



Federal Demonstration Partnership

May 13, 2014

OMB Uniform Guidance Procurement Standards Pilot Worthy?

Prepared by: Office of Naval Research

- Debbie Rafi, Director, University Business Affairs
- Abe Sabbag, Director, Engineering & Systems Review Branch



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- Contractor Purchasing System Reviews (CPSR)
 - What they are and are not...
- OMB Uniform Guidance Procurement Standards – Initial Observations
- Is there a need to demonstrate alternative approaches to procurement for research through a pilot?



What is a CPSR?

By Definition:

“Contractor Purchasing System Review (CPSR)” means the complete evaluation of a contractor’s purchasing of material and services, subcontracting, and subcontract management from development of the requirement through completion of subcontract performance. (FAR 41.101)

A Contractor Purchasing System Review:

- Evaluates the efficiency and effectiveness with which contractor spends Government funds, and complies with Government policy when subcontracting.
- Provides the ACO a basis for granting, withholding, or withdrawing approval of contractor’s procurement system.
- Applies to subcontracts under federal awards
 - Does not apply to subawards, which are audited under A-133



Applicable CPSR Regulations

- FAR 44.302 The need for a CPSR is triggered when a contractor's sales to the Government are expected to exceed \$25 million during the next 12 months, the ACO shall perform a review to determine if a CPSR is needed
- FAR 44.3 Purchasing system review and prior consent
 - A CPSR is a business system
 - Disapproval will require ACO prior consent on many types of purchases.
- FAR 52.244-2 Subcontracts Clause
 - When a purchasing system is approved, with few exceptions, prior consent to subcontract is not required.
- DFARS 244.3 Contractors' Purchasing Systems Reviews
 - Provides guidance on ACO responsibilities.
- DoDGARs Subpart G-Field Administration§ 22.715
 - Reviewing recipients' financial management, property management, and purchasing systems, to determine the adequacy of such systems.
- OMB Circular A-110 Procurement Standards
 - Sets forth standards for use by recipients in establishing procedures for the procurements



CPSR Candidate Selection

- ONR Reviews each contractor whose yearly sales to the Government are expected to exceed \$25M for awards under ONR administrative cognizance (DoD and NASA) to determine if a CPSR is needed
- Once CPSR candidates are identified, at least every three years, the ACO will determine whether a CPSR is necessary
- The ACO conducts a Risk Assessment to determine the actual CPSR requirements for the upcoming Fiscal Year.
- The ONR CPSR Plan is developed
- Review dates are determined and coordination letters are issued to the contractors



Evaluation of Procurements

During the review of procurement files, areas evaluated include;

- Degree of price competition obtained
- Pricing policies and techniques
- Planning, award, and management of major subcontracts
- Inclusion of appropriate flowdown clauses
- Appropriateness of types of contracts used
- Methods of evaluating subcontractor responsibility
- Policies and procedures pertaining to small business subcontracting program



Evaluation of Procurements Awarded Under Grants

Compliance with Grant Provisions:

- Code of Federal Regulation Part 215.40-48
- Termination Provision flow down
- Disputes Provisions
- Rights to Patent Provisions
- A Necessary Procurement
- Procurement Documentation
- Use of Competition
- Review of the Debarment List
- Equal Employment Opportunity



CPSR Recommendations

- Minor Recommendations
 - These represent areas where improvements should enhance efficiency and/or effectiveness.
- Major Recommendations
 - These represent non-compliances with public law, such as Small Business, Certified Cost and Pricing Data, or Truth in Negotiations Act
 - Repeat recommendations because no corrective action was taken
 - Lack of documentation for price/cost analysis or source selection justification on a significant percent of the sample reviewed.



Administrative Contracting Officer (ACO) Purchasing System Approval

- ACO Notification Letter Granting Approval will Include:
 - The Location(s) and Effective Date of Approval
 - Applies to all Federal Government Contracts at that location
 - Waives Contractual Requirements for Advance Notification in Fixed-Priced Contracts, but not for Cost-Reimbursable Contracts
 - Waives Contractual Requirement for Consent in Fixed-Priced Contracts and Specified Subcontracts in Cost-Reimbursable Contracts
 - Does not Waive Consent for those Subcontracts Identified in the Contract schedule
 - May be withdrawn at any time at the ACO's Discretion
 - *When the Contractor no longer meets the CPSR threshold & the ACO determines that there are no outstanding CPSR issues, the Contractor is removed from the listing of Approved Purchasing Systems.*



Purchasing System Disapproval

If the contractor does not have an approved purchasing system:

- Advanced Notification to the Contracting Officer is required before the award of any cost-plus-fixed-fee subcontract, or fixed-priced subcontract that exceed the simplified acquisition threshold
- Contracting Officer Consent to subcontract is required for cost-reimbursement, time-and-materials, labor-hour, or letter contracts, and also for unpriced actions under fixed-price contracts that exceed the simplified acquisition threshold
- Contracting Officer Consent is required in fixed-priced subcontracts and specified subcontracts in cost-reimbursable contracts



ONR Notes

- ONR has a population of approximately 32 universities eligible for a CPSR and performs from 7 to 10 CPSR's annually
- 22 candidates eligible due to the annual Government contract sales amount
- Others CPSR's are based on Government sales including assistance awards
- No CPSRs are performed solely on the basis of Grants
- Purchases under government awards are a small part of overall university procurement population
- Universities use one procurement system which is audited under A-133
- No disapproved purchasing systems under ONR Cognizance based on previous A-110 requirements
- OMB requirements appeared to be effective in managing R&D purchases



OMB Uniform Guidance

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement

- (a) Procurement by micro-purchases - <\$3K
- (b) Procurement by small purchase procedures
 - < simplified acquisition threshold (currently \$150K)
 - price or rate quotations must be obtained from an adequate number of qualified sources.
- (c) Procurement by sealed bids (formal advertising)
- (d) Procurement by competitive proposals
- (f) Procurement by noncompetitive proposals



OMB Uniform Guidance

§ 200.320 Methods of procurement to be followed.

(f) Procurement by noncompetitive proposals ...may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.



Why FDP does Pilots

“The University community has a crucial role to play in support of the President’s goals for stimulating innovation and competitiveness in science and technology and developing the next generation of scientists and engineers. The Federal Demonstration Partnership provides a valuable forum through which Federal science and technology agencies can work creatively with University partners to reduce administrative burdens while advancing scientific discoveries and increasing transparency and accountability.”

Dr. John Holdren
Director, Office of Science and Technology Policy



What needs to be Demonstrated?

- Changes in procurement requirements will have a negative impact on federally funded research awards:
 - Longer lead time for research supplies/materials may negatively impact federal agency execution goals for its research funding
 - Greater documentation requirements may cost more than the benefits derived



What needs to be Demonstrated?

- Challenge to FDP – do we have data that can support these initial concerns?
 - What is the current average lead time for acquisition of items $> \$3K$ and $< \$150K$?
 - What is the current level of effort for documenting purchases of items $> \$3K$ and $< \$150K$?



What needs to be Demonstrated?

- Challenge to FDP – Can we quantify impact?
 - Can we estimate what the average lead time for acquisition of items $> \$3K$ and $< \$150K$ will be under the Uniform Guidance?
 - Can we estimate what the level of effort for documenting purchases of items $> \$3K$ and $< \$150K$ will be under the Uniform Guidance?



What needs to be Demonstrated?

- What is the desired outcome?
 - Reinstate previous guidance (A-110) for Universities?
 - Specific exemptions from current guidance?
 - Revise current guidance for research awards?



Want to Participate? Join an FDP Sub-Committee



THANK YOU