to the contracting office and provide focused support in training, mentoring and assisting new and junior CORs. In addition, DIA has a robust COR SharePoint web-site that effectively serves as a one stop repository for any information that a COR may require.
- The Joint Improvised-Threat Defeat Agency (JIDA) cultivates early engagement between their contracting personnel and customers to accomplish rapid acquisition support.
- The United States Transportation Command (USTRANSCOM) has established procedures to maximize utilization of small businesses and competition that have repetitively exceeded the goals for both. It starts with a review of each acquisition to determine the most appropriate contract type and the best acquisition strategy, followed by sources sought and requests for information to consider small businesses early in the acquisition process. USTRANSCOM also develops quarterly Procurement Forecasts and convenes periodic Industry Days to share requirements forecasts with industry, and determine market capacity and marketplace trends.
- The Defense Commissary Agency (DeCA) has established a two-pronged approach of Policy Alert e-mails and mandatory Contracting Forums, held at least quarterly, to disseminate, educate and keep acquisition personnel current on new and changed regulations, policies, mandates and procedures.
- The National Geospatial-Intelligence Agency (NGA) has developed a technical evaluation guide providing information to customers on specific details that need to be captured for a comprehensive technical evaluation, they also pursue a continuous process review to identify efficiencies that are implemented into the guide to further enhance its effectiveness.
- The Defense Security Cooperation Agency (DSCA) established and maintains an excellent Acquisition Library website that allows staff to conveniently access pertinent regulations, policies, process-flows, uniform document templates for use, and related links to other authoritative and instructional sites; they have a similar site for public access.
- United States Special Operations Command (USSOCOM) also has a user-friendly online portal for policy and guidance and their management and leadership have established excellent communication channels that has led to strong consistent commitment to mission amongst all levels and offices.
- The majority of National Security Agency (NSA) contracting employees indicated adequate to high job satisfaction and morale levels attributed to training opportunities, supportive coworkers, and the critical nature of the work they accomplish.
- Among the numerous improvements the Defense Security Service (DSS) has made a substantial improvement in the usage and quality of their Independent Government Cost Estimates (IGCEs), every file reviewed contained an obligation of funds and signed and dated IGCE documentation, the IGCEs contained reasonable basis and information detailing how they were developed.

THE TOP “CATCH-22” LIST: WATCH OUT FOR THESE ISSUES!**Recommendations Appearing in More Than 50% of the FY16 PMR Reports**

- 1) Verify that contract files clearly demonstrate how source selection evaluations were conducted and decisions were made pursuant to solicitation criteria (FAR 8.405-1(d), 12.602, 13.106-2, 15.305, 15.308, & 15.404)
- 2) Make certain that contract files contain written assurance from a responsible fiscal authority that adequate funds (appropriate for contract scope) are available or expressly condition the contract upon availability of funds (FAR 4.803(a)(3) & 32.702)
- 3) Contract files must document adequate market research was performed to include consideration of mandatory sources, and clearly record how research informed the acquisition strategy/plan (FAR 10.001(a))
- 4) Documentation in contract files must be sufficient to constitute a complete history of the transaction; provide written rationale for any significant changes to scope, acquisition approach, etc. (FAR Subpart 4.8)
- 5) Contract files must document reference checks of the System for Award Management (SAM) that are performed within the prescribed time frame prior to awarding contracts, executing modifications with funding, exercising options, or issuing agreements (FAR 4.1103, 9.105-1(c), 9.404(c), & 17.207(c))
- 6) Ensure Small Business Coordination Records (DD2579s) are consistently completed, coordinated and signed by Small Business representative, and retained in contract file (DFARS 219-201(c)(10))
- 7) For sole source awards, modifications affecting price, orders and blanket purchase agreements and their subsequent orders against GSA schedules; ensure contracting officer's independent determination of fair and reasonable costs and pricing is documented (FAR 8.404(d)), 13.106-3 & 15.402)
- 8) Ensure all CORs are properly certified, COR responsibilities are performed, results of surveillance documented, and all appropriate COR files are submitted to the DoD COR Tracking (CORT) Tool and reviewed at least annually by the contracting officer (FAR 1.602-2(d), DFARS 201.602-2/PGI 201.602-2, DODI 5000.72 & DoD COR Handbook)
- 9) For all contracts containing options; ensure pertinent fill-in information is included in the applicable contract clauses (i.e. 52.217-6 through 52.217-9) and that the contract file contains documentation of contracting officer's justification for inclusion of options and the required determinations when exercising options (FAR 17.205 & 17.207)
- 10) Ensure that contracts for services are documented with a determination that services to be performed are not Inherently governmental functions/duties (FAR 7.503(e) & 37.503, DFARS 207.503(e)) and that the contract file also contains a Certification of Non-Personal Services (DFARS and PGI 237.503)
- 11) Ensure that files for commercial item acquisitions exceeding \$1M contain documentation of the contracting officer's written Commercial Item Determination (DFARS 212.102)
- 12) Unless a specific exception applies (e.g. FAR 16.103(d)(2)), document the pertinent principles and procedures that were followed in determining the contract type to be used and, if required, make sure the prescribed determination and findings associated with using particular contract types are completed prior to award and included in contract file (FAR 16.102, 16.103, & 16.104, DFAR 16.102, 16.104 & PGI 216.104)
- 13) If unique agency-level contract clauses are used; make sure a compliant Clause Control Plan is developed, approved, implemented and maintained (DFARS 201.304(4))
- 14) Appropriately mark and protect source selection documentation (FAR 2.101 & 3.104)
- 15) Ensure Justification & Approvals, to include those for Limited Source decisions, are sufficiently substantiated, approved by the appropriately designated authority, and included in the contract file (FAR 6.303 & 6.304)
- 16) Comply with posting requirements when using other than full and open competition, to include requirements when brand name and limited source acquisitions are justified (FAR 5.406)
- 17) Ensure that adequate and measurable performance standards are stated in contracts for services and that sufficient surveillance methods are identified (FAR 37.601(b)(2), 37.604, 46.401 and DFARS 246.401)
- 18) Review the accuracy and compliance of Contract Action Report (CAR) data, required to be entered into the Federal Procurement Data System (FPDS), and ensure CAR documents are retained in files (FAR 4.6 & PGI 204.606)
- 19) When procurements are made pursuant to FAR Part 8, Required Sources of Supplies and Services and Coordinated Acquisitions, ensure all required DFAR and DoD mandated clauses are contained in the award document (DFAR 208.70 and PGI 208.7002)
- 20) Include COR clause 252.201-7000 in contracts when appointing CORs to a contract and ensure a copy of COR Appointment Letter is provided to contractor or, if a service contract requires a COR but none are appointed, ensure contracting file contains the contracting officer's written rationale (FAR 1.602-2(d)(7), DFARS 201.602-70, PGI 201.602-2, & DoDI 5000.72)
- 21) When exercising options, be sure the file contains a determination that option pricing remains advantageous to the government, evidence that SAM Search was completed and, if unilateral action is taken, a copy of the government's timely notice of intent to exercise option that was issued (FAR 17.207 & 52.217-9, DFAR 217.207)
- 22) Ensure Enterprise-wide Contractor Manpower Reporting Application (eCMRA) requirements are identified in contracts for services and that CORs and contracting officers are verifying contractors accurate and timely completion of eCMRA requirements (10 US Code § 235 & 2330a, OUSD AT&L and P&R Memorandum, 28 Nov 2012)