SUBJECT: Support for Front-Line Procurement Professionals Forum

TO: All DCMC Associates

The latest meeting of the Front-Line Procurement Professionals Forum was held on January 29, in Washington D.C. The Forum meeting pertained to the streamlining of FAR Part 15 from the working level perspective. The first topic of this meeting was Past Performance. Discussion and comments from various agencies were brought up. The second topic was discussion of agency approaches to Alternative Dispute Resolution. Several industry representatives were present at the meeting to address the contractor 's perspective and participate in the discussions.

The Department of Defense Acquisition officials want to acquire goods and services that represent the best value for the Government. They believe that contracting officers can gain confidence in a prospective contractor's ability to perform the contract requirements satisfactorily, based on that contractor's past performance. The rating of past performance is an important factor in making a best value source selection decision. Past Performance Information is useful in deciding on contract awards, but may also be used to establish competitive ranges, as well as to decide whether to exercise contract options, and to choose between different vendors on multiple award contracts when awarding delivery orders. The discussions began with a brief description from various agencies of how they currently evaluate contractor's based on their past performance. Some questions considered were: 1. What are previous experiences utilizing past performance in source selection - how often is it a discriminator? Is there variation in ratings? 2. Is past performance allowing streamlining of the solicitation? How much information are you asking offerors to provide on past performance? 3. Are contractor report cards being filled out per FAR Part 42? Is there a variation in ratings? What is "better than average"? Who is involved in contractor evaluation? 4. How has past performance been delta with previously? What policies or policy changes would allow an opportunity to respond to negative information?

Comments based on experience were mixed from the various military and civilian agencies were raised. Most government procurement is for commercial items where past performance is considered a major driving influence on contract award. But even in procurement of other than commercial items, past performance is now a major consideration. One problem is getting accurate and consistent data. Most people are reluctant to score a contractor objectively. Statistically, most contractor evaluation scores fall between good and very good. The evaluation methods employed ranged from agency report cards and phone surveys to use of preaward survey. It was the consensus of the Forum that the method of collecting and gathering

information should be tailored to fit the type of contract being considered. The information should accurately documented to avoid award protests. Some agencies are moving toward automating their information, but many use only phone calls. The lack of a documented method that would support an automated system causes difficulty for the contracting officer to obtain accurate and consistent information in a reasonable time.

Past performance evaluations are time consuming and generally have not been reliable. They are influenced by on going relationships and the need for repeat buys. Training for past performance evaluation is only now being considered. It has been based on a subjective and individual rating that lacks the consistent objectivity of standardized criteria. Consequently, ratings have not been reliable. The procurement office at the Social Security Administration uses the Vermin J. Edwards methodology of evaluation instruction. He is a professor at George Washington University and has written a book on the subject and provides training on a consultant basis. This method teaches the use of a “level of confidence” score that relates to experience and performance to develop a level of confidence assessment rating. It uses mandatory technical scores based on a go or no-go situation, but allows for trade-offs and does not undermine the fairness issue which appears frequently. This aids the contracting officers in determining the best value for the Government.

The contractors agreed that past performance used as a major factor in awarding contracts allows them an opportunity to demonstrate good performance. They see it as a direct impact on their industrial reputation. However, negative reports would have the greatest impact on the small business or new business. Motorola Corporation, who won the Malcum Baldridge award in 1988, has developed a supply management data base which uses subcontractor past performance to aid them in market research. The data base system keeps track of such things as item delivery schedules, price, and technical updates and. As a result, Motorola been able to develop long term relationships quality subcontractors.

An new method that is an out growth of market research streamlining is “partnering with industry”. This is an agreement between Government and Industry to provide thorough understanding of the contract and establishes open communications between the respective offices. This results in improved contract schedule and cost control, and reduce protests. It is similar to the post-award conference, but occurs well in advance of contract is award. It is designed to improve the business relationship between government and industry. In over 300 prototype partnering agreements, communications began so early and worked so well, the government has experienced a reduction in award protests.

As a further streamlining of dispute resolution, the General Services Administration (GSA) has established an Alternate Dispute Resolution (ADR) Pilot Project. The ADR is to use alternative means of dispute resolution in all appropriate cases. It is a common-sense approach to dispute resolution. ADR uses techniques ranging from mediation to mini-trials to “high-low” arbitration. The goal is to resolve contract disputes by the most expeditious and least expensive method available. ADR has had an 80% rate of dispute resolution before litigation. It is required by the Administrative Dispute Resolution Act, Public Law No. 101-552, Public Law No. 103-355, and Federal Acquisition Regulation (FAR). The ADR is base on honesty of all parties . It offers dispute decision within 20 days after protest, which are less judicial, and much less costly.

The Deputy Secretary of Defense for Acquisition, Ms Colleen Preston, has resigned for health reasons. Ms Preston has been very active and instrumental in Acquisition Reform. Ms Donna Richbourg, who Ms. Preston’s assistant, was appointed by Dr. Kaminski as acting Deputy until a permanent replacement can be found.

The Director of the Office of Management and Budget, Mr. Frank Raines, joined the meeting to express his commitment to acquisition reform and thank the Forum for their effort and assistance in procurement policy reform. Mr. Raines is Dr. Kelman’s supervisor and like Dr. Kelman, believes in utilizing working level advice to better develop procurement policy. To further emphasize acquisition reform, Dr. Kaminski is instituting a Reform stand-down week for the week of March 17. Each agency will choose a stand-down day for their offices to learn more about reform.

I would like to solicit suggestions for FAR changes/improvement from DCMC associates that may be brought to the attention of the forum and the FAR Rewrite Team. I am sure that there are many concerns, comments and suggestions regarding possible FAR and other regulatory changes and improvements that you would like discussed. Please, let me hear from you. You can contact me at 410-339-4770, DSN 444-4770, Fax 410-339-4965, or via email at **etillman@dcmds.dla.mil** . Please forward any correspondence to:

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