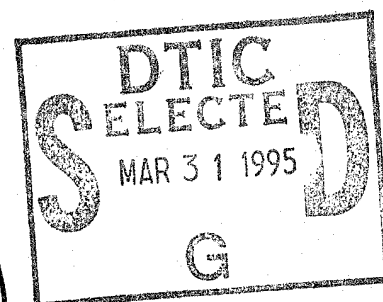


FINAL REPORT OF THE

PROCUREMENT PROCESS REFORM

PROCESS ACTION TEAM



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TO THE
UNDER SECRETARY OF DEFENSE
FOR
ACQUISITION AND TECHNOLOGY

JANUARY 1995

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FEB 09 1995

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
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GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Approval of the Procurement Process Reform Process Action Team Report

On November 4, 1994, I approved the charter for the Procurement Process Reform Process Action Team. That team was directed to develop a comprehensive plan to re-engineer specific elements of the procurement process within DoD in direct support of far-reaching DoD goals related to acquisition reform. The Process Action Team (PAT) focused its efforts in three subject areas:

- Determining how to identify and disseminate best procurement practices throughout DoD.
- Improving the sole source proposal preparation, evaluation and negotiation process.
- Streamlining the competitive source selection process.

The PAT draft final report was widely disseminated throughout DoD and was utilized to obtain feedback and comments regarding the recommendations in the report. Comments were reconciled through the Acquisition Reform Senior Steering Group (ARSSG), and the team briefed me on January 25, 1995.

I have reviewed the PAT's recommendations and approve them for implementation, as outlined in the report, with the following exceptions:

- Chapter 2, Recommendation 1: After completion of the lead projects, the concept of using Memoranda of Understanding will be evaluated, and a decision made whether to encourage their use.
- Chapter 2, Recommendations 2 and 3: The expanded use of Class J&A's and its impact on competition will be evaluated after the public comment period on the proposed DFARS change.
- Chapter 3, Recommendation 1: The need to submit further legislation related to simplifying the procurement of "fungibles" will be evaluated after the FAR implementation of Title VIII, Commercial Items, of the Federal Acquisition Streamlining Act of 1994.



Implementation of the reports' recommendations will be managed by the Board of Directors set up to oversee the operation of that PAT, in coordination with the Deputy Under Secretary of Defense (Acquisition Reform). The Board of Directors will update the ARSSG on a regular basis. A review with representatives of the PAT will be conducted within six months to assess progress and ensure compliance with the intent of the report.

Paul G. Kaminski

Paul G. Kaminski

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FOREWORD

The Procurement Process Reform Process Action Team (PAT) was chartered by USD(A&T) to develop a comprehensive plan to re-engineer specific elements of the procurement process within DOD in direct support of far-reaching DOD goals related to acquisition reform. This PAT began its work on 17 October 1994 and focused its efforts on the subject areas specified in the charter:

- Determine how to identify and disseminate best procurement practices throughout DOD. One objective is to disseminate and adopt service and other initiatives that have successfully addressed specific issues/situations. Another is to provide a greater menu of possible approaches from which to choose and to encourage tailoring of the approach chosen.
- Improve the sole source proposal preparation, evaluation and negotiation process. Improving and shortening the sole source proposal cycle are mutually compatible objectives. Utilization of a team approach together with the execution of required tasks concurrently (sometimes jointly) rather than sequentially can produce better contract awards as well as reduced cycle time.
- Streamline the competitive source selection process. Reducing the cycle time on a repeatable basis is essential if DOD is to maximize the efficient use of scarce resources. An objective in this area is to provide assistance/guidance regarding the source selection process which will enable the users of this process to obtain its benefits in a more timely manner.

In order to accomplish its mission the PAT divided into three sub-teams to address the areas listed above. Therefore, this final report is in three chapters and addresses activities of the sub-teams by area of concentration. A draft final report was widely disseminated throughout DoD and was utilized to obtain feedback and comments regarding the recommendations made throughout the report. The PAT has provided individual responses to each of the 451 comments. Consideration has been given to the observations, interests and concerns of all the commentators in attempting to address and reflect these matters in the final PAT report.

EXECUTIVE SUMMARY

As directed in our charter, the Procurement Process Reform Process Action Team (PAT) included a cross functional representation from OSD, the Military Departments and Defense Agencies. As the PAT members shared their insights and experiences with each other, substantial differences emerged. Many PAT members with 15, 20, or more years of experience on the front lines of procurement who thought they had pretty much done it all or at least mostly seen it all had their eyes opened by the experiences of others. There were, of course, differences in experience between members from different services and components, however, most of the truly eye-opening new insights were closely linked to the broad range of goods and services which DoD acquires. Representatives with major weapons systems experience, for example, at first had some difficulty relating to others who routinely have to deal with 50, 100 or more proposals on commodities buys. Members involved in base procurement had a different perspective on some issues than did headquarters personnel. Consequently, the recommendations made in this report should not be expected to impact the entire DoD community equally. In fact, some of the problem areas which the report identifies have not been experienced at all by some of the PAT members. Many readers of this report will undoubtedly have that same reaction to some of the recommendations. What the report does represent is a clear consensus reached by the PAT after many hours of debate and research on ways to make significant improvements in the timeliness and quality of many procurements, while maintaining the integrity of the process as well as the required high level of public trust.

One of the predominant themes of the recommendations contained in this report is the preference for risk management in lieu of risk avoidance. All PAT members have performed non-value-added additional steps in order to be prepared to respond to potential criticisms which might or might not materialize. These additional non-value added steps almost invariably resulted in both time delays and in the squandering of scarce resources which could have otherwise been productively employed elsewhere. Another frequently identified cause of these extra steps was either local policies or a local culture which was extremely risk averse. In many cases, neither the U.S. Code, the FAR, nor the DFARS unduly restrict procurement personnel from accomplishing their tasks in a fair and efficient manner and yet non-value added activities still occur on a much too frequent basis. Therefore, despite the PAT members' normal bias against additional upper level OSD guidance, we have included several recommendations in our report to issue guidance which targets areas where we believe that local practices are costing DoD dearly.

The first chapter in the PAT report deals with the establishment of a DoD **Procurement Wisdom System (PWS)**. The basic philosophy behind the PWS assumes that DoD is populated with many experienced and knowledgeable problem-solvers who are successfully coping with procurement challenges every day. However, many successful solutions and techniques which get developed are unknown outside of a given agency or activity. Therefore, others must often expend a great deal of effort figuring out how to solve the same or a very similar problem. If an effective and user friendly system existed for information sharing in DoD, then procurement personnel could use it to build on the work already done by others and not have to unnecessarily and continually re-invent the wheel. The PWS envisioned by this report will provide a means to effect this information-sharing throughout DoD. The report identifies a near term, relatively low cost way to establish the PWS. The approach chosen utilizes existing personnel of the Air Force Acquisition Model (AFAM) Project Management

Office (PMO) to produce a modification of existing AFAM software which will meet the needs of a DoD wide PWS. Principal costs identified in the report to implement this approach are approximately \$250K annually plus two (2) additional personnel to supplement the AFAM PMO plus the cost to validate the information (which will be absorbed by the individual DoD components). The PAT believes that this last cost, i.e. validation, should be accomplished at the lowest practical level. If that takes place, then the cost of validation will be minimal; will not require any additional resources, and can occur during the conduct of normal business. As noted in the report, a real and valid concern is that the PWS will cause significant additional bureaucracy to be created. We believe that this can be avoided; however, due diligence will be required. An additional item worth noting is that the PWS is in no way intended to substitute for, or to mitigate the PCO's (or others') normal responsibilities. It is designed to be an additional tool which can be used to accomplish the job more efficiently, but it is not a substitute for proper training and policy.

The second chapter in this report contains recommendations designed to improve the process used in **sole source acquisitions**. As noted in the report, the traditional sole source process involves a number of tasks(phases) which are almost always performed sequentially. Often the participants in each phase operate in relative isolation and then hand off their results to others who begin work on the next phase. The process tends to be lengthy, adversarial and inefficient. Specifically the team developed the following recommendations.

Recommendation - 1 Improve the sole source procurement process through implementation of a teaming arrangement between the major parties in the process, i.e., user, program manager, logisticians, engineers, Procuring Contracting Officer (PCO), Defense Contract Audit Agency (DCAA), cognizant Defense Contract Management Command (DCMC) office, and the contractor. (Pg 2-5)

Recommendation - 2 Establish dual track sole source procurement process that relies on an expanded definition of past performance as a means of determining the appropriate approach for a given acquisition. (Pg 2-25)

Recommendation - 3A (Deleted. Discussion retained) Delete requirement for separate Acquisition Plan (AP) document and in lieu thereof combine the AP information in the Acquisition Strategy Report (ASR.) Make an ASR required for all procurements valued at over \$5M. (Pg 2-34)

Recommendation - 3B Process the ASR simultaneously with the Justification and Approval (J&A) and, whenever possible, utilize electronic media to reduce the review and approval process length. (Pg 2-36)

Recommendation - 3C Expand the use of Class J&As to allow for a one time approval during early acquisition planning covering the life of the program by making them the norm rather than the exception. (Pg 2-37)

Recommendation - 3D Eliminate overly restrictive guidance requiring approval of J&A prior to commencement of negotiations. (Pg 2-37)

Recommendation - 3E Realign approval thresholds for J&As to be consistent with acquisition approval authorities for non-major defense acquisitions. (Pg 2-38)

Recommendation - 4A Reduce the number and level of sole source procurement approvals and oversight reviews. (Pg 2-50)

Recommendation - 4B Delegate approval authorities to the lowest practical level. (Pg 2-50)

Recommendation - 4C Establish a requirement to document biennially the need for continued use of every review. (Pg 2-50)

Recommendation - 5 Increase the \$1 million DFARS threshold for requesting field pricing reports on cost type contracts to \$10 million where the offeror does not have significant estimating system deficiencies. (Pg 2-57)

Recommendation - 6 Improve PCO communication with DCAA by providing the contracting officer the flexibility of obtaining field pricing assistance directly from DCAA without going through the ACO. (Pg 2-62)

Recommendation - 7A Reduce the need for contractor price proposal updates, including "Sweeps," by allowing for a Certificate of Current Cost and Pricing Data cut-off date other than the date of agreement on price. (Pg 2-66)

Recommendation - 7B Establish a "significance" criteria that can be used in assessing contractor violations of the Truth in Negotiation Act so that insignificant potential violations are not pursued by the government. (Pg 2-66)

The third chapter in this PAT report contains recommendations designed to improve and streamline the **competitive source selection** process. The report divides the current competitive process into five (5) phases: requirements determination, presolicitation, solicitation, evaluation and negotiation and award. Recommendations are grouped into these five categories, plus one entitled general and one for other. These recommendations all reflect the PAT's attempt to balance process efficiency with fairness to the customers of the process. Attention is focused on providing assistance/guidance which will enable users of the competitive process to obtain its benefits in a more timely manner.

Under the **general category**, the PAT report contains two (2) recommendations which are summarized below:

Recommendation - 1 The threshold for simplified "small-purchase" procedures should be raised to \$1 Million for the acquisition of a special class of commercial items identified as "fungible goods." (Pg 3-10)

Recommendation - 2 Preaward Surveys (PASs) should be discouraged whenever sufficient contractor data is available from commercial sources. Commercial supplier-profile reports should be expanded to include more information useful to Government buyers. (Pg 3-19)

During the PAT's efforts during the past two and a half months, several recommendations were considered and developed in the area of **requirements determination**. In the final analysis, however, the PAT decided not to offer any final recommendations in this category. This decision is due primarily to the large number of ongoing initiatives within DoD related to the development of comprehensive, automated, on-line sources of current acquisition tools. Many of these initiatives are

anticipated to assist in the development of requirements determination documents.

Under the heading of **presolicitation**, the PAT report contains the following recommendations:

Recommendation - 3 The Government should practice the prequalification of sources to the widest possible extent, whenever it makes good business sense, particularly in industries where prequalification conforms to commercial practice. For commercial items, the approval level for justifying a qualification requirement should be lowered from "head of agency" to the Chief of the Contracting Office. (Pg 3-26)

Recommendation - 4 (Deleted) DoD should consider increasing the use of consolidated contracts, where applicable. (Pg 3-32)

Recommendation - 5 Revise the Competition in Contracting Act to eliminate the preference for the use of sealed bidding over the use of competitive proposals. Revise FAR 6.401, "Sealed bidding and competitive proposals," accordingly and eliminate the requirement for written documentation to support the contracting officer's decision to use negotiated procedures. (Pg 3-33)

Recommendation - 6 Maximum emphasis should be placed on limiting the number of evaluation factors in competitive source selections. Evaluation plans should include only those factors which will allow true discrimination between offerors. (Pg 3-36)

Recommendation - 7 Restrict use of the formal source selection process for "less than major" acquisitions. Require agency to obtain a waiver from the appropriate service secretariat, or designee, prior to using the formal source selection process for "less than major" acquisitions. (Pg 3-39)

Recommendation - 8 Require the inclusion and utilization of field support (DCMC/DCAA) services in the procurement process at the earliest possible stage of acquisition planning when the PCO and/or Program Manager determines that such services will enhance the acquisition. (Pg 3-43)

Recommendation - 9 (Deleted) Add to the Competition in Contracting Act an exception to provide for "effective competition." (Pg 3-46)

The PAT's recommendations regarding the **Solicitation** area are:

Recommendation - 10 This recommendation applies to all contract actions greater than the simplified acquisition threshold as well as all non-commercial items. (Pg 3-47)

- Change the FAR to provide an exception that eliminates the requirement to synopsise an intended solicitation/contract in the Commerce Business Daily when the action can be posted, accessed, and downloaded through FACNET.
- Change the FAR to eliminate the requirement for a minimum proposal submission response time, and instead permit the Contracting Officer to establish a response time which will afford potential offerors a reasonable opportunity to respond to a solicitation

- Change the FAR to allow for a combined synopsis and solicitation when one document can contain all the information necessary for the offeror to prepare an offer

Recommendation - 11 Significantly increase the utilization of electronic/digital Technical Data/Drawing/Documentation Packages (TDPs) and Numerical Code (NC) manufacturing. (Pg 3-53)

Recommendation - 12 (Deleted Discussion retained.) One-on-one preproposal conference. Provide a change in the Federal Acquisition Regulation that would allow contracting officers to provide individual answers to individual contractors about their proposals and not provide all the questions and answers to all offerors. (Pg 3-56)

Under the heading of Evaluation and Negotiation, the PAT has the following recommendations:

Recommendation - 13 Expand the definition and use of "clarification" provided for in the FAR to encompass (without being considered discussions) the correction of minor deficiencies in a proposal that otherwise would be in line for award on initial offers or following best and final offers. Currently, resolution of any form of deficiency can only be resolved through discussions with all the offerors within the competitive range. (Pg 3-60)

Recommendation - 14 Revise FAR 15.609, Competitive Range, to delete the language "When there is a doubt as to whether a proposal is in the competitive range, the proposal should be included." The intent is to discourage broad competitive ranges. (Pg 3-64)

Recommendation - 15 When a large number of proposals is received, encourage a preliminary evaluation approach, using a limited number of evaluation factors, to down-select to a manageable number of proposals. (Pg 3-68)

Recommendation - 16 If only one offeror has a reasonable chance for award, contracting officers should establish a competitive range of one rather than unnecessarily retaining other offerors. (Pg 3-72)

Recommendation - 17 Recommend that FAR 15.804-3 "Exemption from or waiver of submission of certified cost or pricing data," paragraph (b)(3) be modified to allow for broader exemptions when the price can be determined fair and reasonable based upon price analysis alone (for non-commercial items). (Pg 3-75)

Recommendation - 18 Limit the requirement to refer a determination of nonresponsibility of a small business to the Small Business Administration (SBA) for a Certificate of Competency (COC) to the following circumstances: (Pg 3-79)

- Only contracting activities that do not meet their established small business and small disadvantaged business (SDB) goals will be required to refer to the SBA for a COC. If activities have not met their goals, COCs will be required only when the following conditions apply:
 - When a small business is displaced by a large business ; or,
 - When a SDB is displaced by either a small business or a large business.

Under the heading of **award**, the PAT recommends:

Recommendation - 19 If a solicitation provides that the government intends to evaluate proposals and make award (on initial offers) without discussions, contracting officers should make award consistent with that intent to the maximum extent practicable. (Pg 3-83)

Recommendation - 20 Title 31 U.S. Code should be amended to require the Comptroller General, in the adjudication of bid protests, to issue rulings on timely filed dispositive motions prior to any final decision on the protest merits. The period available to GAO for deciding dispositive motions should not impact the time available for the preparation of the agency report or the GAO decision on the merits. (Pg 3-86)

Under the heading of **other**, the PAT recommends the formation of a separate PAT to review/re-engineer the process for acquisition of Federal Information Processing (FIP) resources. Specifically, the follow-on PAT should consider the following ideas:

Recommendation - 21 The PAT recommends the formation of a separate DUSD(AR) PAT(s) to review/re-engineer the process for Department of Defense acquisition of Federal Information Processing (FIP) Resources (hardware, software, and services). (Pg 3-91)

During the PAT's life-cycle, it developed a preliminary draft report at the 30 day point and briefed senior levels of the acquisition community (Board of Directors and the Acquisition Reform Senior Steering Group). Based on comments received the PAT discussed, refined and, in some cases, deleted recommendations. This process culminated into the 60 day report which was issued for comment on 17 December 1994. As a result, the PAT received 451 separate comments to the "draft final report" from various DoD organizations represented by the senior level group. The PAT has prepared written responses to each of the 451 comments. Consideration has been given to the observations, interests and concerns of all of the commentators in attempting to address and reflect these matters in the final PAT report.

The PAT believes that implementation of the recommendations made in this report will have a significant impact on the ability of DoD procurement professionals to get the job done more effectively and efficiently. In that spirit, it is recommended that recommendations which are approved be promptly forwarded to the Defense Acquisition University (DAU) so that appropriate curriculum revisions can be made and training can commence. It is our suggestion that the entire PAT report should be provided to DAU to use as classroom discussion topics as they deem appropriate.

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Chapter One

Procurement Wisdom

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Background

Sub-Team Task Objectives and Charter

Sub-teams were challenged to recommend ways to reform the procurement process. The Team would pursue avenues to eliminate unnecessary bureaucratic procedures and layers of review and approval, eliminate duplication in procurement efforts, identify methods/approaches to optimize the effectiveness of the procurement process as a system, vice a subsystem. It would make recommendations regarding roles and mission changes, or clarifications on roles and missions as may be required by the Team's findings and recommendations; address potential impact of the Team's recommendations on infrastructure of involved acquisition organizations, and establish specific milestones for actions to implement its recommendations.

The Charter, as it pertains to the mission of Sub-team A, reads as follows (in part):

"Determine how to identify and disseminate best procurement practices throughout DoD. One objective is to identify and adopt initiatives that have successfully addressed specific issues/situations. Another is to provide a greater menu of possible approaches from which to choose and to encourage tailoring of the approach chosen."

Sub-Team A Vision Statement

Initially, the sub-team had several interpretations of the above Charter, and after some deliberation, came to an agreement. The Team believes that the term "Best Procurement Practices" is misleading. The concept of "Best" by one DoD Component may not be "Best" for another Component. Additionally, the same term can also be very restrictive. The development of a knowledge based system should include lessons learned as well as "best" practices. As a result, we have renamed the concept "DoD Procurement Wisdom System" and created the following vision:

Vision Statement

To create a system that identifies, collects, stores, maintains, and provides for immediate, easy access to Procurement Wisdom. This system will facilitate widespread communication, promote efficiency, quantify usage, and improve the procurement process throughout the Department of Defense.

Key Vision Definitions

The vision statement uses several words and terms that require defining. On the surface, these words appear straightforward. However, when the Team began discussing, researching and analyzing ways to capture DoD's Procurement Wisdom, it became readily apparent that key words, terms, and some concepts had to be defined early. As a result, the Team created the following key definitions. Other terms and concepts are defined in the Input Control Output Mechanism (ICOM) Glossary which is located at Appendix A of this chapter.

Adopt: The voluntary action of a person, organization, or DoD Component to put into effect or implement as policy a Procurement Wisdom process.

Disseminate: The action of making Procurement Wisdom available to a large group of people. This may be done by publishing hard copies, data transfer, or face-to-face meetings.

DoD Components: For purposes of this report, there are four DoD Components: Army, Navy, Air Force, and DLA.

Identify: This involves gathering and consolidating Procurement Wisdom into a form that is readily usable.

Procurement Wisdom: Procurement Wisdom covers a range of knowledge from innovative ideas to lessons learned. It includes not only good ideas that improve processes, but also identifies ideas that do not work and lessons learned by experience or in reviews. Procurement Wisdom does not violate policy, laws or procedures, and will include no classified, proprietary, or foreign access restricted data. Use of Procurement Wisdom is encouraged but not required. Procurement Wisdom will become a body of knowledge, including many good and bad ideas, where acquisition professionals can find new and better ways to do their jobs. Procurement Wisdom is categorized in three ways:

Category I: This category depicts an established practice, a process that has been successfully tested over time, or one that has not been tested over time but subject matter experts agree that it is a sound practice. Quantifiable data supports that it is a reliable process, and it meets or exceeds the evaluation criteria, or qualitative data supports that it is a preferred process. Implementation risk is low (includes cost, resource and schedule considerations); adoption by other DoD Components is likely.

Category II: This category depicts innovative new processes. They have been successfully implemented in at least one office, program, division, or DoD Component. Organizational personnel have confidence that the process has potential for wide application. The practice may be validated as Category I at some future time.

Category III: Lessons Learned: This category includes problems and ideas that appear valid but do not work in practice as well as the experiences and knowledge gained by others when trying something new or different. It could also include items identified in Inspector General reports, audit reports, or procurement reviews. Lessons Learned should be a learning tool to benefit other organizations, programs, or acquisition personnel.

The Need for a Procurement Wisdom System

Our research to date reveals that there is no consistent, centralized method of identifying and disseminating Procurement Wisdom. Each activity or organization seems to have one or more unrelated means of communicating. For example, most activities identify and disseminate data through hard copy documents such as policy letters and newsletters. In addition, face-to-face meetings are held such as steering group meetings and staff meetings. They also have teleconferences and annual conferences to share ideas. However, the data is not centrally collected, maintained, and disseminated DoD-wide. Acquisition professionals must actively search in many different areas for good ideas. Therefore, the process is continually reinvented because the corporate knowledge is neither readily accessible nor centrally available.

In addition, current trends make increased efficiency and effectiveness imperative while contracting offices are being fragmented and communications among acquisition professionals more difficult. The primary trends that make a Procurement Wisdom System critical today are as follows:

Diminishing Resources: The impact of DoD downsizing has placed greater emphasis on finding more efficient ways to do business. With fewer people and the emphasis on replacing older, more experienced personnel with younger, lower graded ones, there will be no ready access to the DoD's corporate knowledge. A Procurement Wisdom System will provide that access.

Reduced Budgets: With less funding available to do the job, efficiencies can save scarce dollars for other purposes. As acquisition professionals share methods of performing work that are easier, better, faster, or higher quality, others can apply those techniques which are appropriate. The benefits of better methods can be spread without each activity "reinventing the wheel."

Integrated Project Teams (IPT): The trend toward IPTs or Consolidated Business Units (CBUs) separates contracting personnel from their peers. Much information that is now shared among buyers will not be available to those serving on IPTs. The Procurement Wisdom System will provide the information that will be lacking.

Benefits of a Procurement Wisdom System

The Procurement Wisdom System will provide ideas from all DoD Components to all acquisition professionals. Availability of many options will give these professionals more flexibility in approaches to problems and a better ability to react to changing circumstances. Many ideas will result in saved time and money in soliciting and awarding contracts. The wide availability of many ideas will enable contracting personnel to take advantage of opportunities and be aware of pitfalls identified by others. It will foster workforce independence provided managers empower the workers to try innovative and creative ideas. This will lead to greater pride in performance. A properly run reward program and recognition for submitters will increase morale and encourage participation.

Disadvantages of a Procurement Wisdom System

All change, including good change, creates some degree of stress. To gain the benefits of innovation and creativity, DoD managers must tolerate and even encourage some degree of failure. Further, to get maximum benefit, the failures should be shared so that others are aware of pitfalls in a particular practice. This is a major cultural change in our risk averse environment, and will be difficult for many to accept.

There is always a risk of creating an additional bureaucracy to develop and maintain the Procurement Wisdom System. The Process Action Team (PAT) has attempted to develop a System that uses existing resources as much as possible and to keep it simple.

Costs associated with development of the Procurement Wisdom System include time for specialists to prepare ideas for submission and for validation within the DoD Components. Development of the Procurement Wisdom System should not require additional resources, but it will put additional strain on existing personnel. Creating or modifying a database to store, maintain and disseminate these ideas will involve the financial costs discussed in Recommendation 2. In addition, there will be distribution costs that could vary widely depending on whether the distribution medium is paper, computer disk, CD-ROM or across the Internet. Additional computer software and hardware may be needed for some activities. Since implementation of electronic contracting is already in process, this should be limited.

The Procurement Wisdom Process Today

Presently, DoD agencies have no consistent, systematic method to collect and disseminate procurement practices and Lessons Learned. What is currently collected is not effectively disseminated beyond a DoD Component, command, organization, or even branch. The following are some common means of identifying and sharing ideas within DoD and our thoughts regarding their effectiveness.

Word of Mouth: The advantages of word of mouth are that details can be shared and represent real practices of acquisition personnel from working experience. The disadvantage is that this kind of information does not travel very far or very fast.

Conference Calls: Conference calls are more accessible than Video Teleconference (VTC), but the problems are similar. Further, face to face communication and body language that are available in VTC are lacking.

Conferences: Ideas can be shared with more people than by word of mouth, but are seldom a major thrust of conferences. Frequently, conference attendees are managers and staff analysts, not working buyers or Contracting Officers. Information/ideas obtained during these conferences rarely are discussed with subordinates or buyers.

Data Calls: Good information can be identified from data calls, but these are often used more for reporting purposes than to help the working buyer. They are performed at the convenience of the staff analyst who is preparing a report, which creates a burden to the working buyer who must collect the requested information. Significant details are not necessarily shared.

E-Mail: E-Mail is quickly and easily accessible to most buyers. Not all buyers read it because they do not have the time or do not have a working knowledge of computer systems. Also, so much information comes in on E-Mail that storage and retrieval become difficult at best. E-mail serves multiple functions and provides so much irrelevant information that people often do not read it.

Existing Data Bases: DoD Components have developed various data bases that include procurement practices among other things. These data bases are primarily used within the DoD Component that developed them. For example:

- Air Force Acquisition Model (AFAM)
- Joint Acquisition Management System (JAMS)
- Program Acquisition Information Data Base (PAID)
- Automated Lessons Learned Capture and Retrieval System (ALLCARS)
- Defense Technical Information Center (DTIC)

Guide Books/Desk References: These can get information to some people and are accessible to the acquisition professional. However, they are often prepared by staff analysts who may have little or no hands-on acquisition experience. In addition, guide books are often regulatory in nature. The goal of this Process Action Team is to identify ideas that the buyer can use or not as he or she chooses.

Newsletters/ Weekly or Quarterly Bulletins: These are good ways to share information with buyers, but they are usually prepared by staff analysts and the content may not be sufficient or detailed enough to be useful to buyers. Distribution is usually limited to a command or even a single office.

Good News/Lessons Learned Reports: Appear to go up rather than down, creating a burden on the buyer, and sharing little in the way of good working ideas.

Publications: Contract Management, Government Executive, and DoD Component magazines are a good way to get information distributed across DoD Component and agency lines. Procurement information in them is random; generally only a few people are highly motivated enough to write such an article. Most people do not have the time or the inclination to write for such publications. Relatively few acquisition professionals subscribe to these publications and many are unaware they exist.

Staff Meetings: Staff meetings sometimes result in sharing ideas within branches and divisions, but the ideas seldom go outside the organization. Information in staff meetings usually involves transmitting data down the chain rather than up.

Training: Training sessions are a good way to share information with buyers, but the flow of information is limited since most training sessions are only agency or DoD Component wide vice DoD-wide. Those courses that are DoD-wide, usually mandatory courses under Defense Acquisition Workforce Improvement Act, are only taken once by each buyer. There is no means in place to update information as material becomes obsolete.

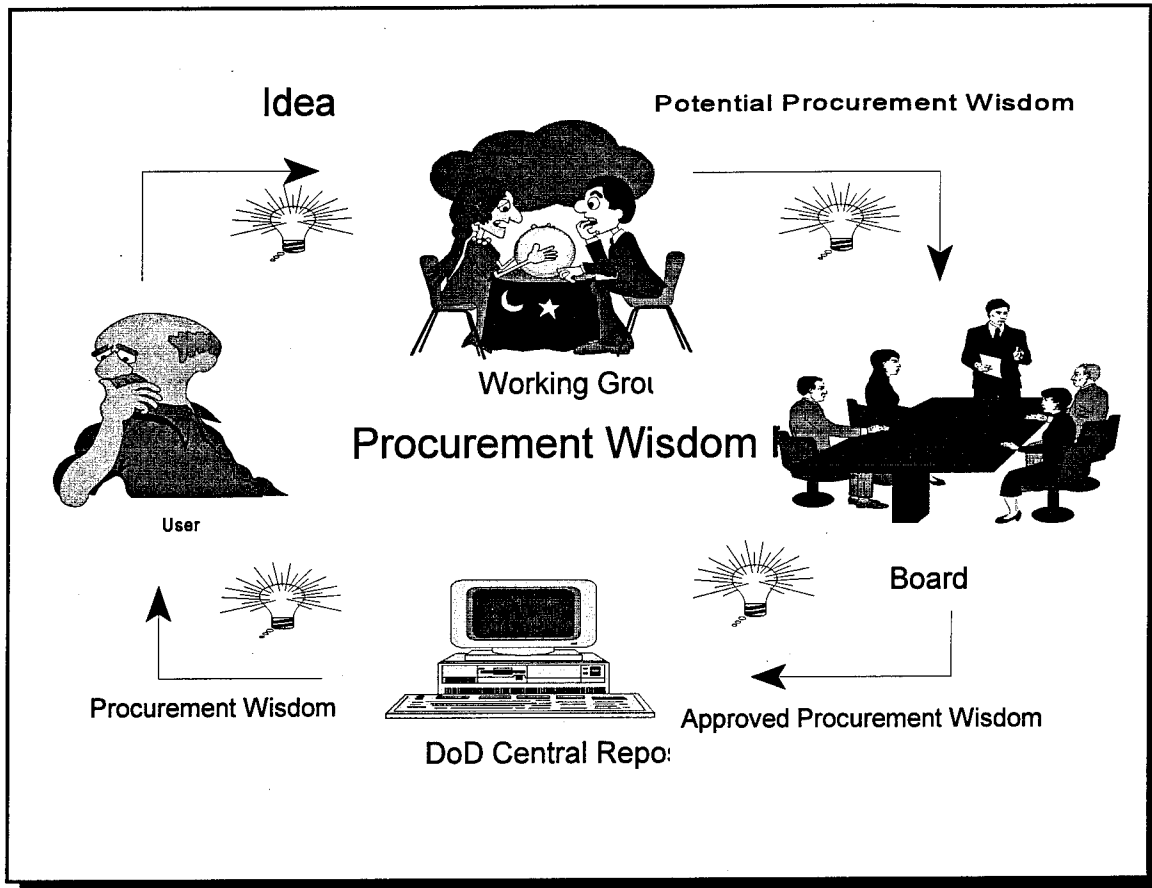
Video Teleconferences (VTC): VTC systems are increasingly available, but still not everywhere. Experience suggests that VTC works a lot like staff meetings with the bulk of the information going down rather than up or across units.

The Procurement Wisdom Process for Tomorrow - The Process Action Team's Recommendations

Recommendation 1 outlines the process using a number of charts. At first glance they make the PWS appear imposing and complex. It is important to remember that these charts describe the process only. It will become imposing and complex only if it is implemented that way. The PAT wants to make it clear that there are several assumptions that are vital to the success of the PWS. Most importantly, the System must not evolve into a bureaucracy that is cumbersome and slow. The validation activity is where the greatest risk of this happening lies. The PAT feels that if validation is kept simple, and the Working Group and the Board are established at the lowest levels possible, then the System will be accessible, and simple. However, if the DoD Components implement validation as a bureaucracy, then the System will become an obstacle to avoid, instead of a helpful tool.

It must be made clear that use of the PWS is not mandatory. In this way it will not become a "checklist item" that is given just a quick, cursory examination. The intent is that it will be a forum for the exchange of information among the acquisition workforce.

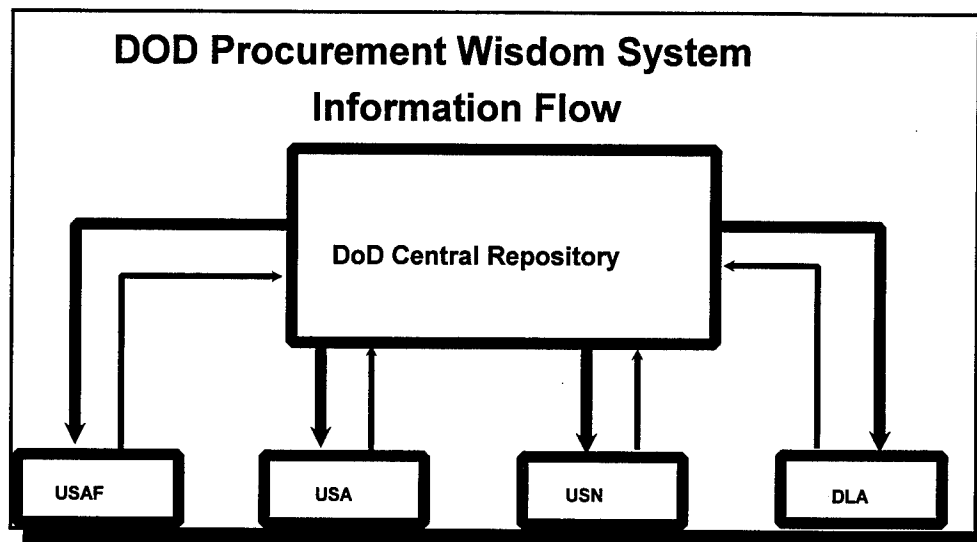
The PWS will not be policy, therefore a disclaimer will be necessary (to be written with appropriate legal assistance) which will be placed on information contained in the Procurement Wisdom System. It must be emphasized to users that the data in the system are just ideas, not policy, and are not endorsed more than by just the "common-sense check" done during validation. The ideas are not subject to protest and do not necessarily reflect the opinions or policy of DoD or any of the Components.



The Team envisions a process that collects the data currently generated but not widely available, validates and disseminates it to all DoD Components. To set up the Procurement Wisdom System, the Team has two recommendations:

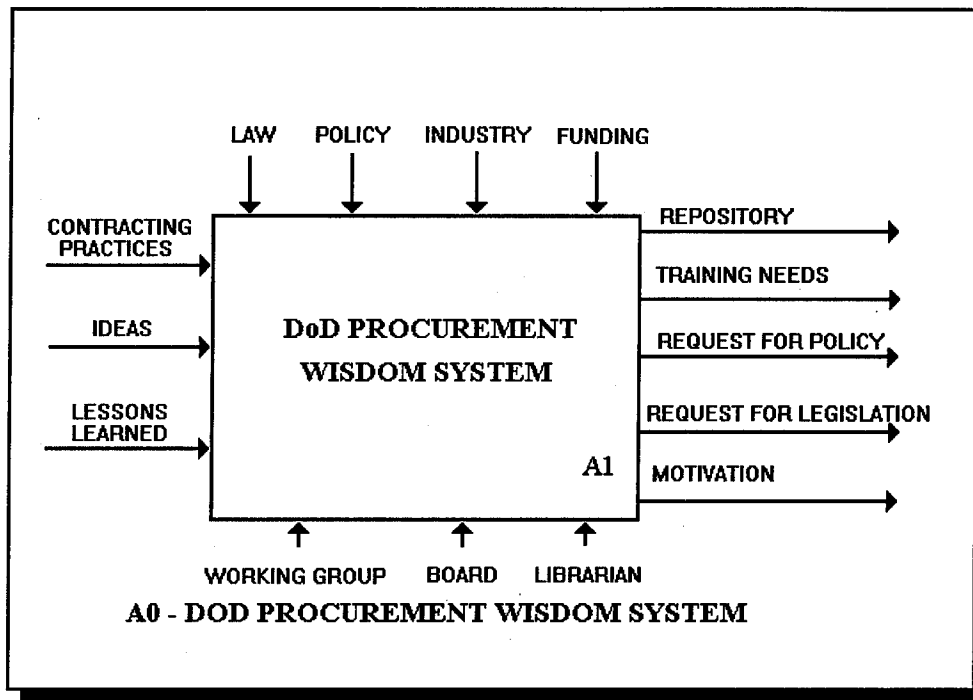
Recommendation 1: Use the IDEF Model as a Guide for Implementing the DoD Procurement Wisdom System

The DoD Procurement Wisdom System is described using an Integrated Definition (IDEF) activity model. The Team recommends USD(A&T) approve the DoD Procurement Wisdom System and the IDEF model as described in this report. The Team further recommends USD(A&T) direct the DoD Components to implement procedures for the IDENTIFY and VALIDATE activities.



The DoD Procurement Wisdom System envisioned in this report would contain a DoD central repository into which the DoD Components would input Procurement Wisdom. The central repository would be responsible for entering Procurement Wisdom, for maintaining its currency and for disseminating it to users. Each DoD Component would be responsible for soliciting Procurement Wisdom from its members, for validating and categorizing the Procurement Wisdom in accordance with Procurement Wisdom System criteria (defined in Appendix D to this chapter), for providing Procurement Wisdom inputs to the DoD central repository and for making the Procurement Wisdom System information widely accessible to users within the Component. As envisioned in this report, the DoD central repository would require only a small staff to operate. The solicitation, validation, and categorization efforts performed by the DoD Components would be accomplished utilizing resources which already exist, would be performed at the lowest practical level as determined by the DoD Component and would be accomplished without an undue burden on the conduct of normal business. It is not the intent of the Team that the Procurement Wisdom System add any significant bureaucracy within DoD or the Components. The Team believes the process described in this report can be accomplished during the conduct of normal business.

The following diagrams depict the process envisioned for the DoD Procurement Wisdom System. The activity diagram shows how an idea, practice, or lessons learned is identified, validated and then disseminated to the users. Activities are represented by boxes. The arrows are ICOMs. Each activity is performed within the constraints of Controls, which are represented by arrows entering from the top. The activity is performed by Mechanisms which are symbolized by arrows coming up from the bottom. Inputs enter from the left, are modified in the activity, and exit from the right as Outputs. Each diagram shows the activity, the "raw material" for the activity, the final product, who controls the activity, and the entity that performs the activity. Each following diagram further decomposes the "parent" diagram into more detailed views. Appendix A is a Glossary which defines the ICOMs.

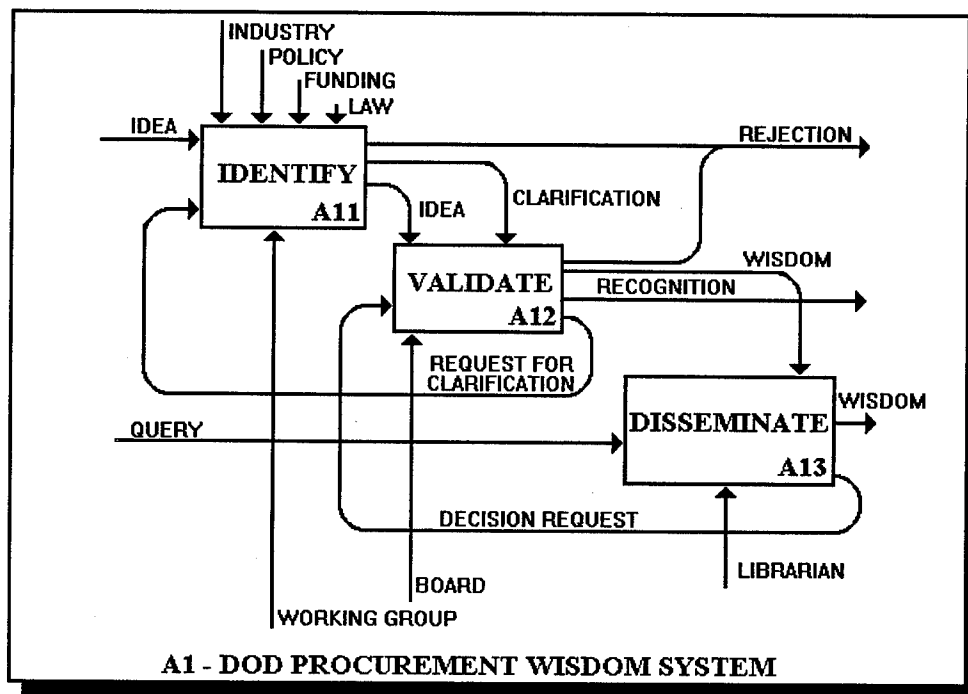


A1 DoD Procurement Wisdom System: The DoD Procurement Wisdom System will identify, collect, and provide access to a wide array of procurement practices. The System will facilitate communications, promote efficiency, measure usage, and improve the procurement process throughout the DoD. The controls on the System are Law, Policy, Industry, and Funding. All activity within the System must be accomplished within the constraints of these controls.

Good ideas, practices and lessons learned enter the Procurement Wisdom System, are validated by the DoD Components, then made available to all DoD at their request. Anyone will be able to send an idea to a central repository with a minimum of validation. The ideas are then made available to DoD as Procurement Wisdom in the output Repository. This enables the user in the field to search the repository for best practices and lessons learned at any time and take advantage of the combined corporate knowledge of the entire DoD.

As some Procurement Wisdom is adopted into common practice, other outputs may include Request for Legislation, Request for Policy, and Training Needs. Congress, DoD leadership and others will have access to the Procurement Wisdom System and may adopt as law or policy any ideas that they find. To some extent, it is conceivable that Wisdom may identify a need to change a law or a policy. Additionally, motivation is a critical output of the System. The workforce needs to be motivated to enter the System and recognized for using the System.

Mechanisms are the entities that perform the activity. The Working Group is the person or persons that identify an Idea, which is then validated by the Board. The Team envisions several Working Groups and Boards for each DoD Component. The entire System is operated and maintained by the Librarian.

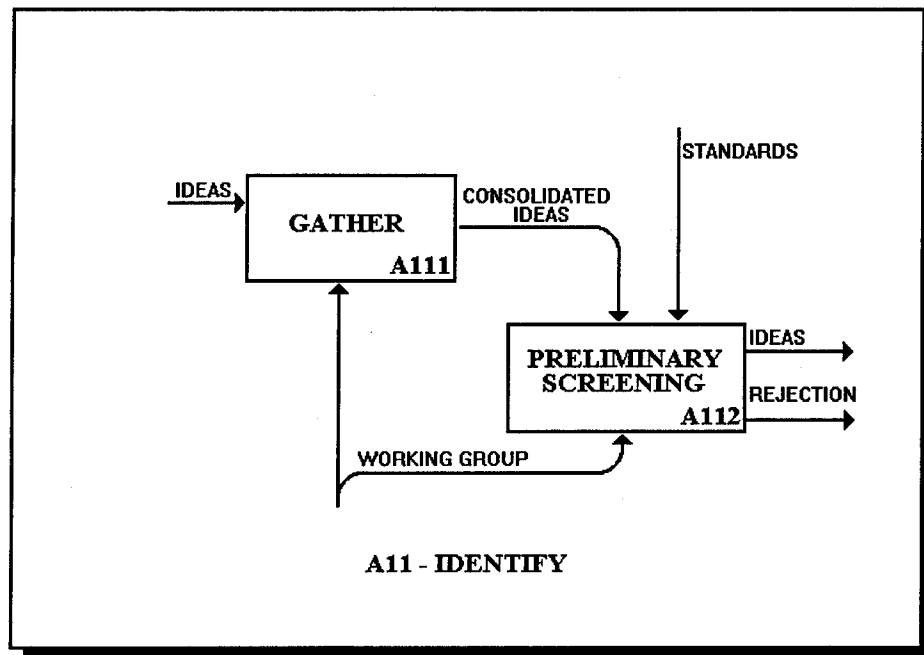


The DoD Procurement Wisdom System can be decomposed into three main activities: IDENTIFY, VALIDATE, and DISSEMINATE. The following is a brief description of each:

A11 IDENTIFY - An Idea enters this activity and goes through a PRELIMINARY SCREENING where a decision is made to forward it to VALIDATE, or to generate a Rejection. The mechanism for this activity is the Working Group and can be one person or several, depending on how the individual DoD Component decides to implement the Procurement Wisdom System. Working Group responsibilities may be assigned to a first-line supervisor, or perhaps a policy office within a contracting activity. This Working Group will collect and consolidate ideas and lessons learned from within, and forward them to the Board.

A12 VALIDATE - The mechanism for this activity is the Board. The Team sees this as a group of higher-level managers that validate ideas. Again, implementation is left up to that DoD Component. One may decide to validate Wisdom as a part of a regular staff meeting, another may decide to establish a new group. The Idea enters this activity from IDENTIFY and it will get compared to various standards within the constraints of Law, Policy, Industry, and Funding. Again, a decision is made to either forward it to DISSEMINATE as Wisdom or to generate a Rejection. During the decision process, questions may arise. In this case, a Clarification Request will be generated and will get fed back to IDENTIFY. A response to this request re-enters this activity from the Working Group as a Clarification. In addition, an important output of this activity is Recognition. How recognition is effected and what forms it will take is being left up to the DoD Components.

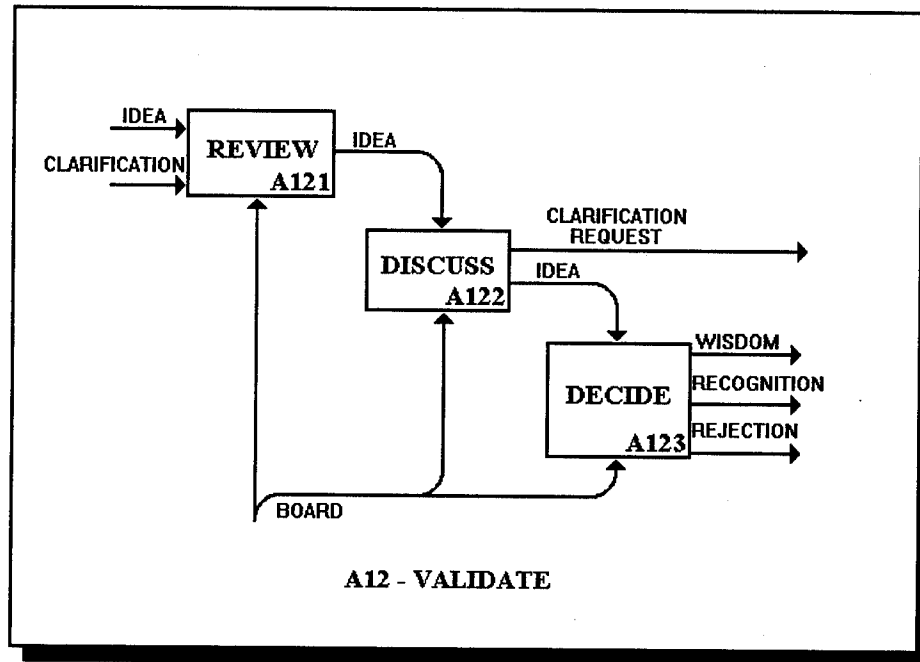
A13 DISSEMINATE - This activity will be heavily automated. In this activity, Procurement Wisdom is INPUT into a Repository, the Librarian performs a MAINTAIN activity, and it is OUTPUT to the world. Procurement Wisdom will be forwarded from each Board (probably electronically) and be stored in the repository. An important input is a Query from the outside. This may be a question from a Contracting Officer who would like information about the task at hand. He/she will be able to browse through the information by topic, see other areas through Hyper-Links, or do a word or phrase search. That Query will result in a Data Menu that lists Procurement Wisdom, and possibly cross-references to sources outside the DoD. Output will be in the form of hard copies or data transfer.



The IDENTIFY activity is further decomposed into two activities: GATHER and PRELIMINARY SCREENING, as follows:

A111 GATHER - An Idea will enter this activity where it will be grouped with others and forwarded as Consolidated Ideas to PRELIMINARY SCREENING. The Working Group is the mechanism for this decision.

A112 PRELIMINARY SCREENING - When Consolidated Ideas enter this activity from GATHER, it gets compared by the Working Group to Standards in an effort to decide whether the Idea should be forwarded to VALIDATE, or removed as a Rejection.

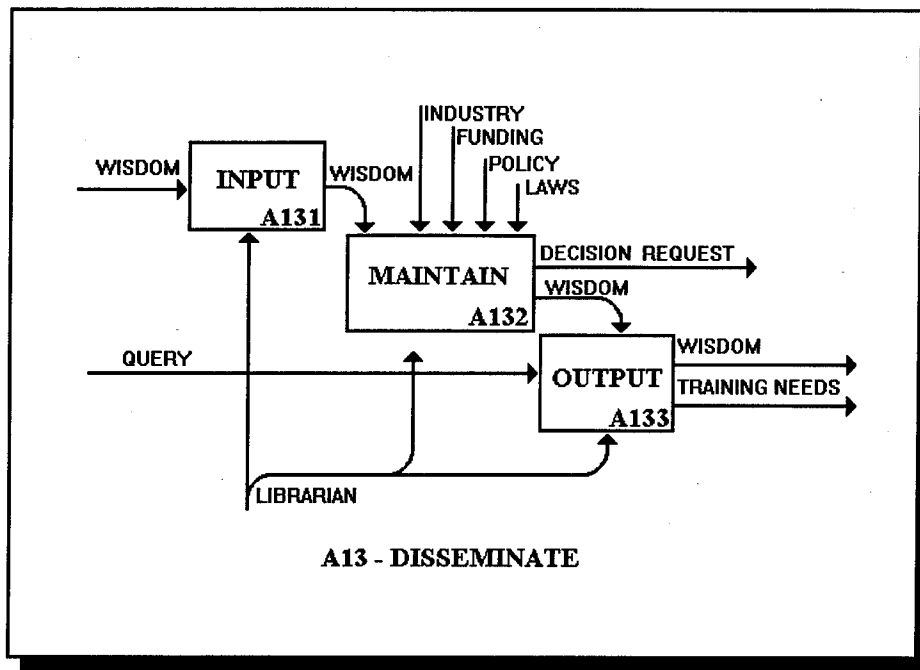


The VALIDATE activity is further decomposed into three activities: REVIEW, DISCUSS, and DECIDE.

A121 REVIEW - The first step taken by the Board will be, of course, to review and become familiar with the Ideas as submitted.

A122 DISCUSS - The Board will then share their thoughts and consider the merits of each Idea. Questions may arise, and will then generate a Clarification Request. The Clarification will then re-enter the REVIEW activity and flow through DISCUSS and DECIDE. Questions will be answered by the Working Group or others.

A123 DECIDE - The Board will then arrive at a decision, and either reject the Idea, or forward it to the Repository as Approved Procurement Wisdom. Recognition will be another important output of this activity.



The DISSEMINATE activity is decomposed into three activities: INPUT, MAINTAIN, and OUTPUT as follows:

A131 INPUT - After being validated, Procurement Wisdom enters the DISSEMINATE activity. It is then stored in a manner that makes retrieval very easy. The DFARS numbering system is the preferred way of cataloging in the Procurement Wisdom System. However, there are instances where this numbering system may not apply, e.g., ideas may come from a major weapon systems program office, logistics, engineering, etc. In this case it would make better sense to reference DoD 5000 series instructions and manuals. During validation, when an idea is identified as Category I, II, or III, an appropriate cite should be referenced. It is important that data be taken in any format, in order to facilitate use of the Procurement Wisdom System. Hard copies can be scanned or keyed in, and data files can be downloaded.

A132 MAINTAIN - The output is a Decision Request which returns from VALIDATE as Procurement Wisdom. Periodically, the Librarian would ask the Board that originally validated an Idea to make a decision whether they want to keep the Procurement Wisdom or not. In order to minimize impact on field activities, the Decision Request could be in the form of an automatic report. This activity includes metrics for measuring how frequently each practice is being used. The Team's preference is that this be done electronically, but this may not be feasible initially because of current systems' architectures. The Procurement Wisdom System should generate a list of each practice and how many times it was downloaded or accessed. It should also show who accessed the data. Finally, the Procurement Wisdom System (or Librarian) may also contact System users to request more detailed data such as frequency of use, success, cost impact, etc. This way the data in the repository will be kept current.

A133 OUTPUT - When needed, Procurement Wisdom is forwarded to the OUTPUT activity. The most important input to this activity is the Query. This is a request for Procurement Wisdom from a user. The information is provided to the user as Procurement Wisdom. This will be a file or files that give all the information that the System has in Procurement Wisdom. The data may take any form, for example, data transmission, CD-ROM, hard copies, etc. In addition, Training Needs may be identified if a practice has enough impact in its implementation.

In developing the DISSEMINATE activity, the Team considered the role and function of the Librarian, places to store information, and various means of dissemination. First, the role of the Librarian serves as a central repository and conduit for data to and from the DoD Components. The tasks of the Librarian include:

- Enter data into the System
- Maintain currency of the data
- Combine duplicate items
- Provide data to user (Acquisition Professional)
- Market the System
- Measure success (use) of System
- Update System
- Recommend Training

Benefits

Wide Dissemination of Procurement Wisdom - There exists in DoD a vast amount of expertise; the problem is one of accessibility. The primary advantage of the Procurement Wisdom System will be to allow all of DoD to benefit from the good ideas and innovative practices that arise throughout the organization. Furthermore, the Procurement Wisdom System will allow cross-fertilization of the ideas throughout all four DoD Components.

Simplicity - The process is simple. Ideas that originate at worker-levels can be made available to all of DoD with a minimum of review.

Implementation - The size and composition of the Working Group and the Board is being left to the discretion of the DoD Components. The Team envisions that the Working Group and Board be comprised of operations personnel, and be at the lowest level possible. The Working Group could be an ad hoc or existing committee depending on resources. The Board could be at any level higher than the Working Group. Or it could be as simple as the Working Group being a Contracting Officer; and the Board, the supervisor. The Procurement Wisdom System should complement rather than supplant existing staffs.

The following are some examples of how validation would work:

- A contract specialist for commodities satisfies urgent or emergency requirements by issuing a letter solicitation that incorporates the terms and conditions of an existing solicitation by reference. This saves time and money by avoiding developing and printing a whole new solicitation. The specialist will then submit a description of the procedure to his/her first line supervisor, in writing or by e-mail. The supervisor would perform the role of the Working Group by reviewing it and recommending it to the Board as either Category I, II or III and identifying the DFARS cite. It would be mentioned during a regular staff meeting of the Procurement Directorate (which is the Board) . The Board would discuss the idea, if approved, forward it directly to the AFAM PMO either electronically or in hard copy. The package will include a brief description of the idea, its category, the DFARS cite, and point of contact.
- A program office engineer has an idea to streamline coordination of the Test and Evaluation Master Plan. The idea would save coordination time and rewrites and therefore time on the total schedule. He submits his idea to other engineers in his office (the Working Group) who would review and categorize the idea, and identify the reference in DoD Manual 5000.2 (in lieu of DFARS citation), and forward it to the Program Manager who would serve as the Board.
- The Working Group could be an ad hoc committee of the heads of operations branches who meet monthly to review all ideas submitted by contracting officers and contracting negotiators/specialists. The Board could be at the buying command level (e.g., NAVAIR, AFMC, AMC) and comprised of operations division chiefs who would meet quarterly to approve ideas as procurement wisdom and to determine recognition. Procurement Wisdom would be forwarded directly to the repository from the buying commands. This method of implementation is obviously more cumbersome, expensive, and time consuming.

Recognition - The process includes the activity of recognizing contributors for sharing ideas, practices and lessons learned, as well as recognizing users of the Procurement Wisdom System to help them do their jobs more efficiently. How the DoD Components will recognize their people is being left to their discretion. The Team realizes this is an important feature for the Procurement Wisdom System to succeed.

Standardization - The Team's research revealed that each activity has a different way to identify and disseminate Procurement Wisdom, if any exist at all. Most include distribution of "policy letters" and newsletters to the workforce. The criteria used in the VALIDATION activity will be standardized across all Components (see Appendix D).

Disadvantages

Appears Complex, Bureaucratic - The diagrams can appear confusing and complex with their numerous arrows and boxes. The important concept is that the diagrams show a process, and how basic activities relate to each other. They are not organizational charts. However, when viewed in this manner, it is apparent that it is a simple, logical process.

Data Utility - Not all of the data will be useful to everyone in the procurement process. A technique that shortens cycle time in a formal source selection will be of little use to a acquisition team purchasing commodities and supplies. Alternatively, if an idea benefits just one group, and gets supplies or equipment to the warfighter a little faster, and saves a little money, then the Team feels that it should be included. The Procurement Wisdom System should segregate data by broad category, and a search feature should allow the user to quickly find Procurement Wisdom by topic or DoD Component. In this way, the user can sort through a large amount of data and find help quickly.

Resistance to Change - There is a basic reluctance in people to try new things. Procurement Wisdom may be slow to catch on due to a certain amount of comfort in the status quo. On the other hand, there is currently a big push throughout DoD towards downsizing, reorganizing into "teams", and doing more with less. The Team feels that this is fertile soil in which to plant the Procurement Wisdom System.

Reluctance to Share - There has been in the past a certain amount of inter-service rivalry. Acquisition professionals in DoD are all high-caliber, hard-working, competitive people, so there is a certain urge to try and stand out. This can lead to a tendency to keep good news to yourself. But the same atmosphere that makes changing mind sets more likely (see previous paragraph) will increase the speed at which good news travels throughout DoD.

Ease of Use - No matter how simple the Procurement Wisdom System is designed, it will take the acquisition professional a certain amount of time to gather his/her thoughts, and document them for input to the Procurement Wisdom System. As word spreads, the Team feels that the Procurement Wisdom System will become more useful, easier to use, and cost and time beneficial. When this happens, more and more people will use it.

Implementation Costs

The first recommendation deals with the approval of a process. The second recommendation discusses costs associated with implementing the process.

Implementation Plan

The schedule following the paragraph "Implementation Plan for an AFAM-like Approach" calls for the Procurement Wisdom System Charter to be signed with implementation to begin 60 days later. During this time, the process as outlined in the diagrams will have

time to "sink in." The Program Management Office (PMO) will be busy during this time fielding questions from the Components and providing clarification.

Risk Analysis

In the worst case scenario, the Procurement Wisdom System would not be implemented, or implemented with a minimum of support or acceptance. The Team feels that the current atmosphere (downsizing, streamlining, etc.) in DoD would then soon give rise to a second effort similar in nature, with similar results. Both time and the cost of establishing a group to redesign a Procurement Wisdom System would be lost.

The Team recognizes that in the early stages there may be a reluctance to use the Procurement Wisdom System both in submitting ideas and accessing the System. A persevering managerial commitment to the System is vital. This could be implemented in many ways. Management must also encourage submission of ideas to the System and reward those who contribute.

It is the same atmosphere that is causing procurement practices to get better and better. The workforce is motivated and is getting more efficient and effective. There is much Procurement Wisdom already in DoD that could be shared. The primary benefit of the Procurement Wisdom System will be its ability to make this information available to all of DoD quickly and effectively. In this way, all of DoD can benefit from Wisdom that originates in one small office somewhere. For this reason, some thought needs to be given to the risk of NOT implementing a Procurement Wisdom System. The amount of money spent annually in DoD, and the amount of scrutiny from the outside surely makes this a huge risk.

There is a substantial risk that the Procurement Wisdom System will evolve into a bureaucracy. The Team recognized this risk early, and made an effort to design a System that is simple and can operate with a minimum of staff. Another risk is that the Procurement Wisdom System will not be used once it is established. There will need to be a certain amount of marketing done by the PMO. The IDEF model shows that recognition is an important output; the reason is to promote and motivate use of the System.

Other Considerations

The Team investigated the possibility of involving the DAR Council in the validation activity. The Team discussed the issue and decided that the idea had some merit because the DAR Council is an established group of DoD procurement experts that meets regularly. In addition, the DAR Council has a vast amount of corporate knowledge that would be a benefit when validating ideas.

However, the Team saw problems with this approach, some of them significant. The group is concerned that Procurement Wisdom validated by the DAR Council may be viewed in the field as mandatory policy rather than optional wisdom. Furthermore, the

validation activity may not occur as quickly as possible in the DAR Council, considering their current workload. The Team feels it is very important for ideas to be validated as quickly as possible in order to increase utility of the Procurement Wisdom System. If the validation activity were centralized for all of DoD, the DAR Council may be appropriate for that function, however, the Procurement Wisdom System de-centralizes the validation activity among all DoD Components. It is for these reasons that the Team rejected involvement of the DAR Council at this time.

Recommendation 2: Adopt a Modified Air Force Acquisition Model

Modify the existing Air Force Acquisition Model (AFAM) to accommodate inputs received from the DoD Procurement Wisdom IDEF Process (Recommendation 1 above). In concert with this recommendation, USD(A&T) would designate AFAM PMO, located at Wright-Patterson AFB, OH, as the activity responsible for making the required software modifications to the AFAM model, receiving validated inputs from DoD Components, maintaining the Central Repository and disseminating Procurement Wisdom throughout DoD. The specific responsibilities of the PMO and the DoD Components are provided in the DoD Procurement Wisdom Charter.

Discussion

The Team considered several approaches for implementing the Procurement Wisdom System discussed in Recommendation 1 above. These approaches included (from most preferred to least preferred): 1) adopting an existing capability (system modifications would not be required); 2) modifying an existing capability and; 3) developing a new system from scratch.

During our research, the Team found no one system that could completely support the Procurement Wisdom System requirements. (A brief discussion on alternative systems or approaches are discussed later in this recommendation.) However, it appears that a modification to the existing AFAM would be an appropriate and cost effective means of getting the DoD Procurement Wisdom System underway quickly. In general, the approach would be to produce an AFAM Supplement (AFAMSUP)-like product (an information data base that has a fully indexed collection of documents). The product would provide for a full-text search and retrieval capability that includes procurement policy, handbooks, guides, and DoD Procurement Wisdom. A complete discussion on how AFAM could be modified, its potential capabilities, estimated costs, risks, and implementation plans are provided later in the report.

This approach not only provides a fairly quick solution to our Procurement Wisdom needs, but also, it complements or enhances other DoD programs and Systems. Specifically, the Navy's Joint Acquisition Management System (JAMS) currently uses AFAM as a module within their integrated work station concept. JAMS is a joint effort between the Navy (Naval Air Warfare Center) and the Army (HQ STRICOM). Its goal is to provide a seamless operation of software tools that an acquisition manager needs to

manage the complexity of any size acquisition project. JAMS consists of many small parts to make up three main parts plus a library of tools and forms. The three parts are the Procurement Management Information System (PROMIS), the Integrated Management Information System (IMIS), and the Acquisition Management Automation System (AMAS). In addition, the System will contain a set of library tools consisting of an on-line listing of Federal Department, agency, and activity regulations, instructions, directives, lessons learned, wisdom, forms, etc. AFAM is this library module. Since AFAM is a module in JAMS, then any subsequent improvements made to AFAM would provide comparable improvements to JAMS.

The Team is convinced that producing an AFAM-like DoD Procurement Wisdom module is the most logical, cost effective, and efficient means of getting the recommended Procurement Wisdom process underway soon. The Team's rationale is discussed in the paragraphs below.

Description of the Current AFAM

The AFAM and the AFAMSUP is a computer based software package that was developed by HQ Air Force Materiel Command (AFMC) for the purpose of acquiring and disseminating acquisition related information to their acquisition workforce. The AFAM model and supplement serve as a living repository for HQ AFMC's "best practices" and advice. The principal purpose of the system was to assist inexperienced acquisition personnel in performing major systems acquisition and product management processes from Pre-Concept Exploration to Operations and Support. It is currently designed to run on a stand-alone IBM compatible personal computer and on local area networks. The AFAM consists of two parts, the model part and the supplement part. The model part (known as AFAM) consists of a graphical user interface to the acquisition task information and acquisition process flows. This information is specific for the accomplishment of a particular task. It summarizes the latest set of rules, policies, sources for training tools and is a living repository for "best practices" or advice.

The supplement part (known as AFAMSUP) is a full text search and retrieval package that contains regulatory and policy guidance (DoD, AF Policy Directives, AF Instructions, MIL-SPEC's, Commander's Policy Letters, etc.). The AFAMSUP provides the capability to read, copy, or print a particular section of one of its documents or search for a word, multiple words, or even a phrase, within a limited section or the entire contents of the AFAMSUP documents.

The system is managed by HQ AFMC's Aeronautical Systems Center (ASC), AFAM Program Office, ASC/CYM, Building 17, 2060 Monohan Way, Wright-Patterson AFB, OH, 45433-6503. There are currently 29 government and 18 contractor personnel assigned to the AFAM PMO. It takes approximately 12 dedicated contractor personnel to support the AFAM product. The remaining contractor personnel provide administrative support or support for products other than AFAM. As AFAM workload increases, the program office does contract for additional support personnel.

The program office distributes copies of their product to several DoD activities. Their list of customers include the Navy, Army, Defense Contract Audit Agency, Defense Acquisition University, DoD Inspector General, several private contractors and many other organizations.

Description of an AFAM-Like DoD Procurement Wisdom Module

The AFAM PMO provided the Team several different options for producing an AFAMSUP-like product. The Team selected an approach which will effectively satisfy the requirements of the Procurement Wisdom process. The product would be a full-text search and retrieval product that includes procurement policy, handbooks, guides, and DoD Procurement Wisdom. The assumption is that most of the documents needed for the product are already in AFAM's electronic library so most of the new data entry effort is in adding Procurement Wisdom. Data entry costs would increase if other procurement policy documents were added (cost is approximately \$100 per page including data entry, test, and distribution costs).

The approach recommended would also provide on-line access via the Internet using World Wide Web (WWW). The intent here is to expand the customer base to those sites with advanced networks and begin support for what the Team believes is the growing section of the customer base. Although the WWW is the most technically "dazzling" of the implementation methods, there are serious problems and issues that need to be overcome before adopting it as the sole implementation method. WWW implementation problems include the customer base's currently installed computing environment, and DoD and lower level security issues. The AFAM PMO estimates that at least half of the acquisition workforce in the DoD would not be able to access a WWW server today. The System would become useless if a large portion of these personnel do not have ready access. Producing disk sets and CD-ROMs and running a WWW server would greatly increase the product's utility and availability.

In order to support the above approach, the PMO would require the addition of program manager and project engineer positions identified in Appendix B. These personnel will come from DoD Components. The program manager will coordinate the development of the product, schedule document/procurement wisdom inclusion, market/demonstrate the product as required, single point interface to the DoD Component Procurement Wisdom focal points, manage cost, ensure product performance, ensure wisdom validation, and report product status. The project engineer will design and develop the product, solve technical problems as they arise, incorporate technical enhancements as they become available, and ensure adequate testing is accomplished. The product itself consists of the full-text search and retrieval package, installation programs for the package, and electronic media generating software for different types of media. The Team strongly recommends that these positions not be Air Force positions for two reasons. First, the desired cross-fertilization among DoD Components is enhanced. Second, the resulting Procurement Wisdom System software would be a joint product which could be expected to serve the needs of all DoD Components.

The contractor personnel required are of three types: data entry clerks, a junior programmer and a WWW data designer. By having the government personnel in the "thinking" positions, these are relatively inexpensive contractor personnel. The primary responsibility of the contractor personnel is to implement the design, add data, and test the product. The junior programmer will structure the full-text search and retrieval software as designed by the project engineer. The junior programmer also runs the compiler, creates the master electronic media, tests both, and answers most of the technically related help desk calls received by the program office. The two data entry contractors will type, scan and convert data for inclusion into the model following the process designed by the project engineer. Additionally, the data entry personnel would maintain the distribution list and answer most of the non-technical related help desk calls. The WWW data designer would be required to correctly format the data as required by the WWW and Hyper-Text Markup Language (HTML) standards. The contractor data designer would perform the same function as the other data management contractor only in a different software package and media.

This approach includes support for distributing the product via 3 1/2" MS-DOS and Macintosh Disk Sets, MS-DOS and Macintosh readable CD-ROMs, electronically via File Transfer Protocol (FTP) and on-line access via WWW. The AFAM PMO strongly recommends CD-ROM distribution as the core/primary distribution method. Centralized computer systems have been mostly replaced with decentralized, interconnected local area networks (LANs). CD-ROMs allow the LAN administrator the greatest flexibility (and therefore greatest likelihood of the product being installed). The LAN administrator can either install the software from the CD-ROM or execute from the CD-ROM. The FTP distribution is essentially free because of PMO's existing investment in server hardware and LAN administrators.

Benefits of Using a Modified AFAM as the Platform for the DoD Procurement Wisdom System

The greatest advantage of AFAM is that the system's architecture is available today. AFAM's development is complete, so the need for developing a similar capability is unnecessary. The Air Force has already absorbed the costs for developing the hardware and software components which make the model function. Additionally, the software is "source-code reusable." In essence, an AFAM-like DoD Procurement Wisdom module only requires data entry, test and production costs. AFAM's current data base contains DoD directives, policies, regulations, Air Force Wisdom, and lessons learned (AFAM ties into the DoD Lessons Learned data base -- ALLCARS). AFAM's software architecture could be readily modified to support the DoD Procurement Wisdom requirements.

The selection of an AFAM-like approach would receive support from an experienced and well established program management office. The AFAM staff is very familiar with current computer configurations and has successfully developed a product that can work with a wide array of computer systems. The basic program office functions already exist; the AFAM staff has trained people to maintain the software and stay current with technology, maintain the information and keep it current and accurate, interface with

the various customers and respond to their specific needs, people to provide training, and people to manage the program and keep all functions working together.

The Team contends that using the existing AFAM platform and program office structure will also save money. In making this argument, the Team had the AFAM PMO prepare a rough estimate to duplicate their current capabilities (the estimate is based upon current workload requirements and does not include the Procurement Wisdom requirement). The following estimate includes personnel, equipment and miscellaneous operating expenses:

Personnel*:

3	Contractor System Analysts (\$100K ea.)	\$ 300K
1	Contractor Quality Assurance/Test (\$100K ea.)	\$ 100K
1	Contractor Process Engineer (\$100K ea.)	\$ 100K
12	Civil Service/Military Software Engineers (\$100K ea.)	\$1,200K
5	Contractor Data Entry (\$40K ea.)	\$ 200K
3	Contractor Administrative Support (\$40K ea.)	\$ 120K
10	Government Management and Support (\$120K ea.)	\$1,200K
2	Contractor Training Specialist (\$75K ea.)	\$ 150K
	Total	\$3,370K

Equipment:

33	Computer Systems (\$3K ea.)	\$ 99K
2	Servers/Server Licenses (\$40K ea.)	\$ 80K
1	UNIX Server (Internet Access/File Server)	\$ 175K
1	CD-ROM Mastering System	\$ 25K
1	Disk Duplication System	\$ 15K
10	Software Development Systems (\$3K ea.)	\$ 30K
2	Data Management System Software (\$10K ea.)	\$ 20K
1	Software Distribution License	\$ 20K
1	Media Duplication Contract	\$ 20K
	Total	\$ 484K

Miscellaneous Operating Expenses:

Travel/Marketing	\$ 200K
Office Supplies	\$ 50K
Total	\$ 250K

Total Estimate: \$4,104K

* Assumption: The dollar value listed next to each type of person contains overhead costs adequate to pay for facilities, personnel support activities, etc. The cost of the information gatherers/validators is not included.

Logistically, the platforms to support AFAM are mostly in place today. The AFAM-like model would operate on standard 386 or higher computers, use Microsoft Windows, and be accessible through Local Area Networks. The AFAM PMO makes distribution via 3 1/2" MS-DOS and Macintosh Disk Sets, MS-DOS and Macintosh readable CD-ROMs, and electronically via FTP.

AFAM has worked in other DoD activities. Although the Air Force is the primary user of the model, other activities have shown increasing interest in adopting and using the system for their own organizations. They have developed and provided reference tools to the Navy and Air Force Medical Support Agency, and have had inquiries that could lead to programs for Army, Coast Guard, CIA, Defense Systems Management College and others.

The AFAM PMO receives information in just about any form. They can translate what their customers provide into what the computer needs. They can scan documents on an Optical Character Reader, use data entry personnel to transcribe, or electronically convert from one format to another. The important aspect of this capability is to facilitate input from the field. If a buyer, engineer, or cost analyst must recreate to a desired format, this would significantly diminish his/her motivation to provide material for the Procurement Wisdom System.

Disadvantages of Using AFAM as the Platform for the DoD Procurement Wisdom System

AFAM was developed for personnel involved in the major systems acquisition process. As a result, much of the information contained in the model would not benefit those associated with other types of procurement. Consequently, AFAM would require upgrade to accommodate procurement wisdom provided by other DoD Components. Furthermore, the model would then need to identify, differentiate and disseminate this same information to a much larger audience. These upgrades would require both resources and funding to accomplish.

The PMO currently makes updates to the AFAM model on six month cycles. There are several reasons for this update cycle. Primarily, the sheer volume of AFAM requires that the data be produced on CD-ROM or multiple disk sets. The PMO has indicated that AFAM can be accessed via the Internet but they have found that this process is inefficient and slow. (Once again, the volume of data that needs to pass between modems creates a very ineffective, slow and unfriendly system for its customers) Therefore, the PMO has created a cycle process which provides time for validated inputs to be received from their functional customer base, time to format and input data into the model, time to produce CD-ROMs and/or diskettes and time to distribute. Six (6) month cycle times could cause System users to lose confidence in the relevance and timeliness of procurement wisdom that is present within the model.

Risk Management

The AFAM-like alternative provides a low risk alternative for implementing the Procurement Wisdom System. Technical risk is low because AFAM's development is complete. The developmental hardware and software is already there, and the developed software is "source-code reusable." In essence, an AFAM-like product only requires data entry, test and production costs. Program risk could be classified as low. AFAM is currently managed by an experienced Program Management Office. The PMO has been in existence nearly four years and understands the technical intricacies of implementing a Procurement Wisdom System. The PMO has already produced similar products for the Navy (PAID) and the Air Force Medical Agency, so their process for producing the Procurement Wisdom product would already be in place. Schedule risk is low to moderate, depending upon the need time. The AFAM PMO contends that they could deliver an AFAM-like product within four to six months. Although the PMO has experience in performing similar efforts, the amount of data generated by the various DoD Components could be substantial, thus overwhelming their current capabilities. The Team senses that fielding a Procurement Wisdom product in four to six months is optimistic. Cost risk is low to moderate. AFAM's product is already developed and these costs have been absorbed by the Air Force. Procurement Wisdom costs would be for one-time start-up and then annually recurring costs. The AFAM PMO is currently manned to a level that can accommodate the Team's recommendations. However, costs could rise if there were a decrease in manning by the Air Force.

Implementation Plan for an AFAM-Like Approach

The Team has developed an implementation plan for an AFAM-like DoD Procurement Wisdom module. The plan provided below shows development of the Procurement Wisdom System occurring over a two year period. Implementation would begin upon formal USD (A&T) direction which would be the signing of the DoD Procurement Wisdom Charter (see Appendix B). The Charter identifies the Component roles and responsibilities (resource requirements, funding, etc.), adopts the Procurement Wisdom Validation Process (IDEF Model), and designates the office responsible for the Procurement Wisdom Central Repository function. Once the Charter is signed, Phase I of the Procurement Wisdom System would begin.

There is a current effort being staffed by the Corporate Information Management (CIM) Council. This group is trying to standardize Automated Information Systems as well as avoid system duplications across DoD. Several comments on the draft final report were received that pointed out that this effort should be coordinated with the CIM. This requirement was discussed with some members of the CIM Council and they did not see conflict with the current policy. The AFAM PMO is aware of this effort and will comply with CIM policy as required.

DoD Procurement Wisdom System

ID	Task Name	1995				1996				1997			
		Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
1	USD A&T Approves PAT Recommendations												
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9	PMO Receives Component PW Inputs												
10	PMO Incorporates Inputs into AFAM PW Model												
11	PMO Distributes First PW Release to Components												
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17	PMO Distributes Second Release												
18	PMO Requests User Feedback												
19	Components Provide User Feedback												
20	PMO Briefs USD(AR) on Phase II Completion												
21	Procurement Wisdom Phase III Begins												
22	PMO Coordinates Revalidation Cycle with Components												
23	New Inputs and Revalidated PW Material Received												
24	PMO Incorporates New & Revalidated Material												
25	PMO Distributes Third Release												
26	PMO Requests User Feedback												
27	Components Provide User Feedback												
28	PMO Provides Final Briefing to USD(AR)												

The Team anticipates that Phase I would run for approximately 12 months. During Phase I, the Components would institute the Procurement Wisdom validation process within their respective organizations (the validation process is described in Recommendation 1). The PMO will train selected individuals from the Components on the information necessary to submit, validate and enter ideas into the Procurement Wisdom System. These individuals will then provide training to acquisition professionals within the Components. Simultaneously, the Program Management Office would modify the AFAM model. The AFAM PMO has estimated that it would take approximately 4-6 months to make the software modifications. While the Program Management Office is making the software changes, Procurement Wisdom inputs would begin flowing into the PMO. The office would consolidate these inputs and begin entering them into the new Procurement Wisdom model. Prior to distributing the model, the PMO will train the cadre trained initially on the use of the system. These individuals will then conduct training throughout their respective Components. In addition, the PMO will provide a tutorial within the software and training guides for the system. After distributing the model to the various Components, the Program Management Office will wait for a period of time (60-90 days) for the Components to begin using the model and then would solicit feedback from each. Feedback received from the Components would consist of whether the Procurement Wisdom is useful, ease of access to the model, identifying better ways to validate or obtain Procurement Wisdom, etc. Once this information is received, the Procurement Wisdom Office would prepare a briefing to DUSD(AR) addressing program status (schedule, feedback, etc.).

Once the DUSD(AR) briefing has been successfully conducted, Phase II of the Procurement Wisdom System would begin. Phase II would duplicate Phase I activities but would shorten the process for receiving, validating, entering and disseminating Procurement Wisdom. A briefing to DUSD(AR) would complete Phase II.

Phase III would include all the same functions as Phases I and II. The major difference is that there would be a revalidation of the material contained in the model. The Team envisions this process as a means of ensuring that the material in the model retains its usefulness. It will also test the revalidation process and assess whether this activity is necessary, and if so, how cumbersome is it to implement. A briefing to DUSD(AR) would certify the Procurement Wisdom System.

Implementation Costs

The AFAM PMO is currently funded at \$1.3M for FY95 which covers the sustaining engineering, data maintenance and expansion, license fees, production run and distribution costs. The PMO provided the Team a rough-order-of-magnitude cost estimate to implement the above approach. The estimate below represents a delta to AFAM's current operating and support costs. In developing this estimate, the following assumptions were made:

- (1) There will be approximately 200,000 users, bi-annual software product releases, help desk technical support, program management and program control services.

DoD Procurement Wisdom System

(2) All Procurement Wisdom data is validated by the DoD Components before it is provided to the PMO for input.

(3) The AFAM PMO would maintain its current manning requirements.

DESCRIPTION OF APPROACH	Single Information Data Base which contains a fully indexed collection of Procurement Wisdom data.
ADDITIONAL GOVERNMENT PERSONNEL REQUIRED	Non-Air Force Program Manager and Project Engineer.
CONTRACTOR PERSONNEL REQUIRED	Data Management, Test, Technical Support World Wide Web Data Designer & Data Entry (2)
DISTRIBUTION METHODS (Platforms supported would be Windows, Windows NT, and Macintosh)	CD-ROM Disk Sets File Transfer Protocol (FTP) On-line Access via World Wide Web
VALIDATION	All Procurement Wisdom Validation is done by the DoD Component
IMPLEMENTATION COST ESTIMATE One Time: Recurring: Total 1st Year:	 \$ 35K <u>\$200K</u> \$235K

The costs for implementing the DoD Procurement Wisdom module appear low because of the synergistic effect with other AFAM products. The costs include support for distributing the product via 3 1/2" MS-DOS and Macintosh Disk Sets, MS-DOS and Macintosh readable CD-ROMs, and electronically via FTP. The costs assume a minimal number of disk sets are produced because of the expense involved with each production run. Disk set production runs at about \$0.65 per disk or about \$20 for a 40MB product (12,000 pages of text; 1,600 graphics). Exact numbers are hard to determine because the computing environment for the customer is not available i.e., how many customers would need disk sets, could use CD-ROMs, or could use FTP. CD-ROMs run about \$2.50 per CD for a production run. Each CD can hold 650 MB of information. One time costs consist of computer work stations for new personnel (\$4000 each), additional copies of development software required by software licenses, and additional storage space to host product development on the AFAM LAN. In addition, there would be added costs for another "tap" to AFAM's server. The recurring costs include duplication services, contractor personnel, supplies, software distribution, licensing and travel.

Currently, data entry contractor personnel cost about \$30K and junior programmers about \$50K. These costs are based on use of time and materials contracts performed in government facilities which keep contractor overhead costs low. Software licensing is estimated at \$10K annually.

The strategy represented in this estimate is for the government to retain full control and ownership of the product developed. The government personnel provide management and technical direction with contractors providing implementation support. All work is performed in a government owned and operated facility.

Metrics Defined in Appendix C

Other Considerations

Prior to making the above recommendation, the Team considered the following:

- Wizard Works is an informal organizational system which is primarily geared to serving the DLA ADP community. It has no program that would support Procurement Wisdom.
- Defense Systems Management College (DSMC) is an academic organization whose mission is to promote and support the adoption and practice of sound systems management principles by the acquisition workforce, through education, research, consulting, and information dissemination. DSMC is beginning to create a system that will collect a wide variety of information for access by the DoD community. DSMC has no current capability to support a Procurement Wisdom System quickly or inexpensively.
- Defense Technical Information Center (DTIC) is a technical library that stores many technical reports. They have librarians and extensive knowledge of computer systems. However, they currently have no software that is appropriate or adaptable for Procurement Wisdom. DTIC operates on a fee for service basis which would be counterproductive for use in a developing program.
- Defense Acquisition University (DAU) is a consortium of DoD education and training institutions and organizations which provide mandatory acquisition courses for military and civilian personnel serving in twelve (12) acquisition career fields. Its mission is to educate and train professionals for effective service in the defense acquisition system. At present, DAU has no resources capable of supporting the Procurement Wisdom System. The Team recognizes that at some time in the future, it may be appropriate to transfer the Procurement Wisdom System to DAU or one of its component institutions such as DSMC.

- Writing a contract to support the Procurement Wisdom System was considered. Such a contract could either modify the existing AFAM System, or develop a System independently. The time to put a contract in place and the learning curve for an organization to develop a new System and the cost led the Team to discard this option.
- The Team considered using the AFAM as a model and have another service do modifications. However, those activities that are using AFAM, such as PAID, have AFAM do their updates. In addition to not having the benefit of an organizational structure in place, any implementation would be delayed until a new system is learned.

Appendix A

ICOM GLOSSARY

Board - The Board is a group that validates ideas and forwards them to the repository as an Approved Procurement Wisdom. The Board can be one person, or a group as appropriate, depending on DoD Component implementation.

Clarification - If questions arise while the Board is deciding whether to approve a candidate idea, the Board will generate a Clarification Request to IDENTIFY. A Clarification is an input to VALIDATE from IDENTIFY that is in response to the Board's request.

Consolidated Ideas - A group of Ideas, consolidated in GATHER, which are forwarded to the PRELIMINARY SCREENING activity.

Contracting Practices - Existing policies and procedures that are currently in day-to-day use in the contracting arena.

Decision Request - A request that helps the MAINTAIN activity decide whether to keep a Procurement Wisdom in the System. The Procurement Wisdom is sent back through the VALIDATE activity for re-evaluation. If rejected, it is purged from the System. If re-validated, it is maintained in the System as Wisdom.

Funding - This is a control on A1 DOD PROCUREMENT WISDOM System.

ICOM - An acronym for Input, Control, Output, Mechanism. These are pictorially represented by arrows on the activity diagrams. ICOMs have initial capitals when written; activities are written in all capitals.

Idea - An idea is the form that Procurement Wisdom takes when it enters the System. Once validated, it becomes Wisdom.

Industry - This is a control on the entire System. It represents Industry thinking about and interest in Government procurement. The System must be compatible with and complement the industries that support DoD procurement.

Law - Existing legislation and statutes that impact on the procurement process.

Librarian - The mechanism for the DISSEMINATE activity. This is the group that is responsible for expanding and maintaining the repository of Procurement Wisdom. The Librarian also is responsible for responding to queries and disseminating the information.

Motivation - A process that encourages people to use the System and rewards them for doing so.

Policy - The collection of written regulations, rules, and procedures that makes up current operating procedures. This is a control on A1 DOD PROCUREMENT WISDOM System.

Procurement Wisdom - See Wisdom.

Query - A request from the field for Procurement Wisdom.

Recognition - A motivation tool that rewards people for using the System. It may take the form of a certificate, plaque, money, or time off.

Rejection - An Idea or a Potential Procurement Wisdom that was not validated and failed to be input as an Approved Procurement Wisdom. It may have been rejected for any one of many reasons, including feasibility, legality, or impracticability.

Request for Clarification - Certain questions may arise during the validation process that are germane to the decision about a practice. When this occurs, a request is generated that will provide the necessary information. Answers to these requests return to VALIDATE as Clarification.

Repository - A central location that houses all of the Procurement Wisdom. This repository will be similar to a library in that it will provide responses to Requests for Data and forward the data in many different formats.

Request for Policy - The System will identify some practices that may be implemented as policy. In this instance, an output from the System will be a request that may or may not be granted. For the purposes of this report, this output symbolizes the fact that the policy makers in DoD will have access to the System and may make some wisdom into policy.

Request for Legislation - The System will identify some practices that may be implemented as law. In this instance, an output from the System will be a request that may or may not be granted. For the purposes of this report, this output symbolizes the fact that the legislative branch will have access to the System and may make some wisdom into law.

Standards - Control on Preliminary Screening. Each idea will be reviewed to ensure that it meets the standards defined in Appendix D of this report before being forwarded to VALIDATE.

Training Needs - An output of the DISSEMINATE activity. If an Approved Procurement Wisdom has a significant impact, it may result in some Training Needs.

Wisdom - An Idea that has been validated by the System. A method of accomplishing a task that is very efficient and/or effective, or one that successfully solves a problem, one that saves time or money, or one that improves the quality of the desired output. It is an alternative/better/faster/cheaper way to do things, but not policy. The term includes lessons learned. Also see the definition of Wisdom under Key Vision Definitions at the beginning of this chapter.

Working Group - The activity body responsible for the preliminary screening of ideas. It can be either a single individual or a group, depending on how each DoD Component implements the System. The Working Group decides whether to forward an idea to the Board for validation or to reject it.

Appendix B

Charter for the Implementation of the Procurement Wisdom System

Under Secretary of Defense(Acquisition & Technology) (USD(A&T)) hereby directs the AFAM Program Management Office (PMO) be designated as the Office of Principal Responsibility for establishing the DoD Procurement Wisdom System. The PMO will retain its current reporting chain, but will be augmented by representatives from the Army, Navy and/or DLA.

Background

The Department of Defense is currently downsizing its workforce at an unprecedented rate. As these personnel retire or move to the private sector, they are taking valuable experience and knowledge that would benefit those who remain. The DoD needs to have a System or process to preserve that knowledge for widespread use, thus, DoD's Procurement Wisdom.

USD(A&T) directed that a Process Action Team (PAT) be formed to determine how to identify and disseminate best procurement practices throughout DoD. One objective was to disseminate and adopt initiatives that have successfully addressed specific issues/situations. Another was to provide a greater menu of possible approaches from which to choose and to encourage tailoring of the approach chosen.

The PAT's review quickly disclosed that while procurement wisdom ideas were sometimes collected locally, there was no DoD-wide System to capture and distribute them. After considerable review and discussion, the Team determined that the fastest and most cost effective way to develop a Procurement Wisdom System was to modify a module of the Air Force Acquisition Model (AFAM) to collect new ideas and to disseminate them throughout DoD.

The Procurement Wisdom System will focus on collecting procurement wisdom and disseminating the wisdom to the DoD Acquisition Workforce. Implementation of the System must be accomplished with minimal impact on existing resources.

Roles and Responsibilities

Deputy Under Secretary of Defense (Acquisition Reform) (DUSD(AR)) will be responsible for overseeing implementation of the Procurement Wisdom System.

The DoD Components will:

- Provide initial funding in the amount of \$58,750 and recurring annual funding in the amount of \$60,000.
- Ensure that ideas for Procurement Wisdom are validated and provided to the PMO within 30 days of initial submission.
- Create an environment in procurement functions that encourages input to the System and provides appropriate incentives.

DoD Components excluding Air Force will:

- Provide a program manager and a project engineer (2 people total).

Program Management Office will:

- Modify existing software to accommodate DoD-wide Procurement Wisdom in accordance with the implementation plan
- Provide an acquisition reference tool for use by all acquisition personnel throughout DoD.
- Coordinate with the DoD Components to establish validation focal points.
- Establish a schedule for receiving validated inputs from Components.
- Distribute Procurement Wisdom to the Acquisition Workforce.
- Comply with the three-phase implementation plan and briefing requirements.
- Train the workforce, market, and distribute the Procurement Wisdom System to the Acquisition Workforce.
- Ensure that the requirements of the Corporate Information Management (CIM) policy are met.

Schedule

See attached schedule.

USD(A&T)

DoD Procurement Wisdom System

ID	Task Name	1995					1996				1997		
		Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
1	USD A&T Approves PAT Recommendations												
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6	Procurement Wisdom Phase I Begins												
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9	PMO Receives Component PW Inputs												
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11	PMO Distributes First PW Release to Components												
12	Input Statistics Compiled												
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15	PMO Receives Second PW Inputs from Components												
16	PMO Incorporates Inputs into Model												
17	PMO Distributes Second Release												
18	PMO Requests User Feedback												
19	Components Provide User Feedback												
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23	New Inputs and Revalidated PW Material Received												
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Appendix C

DoD Procurement Wisdom System Metrics

The PAT has developed three sample metric charts that gauge the important components of the Procurement Wisdom System's implementation. During Phase I, measurement should focus on ensuring the data base is populated with validated ideas. Therefore, Chart 1 measures the number of Procurement Wisdom submissions that are forwarded to the program office. During Phase II, the focus should be on how the user perceives the utility of the process, data and product (AFAM). Chart 2 evaluates the System in terms of utility, accessibility, ease of validating material and program office support to the users. Finally, Chart 3 shows a proportional ratio between actual users and potential users. Potential users are those who have access to the Procurement Wisdom System but do not use it.

Chart 1

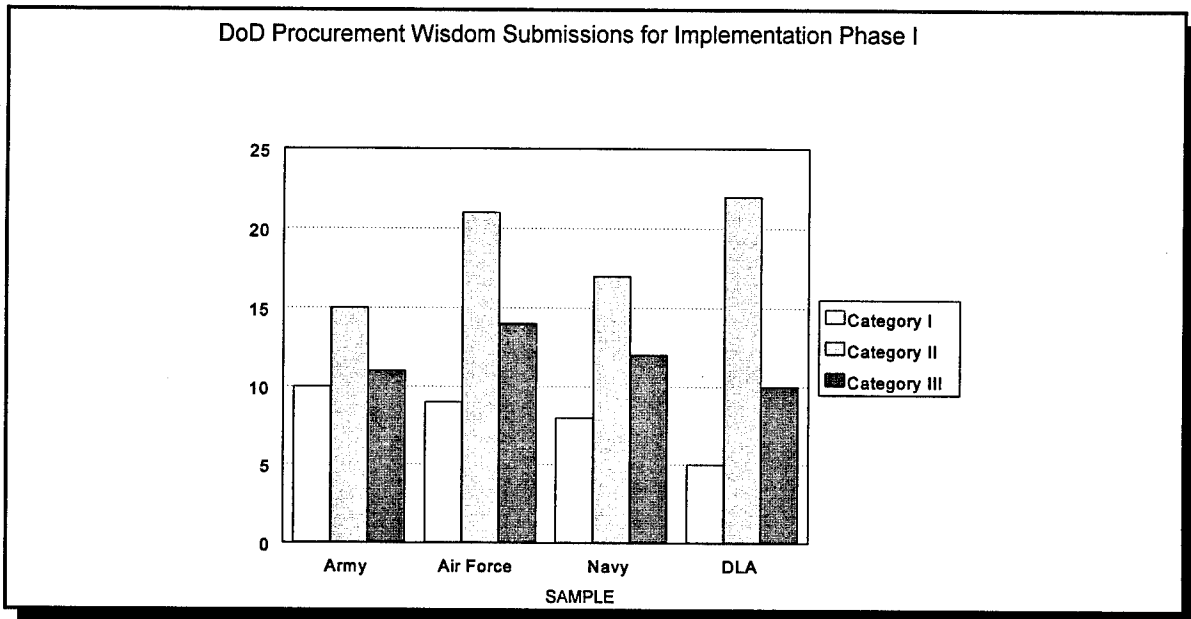
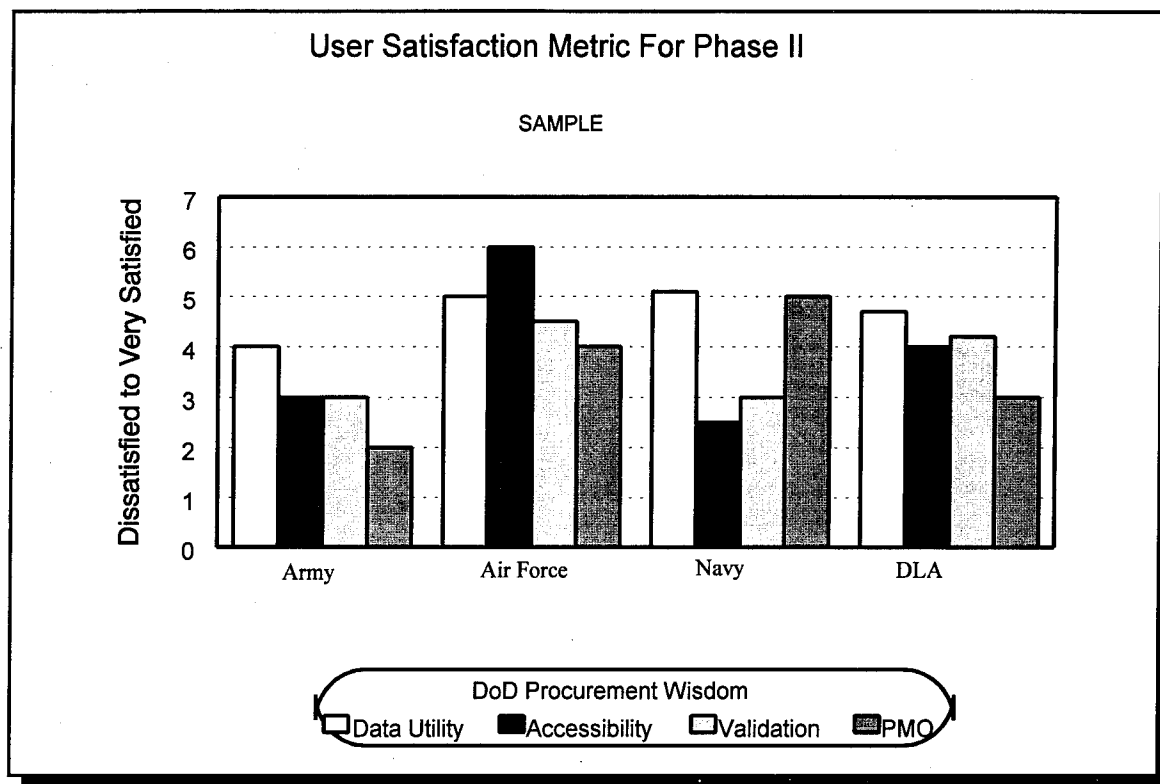


Chart 1 will provide visibility into the number of submissions. This metric would do the following:

- Encourages management commitment to the program.
- Establishes a baseline for entries received and stored in the System.
- The data is tracked by categories; this will provide an indicator of the frequency and type of data that is included in the System.

The program management office would collect, record and categorize the data as it is received from the Components. At the end of Phase I, the program office would brief the statistics to DUSD(AR) as provided for in the implementation plan.

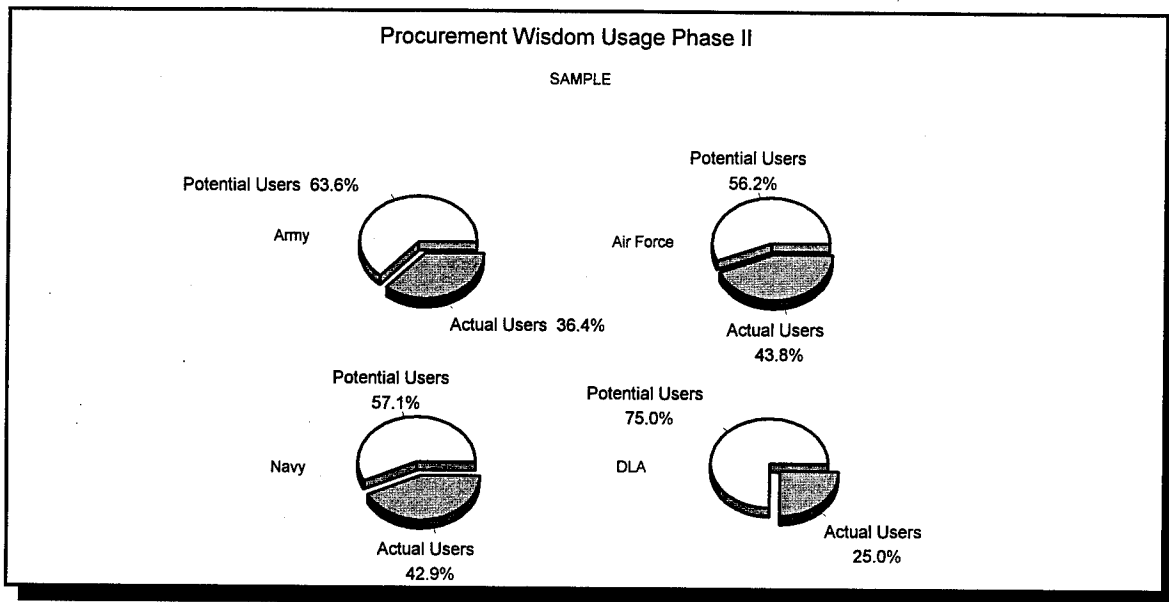
Chart 2



During Phase II implementation, measurement should focus on usage and user satisfaction. The PAT prefers this information be collected and transmitted electronically. User satisfaction would be measured on a scale of 1 to 6, with 1 reflecting the lowest level of satisfaction and 6 the highest. Generally, the areas scored would consider the following:

- Data utility: Is the user satisfied with the quality of data contained in the System?
- Accessibility: Is the System easy to use and available?
- Validation: Is the user satisfied with the validation process? Is it effective and efficient to use?
- PMO support: Is the program office responsive to the Component and user needs?

Chart 3



Finally, Chart 3 would track the percentage of actual versus potential users. This information would assess the utility of the entire Procurement Wisdom System (process and system).

Appendix D

Procurement Wisdom Category Criteria

There are three categories of Procurement Wisdom -- Category I, Established; Category II, Innovative/New Process; Category III, Lessons Learned. The Board shall measure the ideas only in accordance with the criteria identified herein. Category I and Category II ideas shall not violate law or regulation. No classified, proprietary or foreign access restricted ideas will be entered into the system.

Category I ideas must meet the criteria for Category II, except Category I ideas are not normally innovative or new.

Category I - Established Process

- The idea has been used successfully more than once, or subject matter experts consider this a reliable and effective process.
- Quantifiable or qualitative data show the practice is reliable or preferred.
- Implementation risk is low.
- The idea is likely to be adopted by other DoD Components.
- The idea is efficient and effective.
- The idea is easily tailored.

Category II - Innovative/New Process

- The idea is innovative or new.
- The idea makes good business sense.
- The idea was successfully implemented at least once.
- The idea has potential for wider application.
- The idea is worth exploring.
- The idea saves time and/or money.

Category III - Lessons Learned

The category includes problems and ideas that may appear valid but do not work in practice. Information from Procurement Reviews and IG reports may also be included in this category. The purpose of this category is to capitalize on past errors. Lessons Learned are automatically classified as Category III and are not measured by the above criteria, but rather are reviewed so that inappropriate material is not disseminated.

Chapter Two

Sole Source Procurement Process

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Introduction

The Sole Source subteam charter was "to improve the sole source proposal preparation, evaluation and negotiation process,"¹ to include the requirements generation and solicitation activities leading to this process. The team took this as a tasking to both reduce the cycle time of the sole source contracting process and to improve, wherever possible, the quality of the activities comprising that process. It began its tasking by attempting to place sole source contracting into the larger government acquisition process.

Competition has provided the foundation for U.S. Government contracting almost from the inception of the nation. In 1984, Congress made explicit its support of competition as the default approach of contracting by passing the Competition in Contracting Act (CICA) of 1984. The Report of the House Government Operations Committee on CICA stated:

The Committee has long held the belief that any effort to reform government procurement practices must start with a firm commitment to increase the use of competition in the Federal marketplace. Competition not only provides substantially reduced costs, but also ensures that new and innovative products are made available to the Government on a timely basis and that all interested offerors have an opportunity to sell to the Federal Government.²

The commitment to competition evidenced here is both understandable and valuable. By maximizing the use of competition the government is able to approximate, as best as possible, the circumstances characterizing free market economics. The advantages of those circumstances are extensive and overwhelmingly positive. As the Committee Report states, cost savings, product quality, contractor responsiveness, and product innovation are only the most obvious advantages provided the government by an acquisition system premised upon competition. In addition to these, the regular use of competition ensures the most equitable distribution of public monies over the course of satisfying Defense material requirements. Thus, for very good reasons, government contracting is positively biased in favor of the use of competition whenever possible.

¹Charter for the Process Action Team on the Procurement Process, dated 4 Nov 94

² H.R. REP. NO. 1157, 98th Cong., 2d Sess. 11 (1984)

Sole source contracting, on the other hand, is generally viewed as entailing numerous disadvantages and offering only limited opportunities for improvement. Sole source situations are frequently characterized by adversarial relationships between the government and contractor which breed mutual distrust and, at times, outright hostility and resentment of one another. However, while few would deny that sole source contracting is indeed plagued by disadvantages not characteristic of competitive contracting, it may very well be the case that our bias in favor of competitive contracting has inappropriately clouded our appreciation of potential advantages that may be offered by the conditions that apply to those situations that require a sole source action.

Some of the recommendations that follow are "radical", not so much in the sense of "extreme", but rather in the sense that they seek to go to the heart of the sole source procurement process and suggest some fundamental changes there.

Objective

- Reduce the time required for the sole source proposal preparation, evaluation and negotiation process, including the requirements generation and solicitation activities commencing this process.
- Provide mechanisms that improve the quality of the activities comprising the sole source procurement process and ultimately the programs and systems/supplies resulting from that process.

Recommendation 1

Implement teaming options in all phases

Improve the sole source procurement process through implementation of a teaming arrangement between the major parties in the process, i.e., user, program manager, logisticians, engineers, Procuring Contracting Officer (PCO), Defense Contract Audit Agency (DCAA), cognizant Defense Contract Management Command (DCMC) office, and the contractor.

Discussion

The sole source procurement process is portrayed in Figure 1; the detailed steps of each phase are depicted in the flow charts that appear as an addendum to this chapter. In practice the lines separating the six phases are much less distinct than the picture implies, and a subsequent phase may actually begin before the preceding phase is fully completed. But, generally speaking, the idea that each phase is currently conducted largely in isolation from the preceding phase(s) and that the participants within each phase do not include the full range of people involved in the award of a sole source contract is an accurate depiction. It is precisely this phenomenon, people working in isolation from others who might have offered considerable assistance, that the sole source procurement process team identifies as the underlying causal problem with the current process.

Sole Source Process

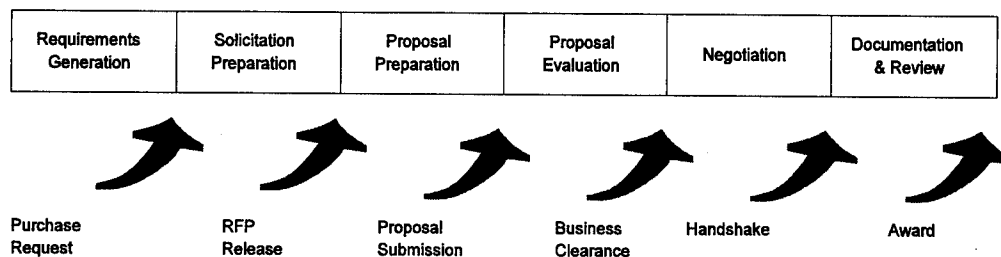


Figure 1

The problem is doubly frustrating because, to a large extent, much of the isolated preparation and decision-making that characterizes the process stems from an inappropriate carry-over from the competitive environment. When competition applies, the government must be scrupulous in its efforts to treat all potential offerors with utmost fairness. This means that, among other things, no information that might provide a competitive advantage to one potential offeror over another can be provided to one contractor unless it is provided to all. In a sole source situation, of course, the issue of fairness (in the form of equal treatment) between contractors is not an issue at all. And yet, the practice of not communicating extensively prior to the release of a solicitation, and certainly not discussing the nature of the government's requirements, is frequently adhered to as strictly in sole source situations as it is in the competitive ones.

The compartmentalized and sequential nature of the process, and the problems associated with it, are detailed in the following phase discussions. While they manifest themselves differently from one phase to the next, they can be generally described as being characterized by a lack of trust between the parties involved, a resulting failure to communicate despite numerous opportunities to do so, and an almost total absence of

teaming either within government or between the government and its sole source contractors. In audit reports issued recently on administrative lead time at various inventory control points, the DoDIG found at some points a complete lack of communication among government personnel which resulted in procurement cycle time of twelve to eighteen months. In effect no one was tracking or prioritizing procurements and some got "lost" in the shuffle and were significantly delayed.³ Within the government, review follows review, and everyone is mindful of "whose clock is ticking" at any point in time, particularly when an acquisition schedule has slipped or is in jeopardy. Contractors are often referred to as "big boys" who can "take care of themselves," while, at the same time, the government seeks to "protect itself" from harm by those same contractors by forcing them through a series of actions and contract clauses to keep the government fully informed of the program's status and performance. Contractors, on the other hand, display a marked disinclination to "sharpen their pencils" and reduce costs so long as they are in truly sole source situations.

In a recent report the GAO suggested that

If changes in the acquisition of weapons are to be of a lasting nature, we believe acquisition problems also need to be looked at from another perspective - as the consequences of a way of acquiring weapons that has become deeply rooted through the years. We refer to this as the 'culture,' although this is a somewhat imprecise term. Rather than defining 'culture' as mindsets and attitudes, we use the term to describe the collective patterns of behavior exhibited by the numerous participants in the acquisition process and the incentives for that behavior.⁴

Although the features of the "culture" highlighted in the GAO Report are different from those emphasized by the sole source procurement process subteam, the team did conclude that this same phenomenon, a culture comprised of "the collective patterns of behavior exhibited by numerous participants," plays a powerful role in fostering an environment of distrust, compartmentalized decision-making, and lack of effective communication that pervades the government acquisition process and specifically inhibits efficient sole source procurement. The subteam further concluded that the culture manifests itself largely in three ways: legislation, agency and organizational regulations and policies, and the unmodified practices that reflect attitudes that have

³ DoDIG Draft Audit Report, Administrative Lead Time at Navy Inventory Control Points" (Project No. 32D-0043.01), October 7, 1994.

⁴ GAO Report, "Weapons Acquisition: A Rare Opportunity for Lasting Change," December 1992, pp.1-2, GAO/NSIAD-93-15.

become ingrained over the years. The specific manifestations are addressed in the following discussions of the separate phases.

Requirements Generation Phase

This phase begins when the initial requirements are communicated to the program manager. The user defines the required mission and documents this description through a Mission Need Statement. The intent of the requirements generation phase is to provide a logical means of progressively translating broadly stated mission needs into well-defined specific requirements. Many times user requirements are ill defined and require an iterative process to define their needs.

If the procurement meets defined dollar thresholds, a formal acquisition plan is developed. The program office develops an acquisition strategy which addresses contract type, pricing strategy, schedules, funding, and other contractual considerations. The acquisition strategy goes through a review and approval cycle based on the dollar threshold of the procurement. For ACAT-1 (acquisition category one) programs a waiver request is developed to validate other than full and open competition and must be submitted to Congress. Despite the fact that much of the Acquisition Strategy Report (ASR) is concerned with the business/contracting aspect of planned procurement, the ASR is frequently developed exclusively by the program office without contracting or other support organizations participation.

During the requirements generation phase, the specification that translates the operational requirements into design requirements and the logistic related tasks are developed. In addition, the Statement Of Work (SOW) is developed which fully describes the program and includes such things as, scope of work, contract tasks, contract end items, and other pertinent documents required to clearly state the requirements of the contract. It is important to note that the program office develops these documents with limited participation by the PCO and no participation by the contractor.

Once the acquisition strategy is approved, the program office initiates a purchase request (PR) which formally begins the procurement process. The PR identifies the type of funding available, the quantity, an independent government estimate, packaging and marking requirements, inspection and acceptance criteria, delivery and shipment dates, SOW, etc.

The program manager continues to refine the user's requirements. Contractor involvement in this phase would provide an understanding of the user's needs and perhaps provide the user with alternatives. Contractor involvement during the requirements development process (development of SOW, specifications, drawings, data requirements, support requirements, test requirements, etc.) would provide the

program management staff with a whole new perspective throughout the process. During discussions concerning sole source modifications it became apparent from the experiences of the team that in some projects numerous modifications were required for changes in the SOW and specifications because of misunderstandings or lack of knowledge in manufacturing techniques. The contractor will provide insight on the manufacturing and producibility aspects of the process as well as gaining a better understanding of the requirements; thus, significantly reducing the manufacturing and producibility problems which plague early product development. This interaction would also greatly reduce the time required for evaluation of the proposal. Involvement of the PCO would provide a better understanding of the requirement and permit identification of information required to develop contract line items/subline items for the contract, as well as identification of any special provisions that may need to be developed. This would result in reduction of time required for development of the contract. Further reduction of time can be realized through the use of electronic media to transmit the requirements documentation and video teleconferencing technology which would permit PM/PCO/DCMC/DCAA/contractor personnel to work together from their own facilities. This would reduce the amount of time personnel would be required to travel and work outside their offices. This electronic capability can be used throughout the process to the extent practicable.

A teaming approach does not only apply to a major system or large procurement; it can be effective in procurement at all levels (systems acquisition, central procurement, operational procurement) and is flexible enough to allow varying degrees of application and implementation. While the total manpower requirements may be the same without teaming, those requirements are spread over the entire sole source procurement process. With teaming, there would be extensive up front (requirements generation/proposal preparation) involvement, but reduced "rework" requirements in the later phases of the process.

**HOW MUCH TEAMING?
More Inclusion = More Insight?**

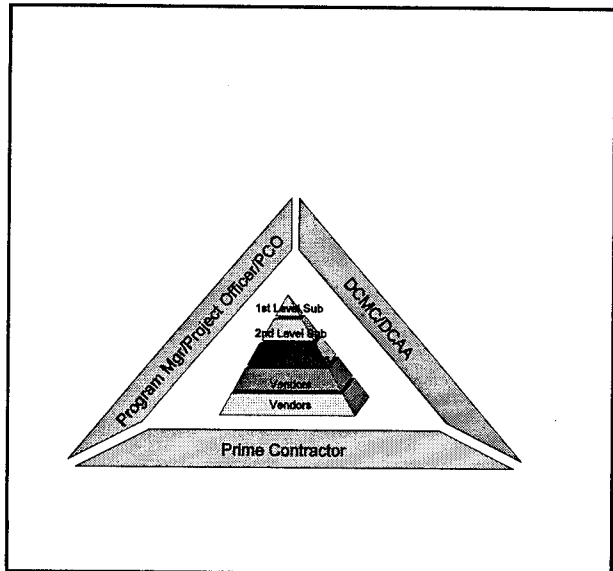
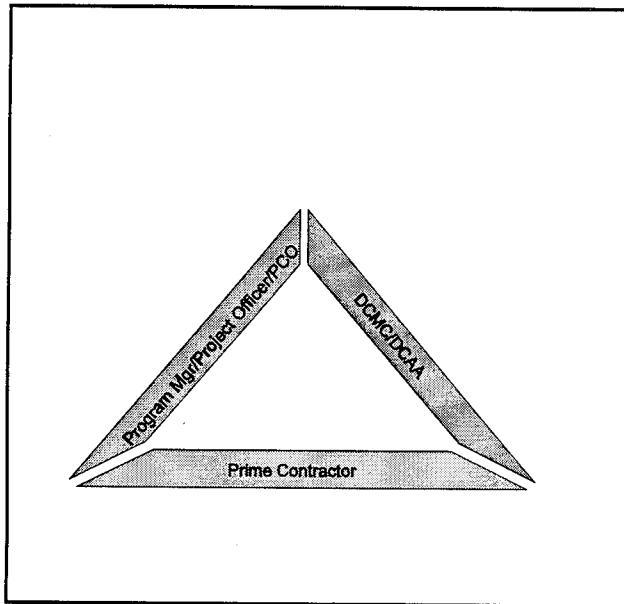


Figure 2

Figure 2 raises the question of what level or degree of teaming is appropriate. One of the chief benefits to be derived from a teaming approach is the enhanced understanding of the requirement and the approach to satisfying that requirement on the parts of all team participants. The first question regarding the extent of teaming, once the decision to use a teaming approach has been made, is the extent of government teaming appropriate to the particular procurement; not all procurements, for example, will need to involve extensive participation by the contract administration/audit organizations. But once the decision regarding the extent of government teaming has been made, the issue of contractor participation must still be addressed. Some rough guidelines for these decisions are suggested in the Discussion portion of Recommendation 2 of this chapter. The government must be mindful, however, that there are various levels of contractor team participation as well as levels of government participation and that greater subcontractor participation on the government/contractor team may provide all parties with still greater insight into the details of the procurement, including an improved understanding of the basis of the likely cost of the acquisition. Having said this, the

parties must also remember that a larger team will usually require additional government and prime contractor resources.

As such, teaming should not be seen as an all or nothing concept. If there is reason to deal with the contractors in the classic "arm's length" environment, the teaming would be limited to government personnel. The current environment is one wherein no one trusts anyone else. If the teaming approach does nothing more than promoting trust and communication between the various government players, substantial improvement in terms of quality and cycle time are likely to be achieved.

In considering the impact of teaming on the entire sole source procurement process the team looked at cycle time. It is the belief of the team members that use of the teaming approach may positively affect cycle time. A search was made for statistics relating cycle times within DoD commands for sole source actions. It became apparent that many commands did not collect or report such data and those that did were inconsistent in terms of data collected and reported. In order to make a reasonable determination of the impact of teaming, data should be collected for procurements using teaming and those done "business as usual". This data would be reported to DoD and would provide a basis for measuring impact of teaming.

Solicitation Phase

The submission of a completed "PR package" consisting of all the documents describing the required contract effort--specs, SOW, data requirements, security requirements, evidence of the availability of funds, all necessary approvals and authorizations-- signals the end of the requirements generation phase and the beginning of the solicitation phase. Currently, in this phase the government communicates officially the requirement to the sole source contractor, which may or may not have advance knowledge of its contents. The intended output of this phase is a solicitation document, most often a Request for Proposal (RFP), which will transmit not only the requirement description but also the intended contract structure, provisions, and format.

The first step in this phase is a review of the requirements package by the PCO assigned to that procurement. Since the cycle time clock and responsibility now shifts from the requirements generator to the PCO, it becomes important at this point to the PCO that the package is complete and ready for processing further. One problem with the acquisition process now is this constant shifting of cycle responsibility, i.e., your clock, my clock, as opposed to "our" clock. Since the PCO has not been included in the process earlier, a substantial amount of time is spent reviewing, attempting to understand, asking questions about, and, as necessary, revising the requirement to accommodate the needs of the solicitation phase. This process is inevitable given the isolated nature of the decision making process.

The next step involves a series of decisions by the PCO, again largely cut off from everyone else; a determination of the appropriate type and structure of contract, how the contract line items will be set up, how the delivery requirements will be structured, how inspection and acceptance will be accomplished and documented, how the packaging and marking of deliverables will be prescribed, and how the required data items will be priced. In addition, situation-unique circumstances may require other decisions, regarding such possible items as warranties, government-furnished property, arrangements for progress payments, travel requirements, options, and other considerations. Again, we see an iterative process made more lengthy because of the initial creation of requirements documentation without PCO participation. But instead of altering that process by including DCMC and contractor inputs on such things as type of contract, CLIN structure, inspection and acceptance and data format and delivery, contracting often "does it's thing" in relative darkness.

Another important part of structuring the solicitation is the description of what is desired from the contractor in the proposal we wish to receive. Included are various instructions, conditions and notices (e.g., how to organize the proposal to facilitate evaluation, the type of contract contemplated, where to obtain copies of documents referenced, how to mark proprietary information, etc.); requests for various representations and certifications (e.g., small business status, equal employment opportunity compliance status, etc); and what, if anything, to submit with the proposal and in how many copies. At this point it should come as no surprise that the government instructions to the contractor may not always be clearly understood. The fact that these instructions are prepared without contractor involvement and that both parties are routinely frustrated by the shared misunderstandings and failures of communication illustrates how deeply ingrained our isolated thinking has become.

Once the RFP is developed, various review activities come into play, depending on the dollar value and local requirements. These may range from merely review by the PCO and first or second level supervisors, through local and/or headquarters review committees, up to formally constituted Solicitation Review Boards made up of cross functional experts. Officially, all of these activities are accomplishing a quality control review of the solicitation to assure it gives a sound basis for contracting. While some reviews are easily justified in competitive situations, sole source solicitations are usually subjected to the same review process, despite the fact that the issue of fairness to contractors is not applicable. This duplicative process extends the administrative lead time and is not necessarily a value added function as discussed in Recommendation IV. Moreover, if teaming were employed more extensively, the additional "eyes" would have performed a self-review of the document.

Furthermore, a PCO cannot award a sole source contract unless the PCO justifies the source in accordance with one of seven exceptions⁵, certifies the accuracy and completeness of the justification, and obtains required approval. A Justification and Approval (J&A) document is used to justify the sole source procurement in writing. The approval level of the J&A depends upon the threshold of the procurement. For contracts between \$100K and \$1M, the J&A must be approved by the Competition Advocate. For contracts \$1M to \$10M, the J&A must be approved by the head of the procuring activity. This process is also duplicative, as detailed in Recommendation 3 which proposed a more streamlined use of Acquisition Strategy Reports.

A class J&A provides authority to contract on the basis of less than full and open competition over several contracts for either the same or different systems or subsystems. Depending upon the circumstances of the particular acquisition, the class J&A might allow for several non-competitive contract awards within a particular program phase or even across several phases. The principal advantages of granting a class J&A when the circumstances warrant it are the elimination of the need to process multiple J&A's and the ability to involve the sole source contractor as early as possible in the procurement process for follow-on contracts. The usefulness of the tool is obviously enhanced by the elimination of any kind of arbitrary universal limitations on the duration or application of a class J&A that some organizations have elected to impose in the past.

After all reviews, which on extremely large dollar or sensitive program requirements can include one at the Under Secretary of Defense (Acquisition and Technology) USD(A&T) level, comments must be resolved and incorporated, the final RFP printed, and copies distributed to the contractor and the program office.

A benefit of full teaming to this point is the ability to use letter solicitations in lieu of formal solicitations. Because of the involvement of the performer in the requirements definition phase, the SOW/specifications would be more thorough, therefore eliminating the need for the lengthy process of issuing draft solicitations and reworking the RFP. The letter solicitation would have as attachments the SOW, specifications, drawings, data requirements list, and applicable clauses and provisions. The letter would request submission of a proposal and would also provide identification of contract line items and delivery requirements.

Transmission of the "PR Package" to the PCO and transmission of the solicitation to the contractor should be through electronic media, to the maximum extent practicable.

⁵41 U.S.C 253(c) and 10 U.S.C 2304(c)

Contractor Proposal Preparation Phase

This section describes a general approach to contractor proposal preparation, since there are no set rules or fixed procedures to be used in every instance. The preparation of cost proposals is the responsibility of the contractor program manager (CPM). The CPM, upon being assigned to a proposal, will become familiar with the contractual, technical, hardware, software, and schedule requirements. In addition, the CPM reviews any preliminary estimates which may have been prepared to identify the "cost drivers" and the areas of the proposal expected to be significant cost risk. Obviously, had the contractor participated in the earlier phases of the process, this familiarization would have already taken place and would have been much more thorough.

The CPM in cooperation with the functional organizations should begin to gather any relevant historical data that can be used to aid in the development of an estimating approach. The CPM develops a preliminary proposal strategy and schedule based on the requirements of the RFP. However, all items planned at this point must be made as flexible as possible to adapt to any unexpected items that may be included in any subsequent direction from the customer. The compartmentalized nature of the previous and current phases makes these "unexpected" items more likely.

A proposal preparation kickoff meeting is then initiated. The attendees should include the finance estimating representatives, the proposal manager, and the representatives from the functional organizations expected to provide cost/technical information, but never the government. At this meeting, estimating methodologies/techniques, make/buy decisions, and subcontractor pricing is discussed.

Before the receipt of the initial information, finance estimating should have its pricing system established and pricing input instructions distributed to the estimating team. The development and rationale for the rates/factors and any other customer required exhibits/summaries should be prepared. Upon receipt, finance estimating reviews all information for compliance with requirements of the SOW, program schedule, etc. These questions must frequently be referred back to the government for response. The use of the functional organizational information should be supported by an independent analysis performed by the CPM.

Government involvement in this phase would positively influence the remainder of the process. The involvement of DCAA/DCMC personnel during the development of the cost proposal would identify any areas that needed more supporting data and highlight those areas that require discussion between the contractor, DCAA/DCMC, and the PCO. These areas could be resolved during this phase of the process. Involvement of the program management staff would ensure the contractor's approach to meeting the requirements of the SOW is adequate. The formal proposal would then reflect data that

had been reviewed at some level by government personnel and should significantly reduce time in both the evaluation and negotiation phases.

Consideration should be given to the use of a Memorandum of Understanding (MOU) that would be signed by representatives of the contractor and the government. The purpose of the memorandum is to reflect the understanding as of a point in time and it is not in any way to be considered a legal binding document. For instance, it could identify those areas wherein agreement was reached and which would not be a matter of further negotiation and would thereby reduce the time required for proposal evaluation and negotiation in the event these were still required. This approach can be effective only if the personnel working the project are trusted and empowered to make judgments, based on their intimate knowledge of the procurement at hand. This empowerment process would be required of both government and contractor management. If employees are empowered to make judgments and come to agreement on cost/price details, technical areas, and provisions, the MOU would replace the pre-negotiation business clearance memorandum.

In this phase, as in the requirements generation phase, information should be transmitted through electronic media to all parties involved. If government personnel are not teamed with the contractor in this phase, initial estimates can be electronically transmitted to DCAA so that their review can be started before submission of the formal proposal. If all parties are teaming, use of electronic media would permit the participants to work more from their offices.

Proposal Evaluation Phase

The contractor's proposal is reviewed by the PCO to determine its compliance with the solicitation. If the proposal does not comply with the requirements of the solicitation, the PCO coordinates with the contractor in an attempt to gain compliance. If the proposal complies, the PCO requests the program office to review the technical proposal. Depending on the circumstances, this process can take several months as it is only now that technical personnel become familiar with the approach the contractor intends to take in satisfying the government requirement. It should also be noted here that the government review and compliance determination is made only after the formal proposal has been submitted.

The PCO must decide the extent of support, if any, required to assess the fairness and reasonableness of the price. At this point, the PCO has two alternatives:

A. If sufficient information is readily available, fairness of the price can be assessed without requesting further support. For example, if the proposal consists primarily of labor hours and associated rates, a rate check may be all that is necessary. In this case, the PCO finds out the most current rates from DCAA or from existing files. This

data is used in establishing pre-negotiation objectives;

B. If sufficient data is not available to assess fairness of the price, a field pricing report must be requested. With few exceptions, requests for a field report are submitted directly to the Defense Command Management Area Operation/ Defense Plant Representative Office (DCMAO/DPRO). The field pricing report request specifically states the support required, e. g. DCAA audit, technical evaluation, etc. Generally, this is the first time the Administrative Contracting Officer (ACO) is made aware of the planned acquisition. This entire decision-making process is required only because the government has not been involved in the proposal preparation process and must judge the proposal in the dark.

The ACO receives the request and follows a similar procedure as the PCO. In addition to the previous PCO compliance review, the ACO reviews the contractor's price proposal for adequacy. If inadequate, the ACO advises the contractor of the deficiencies and establishes a date for submission of the required data. Simultaneously, the ACO will advise the PCO of the actions taken. If the proposal is adequate, then the ACO proceeds and requests an audit from DCAA and an internal technical analysis, if required. Again, this process is required only because the ACO is unaware of the proposal's contents prior to his/her receipt of the PCO request.

DCAA reviews the proposal for adequacy. If inadequate, the DCAA advises the contractor of the deficiencies and establish a date for submission of the required data. DCAA advises the ACO of the actions taken. The ACO advises the PCO of the circumstances and determines the course of action, i. e. continue audit activity or return proposal to ACO with no further action required. If adequate, DCAA continues its audit. At this point, DCAA is required by its policies to request technical assistance. At the audit's conclusion, an exit conference is conducted with the contractor, explaining "factual differences." The audit report is issued incorporating the technical evaluation, if available, and submitted to the PCO and ACO.

Upon receipt of the requested technical report and DCAA audit, the ACO prepares a field pricing report which forwards these documents to the PCO. Additionally, the report will include, if requested by the PCO, other specific data, e. g. adequacy of various systems, adequacy of the disclosure statement, etc.

After receiving the field pricing report and the program office technical evaluation, the PCO performs analysis and fact finding in order to establish a pre-negotiation objective. The entire "fact-finding" process is a direct function of prior non-involvement. The pre-negotiation business clearance documents the fact finding process the PCO followed, what that process revealed, and how that information was used to establish the pre-negotiation objective. The intent of the pre-negotiation business clearance is to create a stand alone document that records the analysis performed by the PCO and

demonstrates that the pre-negotiation position is fair and reasonable.

The pre-negotiation business clearance must be approved before negotiation can ensue. The levels of approval and the level of formality associated with the approval process will vary from agency to agency. But invariably, the review process is conducted by one or more people who are comparatively ignorant of the circumstances and conditions which resulted in the pre-negotiation objective. It is, moreover, premised upon the assumption that the government team is either unwilling or unable to establish an appropriate negotiation objective without oversight and review.

The process of evaluation of the proposal changes significantly with the early involvement of all parties to the process. Any evaluation still required would probably be a review of the formal proposal to validate the joint efforts of the parties. This interaction could, at best, eliminate the need for a formal technical evaluation. At least, the result would be a substantial reduction in the time for the evaluation phase. The evaluation phase would essentially be the preparation of the appropriate business clearance memorandum. There might not be a need for the classic pre-negotiation/post-negotiation business clearance memoranda when full teaming exists. If, as a result of the involvement of government personnel in the proposal preparation, agreement was reached on all matters, a Memorandum of Record (MOR) could be prepared which documents what happened through the various phases of the process. The MOU would be attached to the MOR. This would serve as the post-negotiation business clearance memorandum and would be provided to government management as a means of keeping them informed of the agreement reached.

In those instances when you might use limited teaming, the process is impacted positively by teaming of government personnel in the evaluation phase. This would result in a unified evaluation report and pre-negotiation position.

Negotiation Phase

Negotiations include those actions taken to reach an agreement with the contractor on the contract terms, conditions, and price. This could be done by two methods: cost element by cost element or on a total price basis.

Negotiation is the process of discussing/resolving differences between the proposal and the pre-negotiation position. A negotiation will be fruitful or completely meaningless, depending upon the existence of two essential elements: good faith and flexibility. Good faith is defined to mean an honest desire to reach agreement on the differences that exist through compromise. In today's environment agreement reached through compromise is generally thought to be the best result possible; however, compromise involves moving away from positions thought to be ideal or proper and may not be the best result possible. In practice, negotiations are adversarial proceedings; government

personnel currently are rewarded for achieving large cost reductions, sometimes without regard to long term program consequences. This attitude towards negotiations is perhaps best illustrated by the following comments from a handbook that served as a semi-official guide to Department of the Navy personnel for many years :

"Unfortunately, experience has shown me that it is not always possible to obtain a contract or an agreement that you are proud of and one that can be termed completely fair and reasonable to both sides. ...A good negotiator will always start his negotiation on each point by asking for more than he actually will accept. ...What sometimes happens is that the other side will accept and settle on the first position you have tabled, leaving you sitting there knowing you could and would have settled for less. When this has happened to me, I immediately suspect that I have made a mistake in my homework."⁶

Since both sides develop their position in isolation, differences of opinion exist, and therefore, there is a need for this kind of negotiation . In every negotiation it is assumed that the contractor will always table their maximum position first. It is also assumed that they have not revealed their minimum positions.

The following are some of the more obvious consequences of the above:

The negotiations are typically lengthened;

The contractor is not informed of any issues, other than in general terms, until negotiations commence;

The fact-finding process is lengthened;

The government's/contractor's ideal positions are never fully disclosed;

DCAA is not allowed to discuss the audit in any detail with the contractor;.

Neither side trusts the other and effective communication rarely happens in reasonable time frames.

It has been the experience of team members that many times when you come to the negotiation table the contractor presents you with a revised cost/price proposal. If there are very significant differences, it may be necessary to postpone negotiations while a detailed review is conducted. If it is decided to go ahead with negotiations after a cursory review, there is the risk of an under/over statement of costs. In either case, this

⁶Gordon Wade Rule, The Art of Negotiations, 1962.

cursory review, there is the risk of an under/over statement of costs. In either case, this situation adds time to an already lengthy process.

With the implementation of a teaming arrangement in all phases, all items pertinent to the procurement would have been discussed and may be fully agreed upon during the definition of the requirement, request for proposal, and preparation of the proposal. In this case, there would be no need for negotiations. The MOU could be used to document the entire process and would replace both the pre-and post-negotiation business clearance memoranda. In other cases, there may be a need for further negotiation of items that could not be resolved. In such cases, there should not be a requirement for the standard pre-and post-negotiation clearances. An MOR could be used in this circumstance to delineate the decisions made after negotiations are completed.

Utilization of full teaming gives the Government leverage it would not otherwise have in terms of more understanding of how the Contractor develops the technical approach and the methodology used in pricing the work. If teaming with the contractor was not employed in the early phases, teaming of the government personnel in all phases would still have a positive impact on the negotiation process. The position would be unified and the government would have a stronger position at the negotiation table. Even though negotiating in a sole source environment is viewed as placing the government at a disadvantage, the unified position would give the government personnel more leverage in achieving their negotiation objectives. In this environment, employees should be empowered to exercise independent judgment and come to agreement on pertinent contract terms.

Documentation/Review Phase

The post-negotiation business clearance demonstrates that the negotiated price is fair and reasonable. This memorandum takes the reader from the proposal to the pre-negotiation objective and ultimately to the negotiated contract price. The facts must be shown and judgments explained. The position of each party is summarized and a review and restatement of the facts as obtained during fact-finding is included. If the pre-negotiation objective is not achieved, the post negotiation business clearance goes back through the same approval process as the pre-negotiation business clearance in some agencies.

This phase of the process encompasses obtaining final documentation required before the post-negotiation business clearance is submitted for approval, usually to the same people to whom the pre-negotiation clearance was submitted. This includes, the certificate of current cost and pricing data from the contractor, approval of the small business/small disadvantaged business subcontracting plan, and EEO compliance, if required.

After approval of the post-negotiation business clearance, the next step is developing the contract document and obtaining necessary approvals, i.e., legal counsel, fiscal commitment, etc. The required supporting documentation is prepared and the contract is submitted to the contractor for signature. The contractor signs the contract and returns it to the PCO for signature, at which time Congressional notification, if required, is made. The final step is to forward the fully executed package for contract distribution, including one copy for the comptroller for obligation of the funds.

Since, in a teaming approach the MOR could be used to delineate the results of negotiations, there would no longer be a requirement for review and approval of a post-negotiation business clearance. The documentation and review phases would be considerably shortened.

The use of electronic media in this phase would save time by providing for electronic review of completed documentation, including fiscal commitment; electronic transmission of contract documents for signature; and electronic transmission of copies of signed contracts to the distribution list.

When we look at the process as a whole, the benefits of teaming, full or limited, are readily discerned. Full teaming could change the perception of government parties that they are at considerable disadvantage in sole source situations. The government personnel would be more knowledgeable about the contractor's technical and cost positions and the methodology used would be apparent. The government's position also is improved by limited teaming only among government participants. The understanding of the requirements and the contractor's proposal is enhanced when government personnel work together through these phases. The result is a unified understanding and a much stronger position at the negotiation table.

Resulting Effects

Benefits

- Promotes trust and communication among all parties
- Promotes understanding of the requirement among all parties
- Information flow is organized and continual rather than iterative and compartmentalized
- Reduces cycle time throughout the process
 - eliminates need for formal solicitation and review

- reduces proposal preparation time
- reduces time for proposal evaluation
- streamlines or eliminates pre-negotiation/post-negotiation business clearance
- reduces time required for development of contract
- Promotes win-win environment
- Provides opportunities to reduce overall program costs

Disadvantages

- Labor intensive for both government and contractor
- Requires cultural change in the way we do business
- Possible misperception of government/contractor collusion

Risk Management

The current sole source procurement process is manpower intensive for both government and contractor personnel. The teaming approach requires a commitment of significant manpower resources in the front end of the process, however, the total manpower requirements may be the same. While the teaming approach may not significantly reduce total manpower commitments in the original contract award, there should be a significant reduction in "rework" requirements in later phases of the project. The full use of electronic media, including computer networks, teleconferencing, video teleconferencing, etc., should permit personnel to work from their own facilities.

Use of teaming is more beneficial if management empowers employees to make decisions and take actions which directly affect the procurement. This may be viewed by management as risky because someone could make a bad decision. But it must be remembered that the multi-level review process that currently exists has not succeeded in providing a "mistake free" process. Empowerment is not allowing discretionary power without boundaries. Employees would be empowered to work within their level of capability and in the situations they generally encounter. Empowered organizations are designed to promote an alignment of individuals and organizational goals. Empowered organizations demand dependable and supportive management who will provide direction, respond to input and facilitate the organization design which promotes empowerment. Empowered organizations ensure that individuals/groups have skills, knowledge, and information to effectively utilize the power as it is delegated.

Any risk involved in making the decision to team or not and the extent of teaming is mitigated by use of the dual-track process which makes either choice the result of a deliberative process.

Implementation Plan

Task A: Issue acquisition policy guidance encouraging use of teaming in sole source procurements and establishing a lead program to assess benefits.

- Issue policy memorandum (draft memorandum attached) directing military departments and defense agencies to identify a minimum of three lead projects each and utilize teaming as follows:
 - (a) Project One - full out teaming
 - (b) Project Two - limited teaming (government only)
 - (c) Project Three - not teaming, process as usual

Responsibility: The Office of responsibility for issuing policy guidance is USD(A&T). The offices of primary responsibility for implementing the lead projects are the Secretaries of the Military Departments and the Directors of Defense Agencies .

Task B: Issue policy to establish a program to "change the culture" concerning sole source procurements and the use of teaming.

- Issue policy requiring military departments and defense agencies to utilize the training video referred to in Recommendation 2. Use of the video for training purposes should be mandatory

Responsibility: The offices of primary responsibility to implement use of the training videos are the the Secretaries of the Military Departments and the Directors of Defense Agencies.

Task C: Issue policy guidance to encourage use of letter solicitations in sole source procurements.

- Issue policy memorandum (draft memorandum attached) directing military departments and defense agencies to use letter solicitations versus formal

solicitations in sole source procurements to the maximum practicable extent.

Responsibility: The office of primary responsibility for issuing policy guidance is USD(A&T).

Task D: Issue policy guidance permitting streamlining the Business Clearance Memorandum process in sole source procurements utilizing full teaming.

- Issue policy memorandum (draft memorandum attached) directing military departments and defense agencies to streamline the Business Clearance Memorandum process

Responsibility: The office of primary responsibility for issuing policy guidance is USD(A&T).

Milestones

Tasks A & C

Issue Policy Letters |=====|
0 1 2 3
(months)

Task D

Issue Policy Letter - Within 90 days of initial award of at least one lead project involving contractor teaming

Metrics

Measure the impact of teaming on the sole source procurement process using the lead projects at each department/agency to establish data to be measured. Suggested elements to be measured are:

- Administrative lead time (requirements generation through award)
- Process time
- Number and value of contract changes
- Percentage of overrun costs
- Customer Satisfaction - User, Program Manager, Contracting Officer, Contractor (Survey)

Measure effect of cost/schedule performance data on program schedule and final cost.

All lead projects would be processed after implementation of FASTA requirements. Each department/agency will process three projects: full teaming, government only teaming, and no teaming. At least one of the projects should require CPR data. Comparison of the administrative lead time for these three scenarios will clearly demonstrate the effect of teaming on the sole source procurement process.

Recommendation 2

Establish dual track sole source procurement process that relies on an expanded definition of past performance as a means of determining the appropriate approach for a given acquisition

"Dual-track" refers to alternative approaches to contracting in sole source situations. Specifically, dual-track refers to the decision of whether to employ a teaming approach for a particular procurement or the more typical approach described in the discussion under Recommendation 1 of this chapter. Contracting officers and program/project managers should be explicitly empowered to adopt a teaming approach (see Recommendation 1) in dealing with sole source contractors that have previously demonstrated through their past performance histories and the status of their various systems⁷ that they can be trusted to work in the best interests of the government.

Discussion

Past performance has recently received renewed interest and emphasis at senior government and Department of Defense levels⁸. Past performance is not, however,

⁷Throughout the discussion regarding an expanded use of past performance data in connection with sole source contracting, reference is made to various contractor "systems." These include the contractor's purchasing system, accounting system, compensation system, property/material management system, estimating system, and cost/schedule management system.

⁸OUSDA/DP Letter, December 21, 1992; OMB Policy Letter 92-5, December 1992, SUBJECT: Past Performance Information. In addition, proposed changes to FAR 15.605(b)(1)(ii) require that "Past performance shall be evaluated in all competitively negotiated acquisitions expected to exceed \$100,000, unless the contracting officer documents in the contract file the reasons why past performance should not be evaluated." OUSDA/DP (DAR) Letter, September 26, 1994; Subject: FAR Case 93-002.

typically associated with sole source procurement. The natural response to the suggestion that greater use be made of past performance information in connection with sole source procurement runs something along the lines of, "What are you going to do if the contractor has a poor performance record? You've already determined that they are a sole source and that you must contract with them if you want your requirement satisfied. What's the point of burdening the process with a consideration that can't yield any practical consequences?"

In one sense this logic cannot be faulted. A contractor's past performance cannot determine whether or not the government will contract with it when that contractor is the only available source of the supply or service. *How* the government will contract with that contractor, however, and *what kind of working relationship* will result from that contract, should be a function of that contractor's past performance, to include the status and quality of that contractor's purchasing system, property management system, estimating system, and all other systems that bear upon the quality and cost of the contractor's performance. A superior past performance record, coupled with validated systems designed to ensure good program management and the protection of the government's interests, provide an objective basis for establishing a relationship of trust and cooperation between the parties, rather than the more traditional adversarial relationship that too often characterizes government - contractor dealings.

When the government contemplates contracting on a sole source basis with a contractor whose past performance and systems status provide a basis for trust, the government should consciously seek to establish a teaming arrangement as described in Recommendation 1 of this chapter. On the other hand, when a contractor's past performance and/or systems status suggest that the government should seek to protect its interests through formal contractual mechanisms, a teaming approach with the contractor may not be appropriate. In those cases, the contracting officer and program manager should not jeopardize the government's interests by adopting a fully open or teaming approach, but should instead "team" with the contractor only to the extent that the government's interests remain protected.

The decision regarding teaming is ultimately a matter of judgment and cannot be strictly prescribed on the basis of a pre-established set of criteria. The very idea of a dual-tracked approach to contracting on a sole source basis is premised upon a commitment to providing acquisition personnel an appropriate amount of flexibility in doing their jobs and then trusting them to use that flexibility wisely. This report, then, does not presume to dictate the circumstances in which teaming should or should not be employed. In addition, and as noted above, the writers recognize that there will be degrees of teaming, both within the government and between the government and contractors, depending upon the circumstances of the procurement.

Having said this, there are several questions, some of which are implied in the comments above, that may serve to guide the program/project officer and contracting officer in making their decision(s) regarding teaming:

A. Does this particular procurement warrant teaming?

1. Although teaming can, and under certain conditions almost certainly will, reduce the overall acquisition cycle time and program costs, teaming does require an "up-front" investment of resources by all organizations intending to function as team members. The absence of managements' willingness to dedicate adequate resources during the teaming period will preclude effective teaming.
2. Not all procurements require teaming to be done well. Purchases of commercial items, for example, particularly those that are relatively simple and of a small dollar value, are not likely to substantially benefit from teaming efforts. When the expected payoff from teaming is negligible, don't team.

B. Is the contractor interested in a teaming approach?

1. Although teaming, when the circumstances warrant it, will provide the parties with vastly improved communications and understanding, teaming requires all parties to let down their guard and trust all the members of the team to act in the best interest of the team in accomplishing its goal. Some contractors (and some government personnel) may not be willing to divulge the normally "close-hold" data to all team members to the extent full teaming requires. If that is the case, don't team.
2. If the government will not team with the contractor for any reason, but the procurement warrants the maximum teaming possible and the government is prepared to commit the resources as discussed above, the opportunity for government teaming still exists.

C. Does the contractor's past performance suggest that teaming might work?

1. The answer to this question provides the first of a two-part basis for establishing a relationship of trust between the parties. Ultimately, of course, trust will depend upon the actions of each member of the team. But initially the government must have some basis for believing that a particular contractor is trustworthy, worth the initial trust investment. Few indicators provide a more solid basis for that first step than a contractor's past performance.

2. Although no service or agency in DoD currently has a fully functioning past performance collection/dissemination system in place, greater reliance on past performance in the future in connection with competitive acquisitions is, at this point, a given. The question is not whether the government will use past performance in the future, but how and to what extent we will use it. The establishment of one or more past performance systems is, then, only a matter of time; DoD should therefore take steps to maximize the utility of the systems we are about to establish, including the use of those systems and the data collected in connection with sole source procurements.

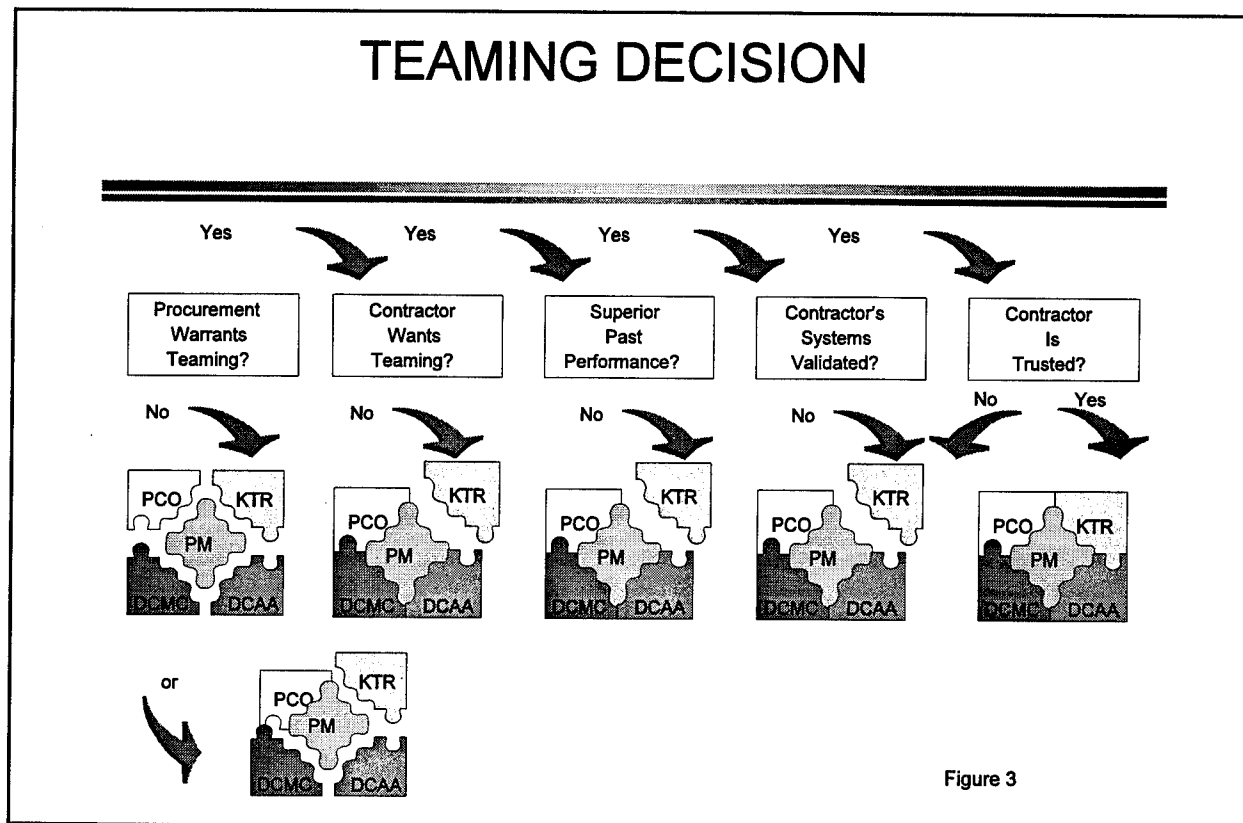
D. Are the contractor's purchasing system, accounting system, compensation system, property/material management system, estimating system, and cost/schedule management system approved?

1. Each of the identified systems refers to a set of controls imposed by a contractor on various processes related to its business. Within the upper and lower control limits of a stability chart, variations from the mean are, by definition, acceptable. When the contractor's systems are approved, the government's interests are protected because the variations in the system are relatively minor and fall within the bounds of acceptability. These approved systems, and the implied protection of government interests that the approvals entail, provide the second part of the two-part basis of initial trust in a contractor. In effect, we trust the status of the various systems to tell us when we can trust the people we plan to deal with.

E. Can you trust the specific individuals with whom you will be working?

1. This question will inevitably be asked, but it is placed last because although it may be the most obvious of this series of questions, it is perhaps the least relevant of the series as well. In the first place, the answer to this question will be, by far, the most subjective of all the answers provided. The dynamics of personalities, for example, will color this answer in a way that will be difficult to separate from all other considerations. Dislike does not mean and should not be equated to distrust, but it will often be difficult to distinguish between the two. In addition, all previous relations have been structured by a system premised upon distrust of the opposite party, and, therefore, the behaviors of the system's participants must reflect those premises to some extent. How people will behave in a context of mutual trust can be finally determined only by their actions in that context. Nevertheless, the question must be asked. Once asked, however, the questioner should be mindful of the obstacles to reaching an accurate response and should frequently be prepared to rely on the answers to questions three and four as better guides.

2. The second consideration in connection with this question is its applicability to relations within the government team. Many of the participants on such a team will have worked "together" in the past only infrequently. And on at least some of those occasions, the outcome of the efforts may have been strong feelings of dislike and even distrust, as some participants may have placed parochial interests above those of the larger group or government as a whole. All of the considerations mentioned above, however, are equally applicable to these relations as well. A willingness to trust other government team members should be the starting point for a teaming arrangement and should continue to govern the relationship until one of the members gives the other(s) a reason to adopt a different view.



Every process reveals its underlying principle. The current sole source procurement process is based upon distrust and arises out of a fear that the government will be harmed if it trusts its sole source contractors and reveals what it knows about its procurements that those contractors do not know. In some cases that fear may be justified by the realities of the situation, but in other cases the fear may be entirely unsupported by the facts. Establishing an alternative approach to sole source procurement provides flexibility and opportunity in a process currently thought of as "worst case" contracting.

Resulting Effects

Benefits

- Dual-Track process provides flexibility by allowing participants to tailor the approach to suit the circumstances of the particular acquisition

- Dual-Track process provides the capability for protecting the government's interests when contracting with a particular type of contractor
- Reliance on past performance and contractor systems validations in the sole source environment does not require establishment of any additional data collection or review processes since these either already exist or are being expanded for other (competitive) situations

Disadvantages

- Providing greater latitude regarding the procurement approach entails the risk that poor decisions will be made
- Providing a contractor with information and insight not currently provided except in unusual cases entails a risk that the contractor may use that information to its own advantage at the expense of government interests

Risk Management

- There are relatively few risks associated with the creation of a dual-track approach to sole source procurement; the risks lie in the teaming approach itself. That is, some decision-makers will elect to team when teaming is inappropriate either because of the circumstances of the acquisition or the characteristics of the contractor with which the Government has chosen to team. The creation of the possibility of teaming, however, is without risk. Even if someone wants to argue that teaming is *never* appropriate, that it is conceptually flawed and can never benefit the government, the problem lies with teaming, *per se*, not with the idea of two approaches to sole source procurement.

Implementation Plan

Task A: Issue acquisition policy guidance facilitating the use of teaming

- DFARS 206.304 should be revised to add: **"(c) When conditions warrant it, a class justification for other than full and open competition may be approved to provide for award of multiple contracts during the period addressed in the justification, which may in some cases extend across**

more than one program phase.

- DFARS part 207 should be revised to add:

207.102 "(a) When a class justification for other than full and open competition has been approved, planning for competition shall be accomplished consistent with the terms of that approval."

Responsibility: Office of primary responsibility to prepare and staff the DFARS case is the Director of Defense Procurement

- To facilitate the use of teaming when the program manager and contracting officer have determined its appropriateness, prepare a video presentation on the use and potential benefits of the teaming approach and disseminate the video throughout DoD. This video presentation would be presented in lieu of any kind of "road show" presentation that has been employed in connection with other Process Action Teams having narrower focuses and audiences than the Procurement Process PAT.

Responsibility: Office of primary responsibility to prepare and disseminate the orientation video is OUSD(AR).

Milestones

Revise DFARS	=====
Produce & Disseminate Orientation Video	=====
	0 3 6 9
	(Months)

Metrics

- Percentage of sole source contract awards employing full teaming (government teaming involving buying activity and contract administration and audit)

participation), to include contractor participation on the team, and the percentage of sole source contract awards employing teaming exclusively within the government.

- Percentage of personnel assigned to the field of acquisition who have viewed the teaming orientation video.

Recommendation 3

Eliminate duplication in review and approval efforts required during requirements generation

- A. Delete the requirement for an AP. An Acquisition Strategy Report (ASR) will be required for all major and non-major defense acquisition programs valued at \$5M or more.*
- B. Process the ASR and J&A simultaneously and, whenever possible, use electronic media to reduce the review and approval process length.
- C. Expand the use of class J&As to allow for a one time approval during early acquisition planning.
- D. Eliminate overly restrictive local policies or regulations which require approval of a J&A at any point in the procurement cycle prior to commencement of negotiations.
- E. Realign approval thresholds for J&As to be consistent with acquisition approval authorities for non-major defense acquisitions.

*Recommendation deleted. Discussion retained for the record.

Discussion

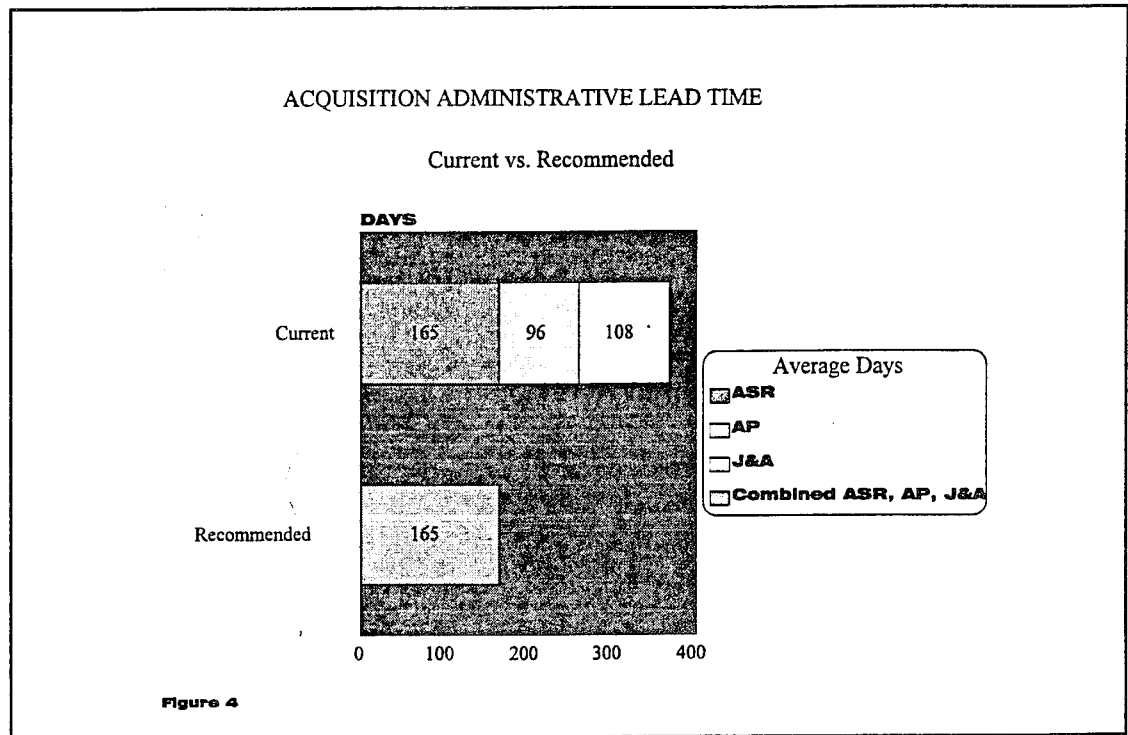
Recommendation 3A

Currently, major and non-major defense acquisition programs require both an ASR and AP. An acquisition strategy for ACAT I programs is required by Title 10 U.S.C. § 2439(a)(1). DoD 5000.2M, Part 4, Section D, Integrated Program Summary, Annex C, Acquisition Strategy Report, describes the format for an acquisition strategy as an ASR. For ACAT II and non-major defense programs, tailored ASRs are required by DoD 5000.1. An AP is required for both major

and non-major programs by FAR Part 7, and DFARS Part 207.1⁹. The ASR and AP are processed sequentially and both documents contain similar information. To illustrate how similar the ASR and AP are, DoD 5000.2M states "to minimize the administrative burden, common acquisition strategy paragraphs from the acquisition strategy report should be used for the acquisition plan." Furthermore, the FAR recognizes the duplication of effort in 34.004 which states that the written acquisition strategy "prepared in accordance with requirements of 7.1...shall qualify as the acquisition plan for major system acquisition." The process of preparing and reviewing redundant documents lengthens the procurement cycle. The guidance provided by DoD 5000.1 for development of an ASR is similar to the guidance provided in DFARS Part 207.105 for an AP. In short, the two documents are largely duplicative of one another. As further evidence of the redundancy of these documents, the Air Force was recently granted waiver authority from preparation of an AP when an approved ASR existed for both the Joint Primary Aircraft Training System (JPATS) and the Joint Direct Attack Munition (JDAM) Pilot Programs by the Principal Deputy Under Secretary of Defense Acquisition & Technology¹⁰. The requirement for an AP, in these cases, should be eliminated. An ASR should be prepared in accordance with DoD 5000.1 for all new contracts when the program has been designated an ACAT program. Typical acquisition administrative lead time for AP and ASR are reflected below. In acquisitions requiring both an AP and an ASR, 96 days can be eliminated.

⁹ Acquisitions for development as described in FAR 35.001, when the total cost of all contracts for the acquisition program is estimated at \$5M or more; or acquisition for production or services when the total cost of all contracts for the acquisition program is estimated at \$30M or more for all years or \$15M or more for any fiscal year; or any other acquisition considered appropriate by the department or agency.

¹⁰Memorandum(s) for the Secretary of the Air Force, dated 28 February 1994 and 11 April 1994, respectively.



Although review time can be reduced, the PAT acknowledges that proceeding with this recommendation could have an adverse impact on some programs. The PAT still believes this recommendation has merit, however, only ACAT programs requiring both an ASR and AP would benefit and the number of these large programs is relatively small. Therefore, the PAT is not recommending implementation at this time.

Recommendation 3B

A J&A is required for procurements over \$100K in which full & open competition will not be obtained in accordance with FAR 6.304(a)(1 through 3) and DFARS 206.304 which implement 10 U.S.C. § 2304(f). The J&A is processed sequentially after approval of the ASR and AP. All three documents "justify the sole source nature of the procurement," and are either reviewed or signed by the same people prior to a procurement being initiated. Early approval of the J&A will allow for a teaming arrangement between the major parties earlier in the process as delineated in Recommendation 1 of this chapter and will reduce the

length of the procurement cycle. The PAT recognizes the necessity to have a J&A separate from the ASR due to Freedom of Information Act (FOIA) releasability issues¹¹. The present cycle would have to be modified in order to accomplish the synopsis requirement earlier. The process of reviewing redundant documents sequentially lengthens the procurement cycle. The J&A should be processed concurrently with the ASR. The above figure reflects the acquisition administrative lead time saving when a J&A is processed simultaneously with an ASR. Preparation and review of these documents should be done electronically. Program Managers should be encouraged to move the current process of utilizing hard copies into an electronic system in order to further reduce cycle time. The PAT is optimistic that the OFPP in discussing the use of electronic signatures for legal documents is successful.

Recommendation 3C

Optimally, class J&As will reduce the support documents currently required for contracts. This could apply within a phase when multiple contract awards are expected, or across multiple phases from Demonstration/Validation through Production/Deployment. The PAT recognizes that the Federal Acquisition Streamlining Act of 1994 repealed 10 U.S.C. § 2438 which required competitive prototyping for major programs during Concept Exploration. When full & open competition cannot be accomplished however, the use of a class J&A covering the life of the program, or some portion thereof, will enable early involvement of the contractor and serve as a "good faith" gesture between the contractor and government, which will ultimately foster openness. The benefits of a class J&A are also discussed in Recommendation 2. Assuming the J&A would be processed concurrently with the ASR, the J&A should be a living document updated to reflect the current market status. Guidance on the use of class justifications is provided in FAR 6.303-1(c). Guidance on the approval of class justifications is provided in FAR 6.304(c). Sufficient regulatory controls presently exist to ensure the proper use of class J&As.

Recommendation 3D

Title 10 U.S.C. § 2304(f)(1) states that an agency may not award a contract using procedures other than competitive procedures without an approved written

¹¹Title 10 U.S.C. § 2304(f)(4) requires J&A's be made available for inspection by the public consistent with the provisions of § 552 of Title 5.

justification. However, FAR Part 6.303-1(a) states that negotiations shall not commence prior to approval of the J&A. Further, agency procedures prohibit release of the RFP prior to approval of the J&A. FAR Part 5.101 requires the dissemination of information on proposed contract actions through the Commerce Business Daily (CBD), or other posted notice. Industry response to a sole source synopsis is the single most valid indicator of whether a proposed procurement should be considered for competition. If after the publication of the synopsis in the CBD, no inquiries are received from viable alternate sources, it would seem that the agency would be acting in good faith to proceed with the procurement, pending approval of the J&A. Removal of the agency policies which are more restrictive than the FAR will allow for a teaming arrangement between the major parties in the process as delineated in Recommendation I of this chapter, and will allow the contracting officer to initiate the procurement cycle at an earlier date and will provide the needed products to the user in a more timely manner.

Recommendation 3E

Title 10 U.S.C. § 2304(f)(1), FAR 6.304, and DFARS 206.304 prescribes the levels, as defined by dollar values, at which J&As may be approved. These levels are not consistent with the dollar values used in other sections of Title 10 U.S.C § 2439(a)(1) and 2302(5), FAR 34.001, DFARS 234.003 and DoD 5000.2 for the definitions of major and non-major programs. In apparent sole source situations, acquisition strategies already reflect the non-competitive nature of the planned acquisition, notwithstanding the fact that the J&A has not been approved at the time the strategy is established. This inconsistency is compounded by the fact that all J&As for acquisitions greater than \$10 million must be approved at the Secretarial level, but the ASRs for those same acquisitions do not receive Secretarial attention until they reach the \$75 million level. In contrast, approval of acquisition strategies for ACAT-1D programs effectively elevates the competition decision by assigning that approval authority to OUSD(A&T) regardless of who actually approves the J&A. This multitude of approval authorities creates duplication of approvals, delays the acquisition process by imposing unnecessary "wait-times" for decisions that have already been (effectively) made, and forces official approval for certain documents to levels much higher than required by the nature of the acquisitions. To correct these inefficiencies, the following changes in J&A approval levels are recommended:

<u>AMOUNT</u>	<u>DESIGNATED AUTHORITY</u>
\$100K <\$5M	Competition Advocate for the Procuring Activity
\$5M < \$115M	Head of Procuring Activity or a designee
\$115M<\$540M	Senior Procurement Executive of the Agency or designee
>\$540M	Senior Procurement Executive of the Agency

The \$100K is in line with the Federal Acquisition Streamlining Act (FASTA) Simplified Acquisition Threshold (SAT). The \$5M reflects the lowest dollar value requiring an ASR (see recommendation IIIA). Therefore, any procurement valued at lower than \$5M should be approved at the lowest level allowed. The \$5M threshold also represents the level at which contracts must be publicly announced. The \$115M threshold reflects the lowest dollar value for a major system as defined in 10 U.S.C. § 2302(5). The >\$540M threshold reflects the definition of a major defense acquisition program as stated in 10 U.S.C. § 2430(a)(2).

Resulting Effect

Benefits

- Eliminates a duplication of program manager efforts in preparation of ASR's and AP's
- Eliminates redundant review and approval of ASR's and AP's
- Eliminates duplication of reviews by processing ASR and J&A concurrently
- Reduces the contracting office efforts through the use of class justifications and approvals to cover procurement within/across acquisitions phases
- Enables early contractor involvement

Disadvantages

- Perceived increased risk due to reduction of oversight

Risk Management

The risk of empowering acquisition professionals is minimal. Milestone decision authority has already been granted to approve acquisition programs, therefore that same authority should be vested to execute the acquisition program. Empowerment does not mean senior management needs to surrender their power to subordinates. It isn't about power -- it's about giving folks the tools they need to do their jobs.

Empowerment provides people the opportunity, authority and resources they need. Senior Management who have learned to use empowerment find their role enhanced--not weakened. The goal is to create an environment in which properly trained acquisition professionals can continually improve the organization. That encourages innovation and risk taking--important factors in the cultural change process.

Implementation Plan

Recommendation 3A: Issue acquisition policy guidance allowing for ASR's to be used in lieu of AP's.

- Delete DFARS Part 207.105 in its entirety

~~207.105 Contents of written acquisition plans.~~

~~For acquisition covered by paragraphs 207.103(e)(i)(A) and (B), correlate the plan to the DoD Future Years Defense Program, applicable budget submissions, and the decision coordinating paper/program memorandum, as appropriate.~~

~~(a) Acquisition background and objectives--(1) Statement of need. Include--~~

~~(A) Applicability of a decision coordinating paper (DCP), acquisition decision memorandum, Defense Acquisition Board (DAB), and/or internal service reviews. Describe the options in the DCP/acquisition decision memorandum and delineate which option the acquisition plan supports.~~

~~(B) The date approval for operational use has been or will be obtained. If waivers are requested, describe the needs for the waivers.~~

~~(C) A milestone chart depicting the acquisition objectives~~

~~(D) Milestones for updating the acquisition plan. Indicate when the plan will be updated. Program managers should schedule updates to coincide with DAB reviews and the transition from one phase to another (e.g., engineering and manufacturing development to production and deployment).~~

~~(8) Acquisition streamlining~~

~~DoDD 5000.1, Defense Acquisition, and DoDI 5000.2, Defense Acquisition Management Policies and Procedures, contain policy direction on acquisition streamlining. See MIL-HDBK 248, Acquisition Streamlining, for guidance on streamlining performance requirements, the technical package, and the contract strategy.~~

~~(b) Plan of action.~~

~~(2) Competition.~~

~~(v) 10 U.S.C. 2438 requires that the acquisition strategy for major defense acquisition programs provide for the competitive prototyping of the major weapon system under the program, and any major subsystems, unless an exception is provided. (See DoDD 5000.2, Defense Acquisition Management Policies and Procedures.)~~

~~(5) Budgeting and funding. Include specific references to budget line items and program elements, where applicable, estimated production unit cost, and the total cost for remaining production.~~

~~(6) Product description. For development acquisitions, describe the market research efforts planned or undertaken to identify nondevelopmental items, as defined in 210.001, that could satisfy the acquisition objectives.~~

~~(12) Logistics considerations. (i) Describe the extent of integrated logistics support planning to date, including references to approved plans.~~

~~(ii) Discuss the mission profit, reliability, and maintainability (R&M) program plan, R&M predictions, redundancy, qualified parts lists, parts and material qualification, R&M requirements imposed on vendors, failure analysis, corrective action and feedback, and R&M design reviews and trade-off studies.~~

~~(iv) See DoDD 5000.1, Defense Acquisition Regulation, and DoDI 5000.2, Defense Acquisition Management Policies and Procedures, for procedures on standardization and on the DoD Parts Control Program. See MIL-STD-963, Parts Control Program, for procedures on the Standardized Military Drawing Program.~~

~~(S-70) Describe the extent of Computer Aided Acquisition and Logistics Support (CAALS) implementation (see MIL-HDBK 59, Department of Defense Computer Aided Logistics Support (CAALS) Program Guide, and~~

~~MIL-STD-1840A, Automated Interchange of Technical Information).~~

~~(15) Environmental considerations~~

~~Discuss actions taken to ensure either elimination of or authorization to use class I ozone-depleting chemicals and substances (see 210.002-71).~~

~~(17) Other considerations~~

~~(A) National Technology and Industrial Base. For major defense acquisition programs, address the following (Pub. L. 102-484, Section 4220)—~~

~~(1) An analysis of the capabilities of the national technology and industrial base to develop, produce, maintain, and support such program, including consideration of the following factors related to foreign dependency (Pub. L. 102-484, Section 4219(h))—~~

~~(i) The availability of essential raw materials, special alloys, composite materials, components, tooling, and production test equipment for the sustained production of systems fully capable of meeting the performance objectives established for those systems; the uninterrupted maintenance and repair of such systems; and the sustained operation of such systems.~~

~~(ii) The identification of items specified in paragraph (b)(17)(A)(1) of this section that are available only from sources outside the national technology and industrial base.~~

~~(iii) The availability of alternatives for obtaining such items from within the national technology and industrial base if such items become unavailable from sources outside the national technology industrial base; and an analysis of any military vulnerability that could result from the lack of reasonable alternatives.~~

~~iv) The effects on the national technology and industrial base that result from foreign acquisition of firms in the United States.~~

~~(2) Consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the program.~~

~~(3) The use of advanced manufacturing technology, processes, and systems during the research and development phase and the production~~

phase of the program.

~~(4) To the maximum extent practicable, the use of contract solicitations that encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce the life cycle costs.~~

~~(5) Methods to encourage investment by U.S. domestic sources in advanced manufacturing technology production equipment and processes through—~~

~~(i) Recognition of the contractor's investment in advanced manufacturing technology production equipment, processes and organization of work systems that build on workers' skill and experience, and work force skill development in the development of the contract objective; and~~

~~(ii) Increased emphasis in source selection on the efficiency of production.~~

~~(6) Expanded use of commercial manufacturing processes rather than processes specified by DoD.~~

~~(7) Elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under DoD contracts.~~

~~(8) Expanded use of nondevelopmental items (See 210.002-70).~~

~~(B) Industrial Preparedness (IP).~~

~~(1) Provide the program's IP strategy that assesses the capability of the U.S. industrial base to achieve identified surge and mobilization goals. If no IP strategy has been developed, provide supporting rationale for this position.~~

~~(2) If in the IP strategy, the development of a detailed IP plan was determined to be applicable, include the plan by text or by reference. If the development of the IP plan was determined not to be applicable, summarize the details of the analysis forming the basis of this decision.~~

~~(3) If the program involves peacetime and wartime hardware configurations which are supported by logistics support plans, identify their impact on the IP plan.~~

~~(G) Ensure compliance with DoDD 4210.15, Hazardous Material Pollution Prevention. [DAC 91-5, 58 FR 284-58, 5/13/93, effective 4/30/93; Interim rule, 58 FR 32061, 6/8/93, effective 5/21/93]~~

- and substitute in lieu thereof:

"207.105 Acquisition Strategy Reports

Contents of written acquisition strategy reports are contained in DoD 5000.1 and delineated in DoD 5000.2M, Part 4, Section D."

Responsibility: Office of primary responsibility to prepare and staff the DFARS case is the Director of Defense Procurement.

- Modify DoDI 5000.2-M, Section D, Annex C, Integrated Program Summary paragraph 2e as follows:
 - e. ~~Acquisition Strategy Report and Acquisition Plan.~~
 - ~~(1) To minimize the administrative burden, common acquisition strategy paragraphs from the acquisition strategy report should also be used for the acquisition plan.~~
 - ~~(2) The acquisition plan, incorporating the approved acquisition strategy, may not be approved until the Acquisition Strategy Report has been approved by the milestone decision authority. The Acquisition Strategy Report and any associated waivers will be prepared and approved prior to formal solicitation release. For Milestones II and III, the APPROVED Acquisition Strategy Report will be included as Annex C in the Integrated Program Summary.~~
- Modify DoDI 5000.2M, Section D, Annex C, Attachment 1, paragraphs 1 and 2 as follows:
 - 1. Program Structure
 - c. See Federal Acquisition Regulation part 7, subpart 7.1, paragraphs 7.105(a)(5), (b)(11) ~~and (b)(18)~~ and Defense Federal Acquisition Regulation Supplement part 207, subpart 207.1, paragraphs ~~207.105(a)(S-70), (a)(S-71), (a)(S-72), (a)(S-73) and (b)(S-70)(x) for related acquisition plan paragraphs.~~

2. Acquisition Approach

a. Overview

(3) Describe how budget estimates were derived, discuss the schedule for obtaining adequate funds, establish cost goals with supporting rationale, discuss related cost concepts, (i.e., life cycle cost, design to cost, application of should cost).

(4) See Federal Acquisition Regulation part 7, subpart 7.1, paragraphs 7.105(a)(3), (b)(3), (b)(5), (b)(6), (b)(12), (b)(13), (b)(14) and (b)(15) and ~~Defense Federal Acquisition Regulation Supplement part 207, subpart 207.1, paragraph 207.105(b)(6) for related acquisition plan paragraphs.~~

b. Streamlining

(3) See Federal Acquisition Regulation part 7, subpart 7.1, paragraph 7.105(a)(8) and ~~Defense Federal Acquisition Regulation Supplement part 207, subpart 207.1, paragraph 207.105(a)(8) for related acquisition plan paragraphs.~~

c. Sources

(4) See Federal Acquisition Regulation part 7, subpart 7.1, paragraph 7.105(b)(1) and (17) and ~~Defense Federal Acquisition Regulation Supplement part 207, subpart 207.1, paragraphs 207.105 (b)(17)(i), (ii), and (iii) and 207.105(b)(S-70)(iii) for related acquisition plan paragraphs.~~

d. Competition

(4) See Federal Acquisition Regulation part 7, subpart 7.1, paragraph 7.105(b)(2) and (b)(12)(iii) and ~~Defense Federal Acquisition Regulation Supplement part 207, subpart 207.1, paragraph 207.105(b)(S-70)(vi) and (vii) for related acquisition plan paragraphs.~~

e. Contract Types

(4) See Federal Acquisition Regulation part 7, subpart 7.1, paragraph 7.105(b)(4) and ~~Defense Federal Acquisition Regulation Supplement part 207, subpart 207.1, paragraph 207.105(b)(S-70)(v), (viii) and (ix) for related acquisition plan paragraphs.~~

Recommendation 3B: Issue acquisition policy guidance allowing for simultaneous processing of the J&A with the ASR

- Issue policy memorandum to remove agency barriers which are more restrictive than the FAR (draft memorandum is attached).

Responsibility: Acquisition executive of the service and Defense agencies develop individual plans to allow simultaneous processing of J&As with ASRs.

Recommendation 3C: Issue acquisition policy guidance to permit a better understanding of class J&As and their use as follows:

- Issue policy memorandum to remove local barriers limiting class J&As to two years (draft memorandum is attached).

Responsibility: Acquisition executive of the service and Defense agencies develop individual plans to remove barriers restricting class J&As to two years.

Recommendation 3D: Issue acquisition policy guidance to eliminate local barriers requiring J&A approval prior to issuance of solicitation (draft memorandum is attached).

Responsibility: Acquisition executive of the service and Defense agencies develop individual plans to remove barriers requiring J&A approval prior to issuance of solicitation.

Recommendation 3E: Issue acquisition policy guidance to realign approval thresholds of J&As.

- Modify the approval levels specified in 10 U.S.C § 2304 (f)(1)(B) (i) through (iv) as follows:

"(f)(1)(B) the justification is approved--

(i) in the case of a contract for an amount exceeding \$100,000 (but equal to or less than ~~\$1,000,000~~ **\$5,000,000**), by the competition advocate for the procuring activity (without further delegation) or by an official referred to in (ii)(iii) or (iv) ;

(ii) in the case of a contract for an amount exceeding ~~\$1,000,000~~ **\$5,000,000** (but equal to or less than ~~\$10,000,000~~ **\$115,000,000**), by

the head of the procuring activity (or the head of the procuring activity's delegate designated pursuant to paragraph (6)(A));

(iii) in the case of a contract for amount exceeding ~~\$10,000,000~~ **\$115,000,000** (but equal to or less than ~~\$50,000,000~~ **\$540,000,000**), by the senior procuring executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) or the senior procurement executive's delegate designated pursuant to paragraph (6)(B), or in the case of the Under Secretary of Defense for Acquisition, acting in his capacity as the senior procurement executive for the Department of Defense, the Under Secretary's delegate designated pursuant to paragraph (6)(C); or

(iv) in the case of a contract for an amount exceeding ~~\$50,000,000~~ **\$540,000,000**, by the senior procuring executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))(without further delegation) or in the case of the Under Secretary of Defense for Acquisition, acting in his capacity as the senior procurement executive for the Department of Defense, the Under Secretary's delegate designated pursuant to paragraph (6)(C); and "

Responsibility: Office of primary responsibility to prepare and staff the 10 U.S.C. § 2304 case is the Office of the Secretary of Defense, General Counsel.

- Modify FAR 6.304(a)(2) and (3) to read as follows:

"(2) For a proposed contract over \$100,000 but not exceeding ~~\$1,000,000~~ **\$5,000,000**, by the competition advocate for the procuring activity designated pursuant to 6.501. This authority is not delegable.

(3) For a proposed contract over ~~\$1,000,000~~ **\$5,000,000** but not exceeding ~~\$10,000,000~~ **\$115,000,000**, by the head of the procuring activity, or a designee who-- "

- Modify DFARS 206.304(a)(4)(A) to read as follows:

"(a)(4)(A) For proposed contracts not exceeding ~~\$50 million~~ **\$540 million**, the senior procurement executive may delegate this authority. . .

(B) For proposed contracts over ~~\$50 million~~ **\$540million**, this authority is not delegable, except in the case of the USD(A) who may delegate as specified in paragraph (a)(4)(A)(2) of this section."

Responsibility: Office of primary responsibility to prepare and staff the FAR and DFARS cases is the Director of Defense Procurement.

Milestones

Issue Policy Memo	=
DoDI 5000.2M	=====
Revise FAR*	=====
Revise DFARS*	=====
	0 3 6 9 12 15 18 21 24 27 30 33 36 38 40 43
	(Months)

* FAR and DFARS changes should occur three months after statutory change

Metrics

Establish trend data, and track administrative lead time for several pilot programs. Administrative lead time is defined as the time from requirements generation through contract award.

Customer satisfaction, with the customer being both the user and the contractor, should be addressed by using a voluntary questionnaire on each solicitation resulting from a class J&A . The user and contractor will be requested to complete a questionnaire either by name or anonymously and send it to the cognizant service ombudsman office for incorporation into usable matrix trends.

Recommendation 4

Streamline the approval/review process for sole source procurement

- A. Reduce the number and level of sole source procurement approvals and oversight reviews
- B. Delegate approval authorities to the lowest practical level
- C. Establish a requirement to document biennially the need for continued use of every review

Discussion

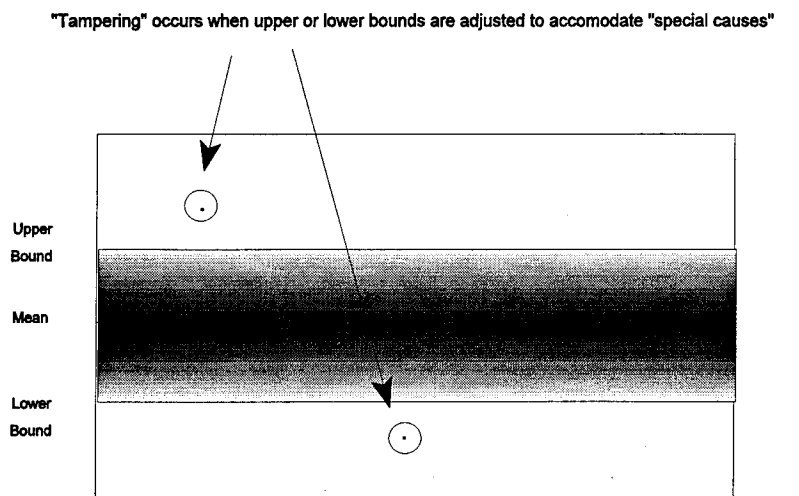
Certification of the acquisition workforce throughout DoD as a result of the Defense Acquisition Workforce Improvement Act (DAWIA) is intended to ensure that only qualified personnel encumber critical acquisition positions. The commitment to a qualified workforce mandated by Congress should be evidenced by the DoD's willingness to reduce the number and level of work reviews it imposes and empower qualified professionals at the working level to carry out their responsibilities without multiple layers of review, oversight and "second guessing".

Too often oversight reviews generate findings that organizations then use as a basis for instituting additional compliance requirements and even more levels of reviews. Management frequently reacts in this way to criticism of an isolated case of poor performance or decision-making in order to avoid the additional criticism that it ignored a problem. In doing so, it often creates other impediments to efficient performance by changing the procurement process in order to preclude a repeat of the isolated event.

The specific instances of such reviews and the levels at which they are conducted vary from one organization to the next and are less important than the principle from which they stem, the principle that reviews are created as a result of isolated findings and, once created, are seldom subject to elimination. In the manufacturing world this process is known as "tampering" and is the result of treating "special causes" as "process causes", as illustrated in Figure 3. An example of this kind of review expansion

might be the establishment of an OSD review of solicitations and contracts (formally required by DoD Instruction 5000.2, Part 2) which resulted in the establishment of comparable reviews by the services at the Secretarial level. While these reviews may have been warranted by circumstances, the fact is, DoD was able to successfully award contracts for years without these reviews, but, having established the reviews, they persisted, despite the departure of the individual(s) responsible for their creation.

Process Control



The equivalent of "tampering" occurs when permanent reviews result from findings of isolated events

Figure 3

The Principal Deputy Under Secretary of Defense eliminated entirely Part 2, Paragraph C2(f) for ACAT I C programs and relaxed the mandatory review of all solicitations and contracts contained in the current DoDI policy, returning instead to the notification and selective review of ACAT I D solicitations and contracts as was the situation prior to the 1993 Change 1 to DoDI 5000.2.¹² Unfortunately, this action is noteworthy because it is the exception to the normal treatment of reviews.

¹²Memorandum for the Secretary of the Army from the Principal Deputy Under Secretary of Defense, dated August 18, 1994, Subject: Request for Waiver to DoD Instruction 5000.2 (Part 2 Paragraph C2(f))

Once begun new compliance requirements and levels of oversight tend to become institutionalized and are rarely terminated, even when the original, initiating event is "cured". After several iterations of these reactions and resulting additional reviews, agencies are left with double-, triple-, and even quadruple-checks in the form of document reviews that seldom provide true added value.

Review proliferation and duplication is more than an inconvenience or additional workload requirement imposed upon acquisition personnel. The creation of additional reviews by organizations actually has a negative impact on the quality of the work being done. With the creation of additional reviews the natural tendency of those responsible for accomplishing the work is to assume (not always consciously) that any errors that might exist will be "caught" in one of the reviews. Worse still, the creation of additional reviews on top of existing reviews is likely to demoralize those responsible for doing the work and create an attitude along the lines of "Why bother to do a quality check of this work. They (the reviewers) *always* find something to change no matter how much effort is put into the job."

While not all inclusive, the following are the kinds of reviews, at one or more levels above the PCO, not required by FAR or DFARS. These agency established reviews should be reduced in number, or delegated to the lowest level of authority:

- A. Review of the PCO's review of Federal Information Processing (FIP) resource determination
- B. Review/Approval to use an Economic Price Adjustment (EPA) provision
- C. Review/approval to use a cost reimbursement type contract and incentive/award fee contract
- D. Review of appointment of the award fee determining official above the PCO
- E. Review of solicitations and awards by boards prior to release
- F. Review of approval of awards, usually in excess of \$1,000,000

Business Clearance Memorandums (BCMs) are another example of multiple level reviews above the contracting specialist. For example, in many organizations, a BCM over \$500,000 requires review by a branch chief, division chief, pricing branch and a review board before it is submitted to the approving authority. When we recall that, typically, no one unconnected with the instant procurement understands that procurement better than the specialist responsible for its accomplishment, it becomes clear that the multiple reviews at several levels above the contracting officer and program manager serve little practical purpose. It is recommended that no more than two levels of review shall exist between the preparer and approver.

Subcontracting plans require multiple reviews and approvals, by the Administrative Contracting Officer (ACO), Procuring Contracting Officer (PCO), and Small Business Administration (SBA). If an approved master subcontracting plan is in place, only PCO

approval of the contractor's subcontracting goals for each contract should be required. The master plan indicates the contractor's compliance with statute and regulations.¹³ While the "800 Panel" made no specific recommendations regarding subcontracting plans, "the Panel was urged by many commentators, in Government, industry and small business to recommend the immediate implementation of company-wide small business subcontracting plans amending 15 U.S.C. 637(d)."¹⁴ This report supports those commentators.

This report also supports The Interservice Working Group EEO Compliance Checks report wherein "The Office of Federal Contract Compliance Program, Department of Labor (OFCCP, DOL) is considering eliminating pre-award reviews."¹⁵ "Executive Order 11246 of 24 Sep 65, as amended, does not contain a requirement for yearly compliance checks, a requirement for contracting agencies to obtain clearances, or require the submission of any contract information by agencies to the Department of Labor. The requirement for Equal Employment Opportunity compliance clearances, as they are done today, comes from Title 41, Code of Federal Regulations (CFR), chapter 60 and FAR subpart 22.8."¹⁶ The recommendation of this group was to "Drop compliance check requirement."¹⁷ (This has not been implemented by DOL or DoD.) The elimination of this review by procurement would not eliminate the requirement of the law that contractors support EEO.

The following are examples of areas that could be simplified for the PCO by the use of electronic media:

- A. Every contractor proposal includes completed Representations and Certifications in Section K. If a contractor's cognizant ACO maintained representations and certifications for each contractor on an annual basis, that information could be made available to any PCO upon request through a shared integrated data base.
- B. Pre-award survey results for any one procurement will often suffice as a

¹³15 U.S.C. 637(d) and FAR Part 19

¹⁴Streamlining Defense Acquisition Laws, Report of the Acquisition Law Advisory Panel to the U.S. Congress, January 1993, Chapter 4, paragraph 4.3.4.6.2.

¹⁵Federal Contracts Report, 11/15/93, 0014/9063/93, Vol. 60

¹⁶Interservice Working Group EEO Compliance Checks, Briefing Papers, 12/93

¹⁷Interservice Working Group EEO Compliance Checks, Briefing Papers, 12/93

basis for determining a contractor's responsibility in connection with another procurement. That data, however, is not available until it is formally requested by the PCO of the cognizant CAS organization. Lodging that data in a shared integrated data base available to any PCO could eliminate unnecessary correspondence between the buying activities and contract administration offices.

C. The Debarred and Suspended Contractors list is generated electronically, but distributed in paper copy to buying activities. The review of that list is manually accomplished and is, therefore, subject to the potential for errors and omissions characteristic of manual reviews of extended lists. Since that list is already electronically generated and maintained, it should be made accessible to buying activities electronically along with the capacity to screen for specific contractors.

A shared integrated Data Base, accessible to the PCO and maintained by the ACO, could provide each contractor's annual representations and certifications, pre-award survey results and the debarred and suspended contractors list. This data, in an electronic media, available to the PCO, would eliminate unnecessary correspondence between the buying activity and contract administration offices. One means of access could be the use of the Commercial and Government Entity (CAGE) code. Use of a shared, integrated data base will require software, input and updates by dedicated personnel. While data bases, such as Mechanization of Contract Administration Services (MOCAS), exist, a shared, integrated data base is the subject of several DoD PATs and may not be available until the late 1990s.

The underlying problem lies not in the existence of any particular review or set of reviews, but in the ease with which reviews are instituted and the difficulty of ridding ourselves of them after they have served their intended purpose. As a means of addressing this problem the level of management that initially imposes a review should be required to document, biennially, the need to continue the review. In the absence of any written justification, no review should be continued beyond its initial two years or any subsequent two year period.

Instead of imposing additional reviews, management should recognize the quality and capability of its certified workforce by trusting its specialists to meet statutes, regulations, policy, and procedures, by eliminating redundant reviews wherever possible.

Resulting Effect

Benefits

- Eliminates unnecessary reviews
- Reduces cycle time
- Promotes trust and communication
- Reduces staff and line workloads

Disadvantages

- Management control decreases without tangible reviews
- Increases demands on the Management workforce to document the continued need for any particular review

Risk Management

Any risk inferred, by the reduction in the number of reviews, is more than compensated for by the education and training of the workforce and the reviews that remain, which manage the risk. The reduction in the number of reviews may reduce the need for dedicated review staffs. If the workforce is trusted to produce a quality product and approvals are pushed down to the lowest levels, there will be a savings in acquisition time, and a reduction in the resources needed to staff and review approval documents. Resources will be released to pursue other, higher return initiatives, and provide alternative, acceptable approaches for acquisitions, rather than mandatory policies.

Implementation Plan

Task A: Issue acquisition policy guidance directing organizations:

1. To follow FAR and DFARS guidance and to align all agency imposed guidance with FAR and DFARS review/approval levels;
2. To delegate decisions to the lowest level;
3. To direct that the level of management that initially imposes a review should be required to document, biennially, the need to continue the review.

Responsibility: The DUSD(AR) staff a memo for signature by the USD(A&T) directing Secretaries of the Military Departments and Directors of Defense Agencies to align agency guidance with FAR/DFARS; to delegate decisions to the lowest level; to document the need to continue a review.

Milestones

Issue Policy Memo	=====
	0 3 6 9
	(Months)

Metrics

Establish a baseline of procurement administrative lead time (PALT) or time from receipt of procurement request to award. Comparison of the PALT time for procurements before and after reviews are reduced/eliminated and approvals delegated to the lowest level will demonstrate a reduction in the processing time from receipt of procurement request to award. This data can be used to establish improvement trends, a data base to monitor, and feedback mechanism to facilitate trend analysis.

Recommendation 5

Increase threshold for requesting a field pricing report

Increase the \$1 million DFARS threshold for requesting field pricing reports on cost type contracts to \$10 million where the offeror does not have significant estimating system deficiencies.

Discussion

DCMC and DCAA routinely evaluate low risk cost-type proposals less than \$10 million. In FY 94, DCAA expended over 95,000 audit hours (approximately \$4 million) and issued over 2,400 audit reports on these small cost-type proposals.¹⁸ Furthermore, substantial DCMC resources were used in this process. The payback to the government on these reviews is limited. This is because the only true savings to the government as a result of these reviews of small cost plus fixed fee (CPFF) proposals is the fee, which typically is less than 10%. A rate check is generally all that is needed and the PCO can perform this task with only limited involvement from DCAA and DCMC.

It is important that the limited resources of DCAA and DCMC be applied to fixed price contracts and the extremely large cost-type contracts, where a greater payback to the government is available. Cost-type contracts are suitable for use only when uncertainties in contract performance do not permit costs to be estimated in sufficient accuracy to use any type of fixed-price contract. By definition, a cost type contract cannot be accurately estimated, yet substantial audits are performed on these proposals. In FY94, DCAA questioned only three percent on cost-type proposals less than \$10 million. Furthermore, approximately 50 percent of cost questioned was sustained during negotiations. As a result, the negotiated cost is approximately 98.5 percent of the proposed cost. In other words, the negotiated cost is only 1.5 percent less than proposed (3.0% questioned X 50% sustention), a relatively small difference. It is obvious from this data that these small proposals are not significantly overstated, especially when considering the inherent uncertainties. As a result, they do not pose a significant risk to the government.

¹⁸ Based on data provided by DCAA.

Another point of reference is the dollars questioned in audit reports, and associated fee, per audit hour expended. The cost questioned and a "computed" fee (assuming 10%), per audit hour expended on cost type proposals for FY94 is shown below:

	Cost Questioned	Computed Fee
Over \$10 Million	\$21,059	\$ 2,106
<\$10 million	\$ 2,318	\$ 232

The cost questioned per audit hour is 9 times greater on large cost type proposals; therefore, it is obvious that DCAA resources can be utilized more effectively in evaluating cost type proposals over \$10 million and firm fixed price proposals.

The requirement to request a field pricing report can be found in FAR 15.805-5 (a)(1), which states:

When cost or pricing data are required, contracting officers shall request a field pricing report (which may include an audit review by the cognizant contract audit activity) before negotiating any contract or modification resulting from a proposal in excess of \$500,000, except as otherwise authorized under agency procedures, unless information available to the contracting officer is considered adequate to determine the reasonableness of the proposed cost or price.

Agency procedures are in DFARS 215. 805-5(a)(1)(A), which requires contracting officers to obtain field pricing reports for (i) fixed price proposals exceeding \$500,000, (ii) cost-type-proposals exceeding \$500,000 from offerors with significant estimating system deficiencies, or (iii) cost-type proposals exceeding \$1 million from offerors without significant estimating system deficiencies. Furthermore, contracting officers may, with adequate written justification, waive the requirement for these reports. Despite this ability to waive field pricing, substantial requests are received by DCMC/DCAA. Too many times the PCO routinely requests unnecessary audits on low risk proposals.

The process for requesting a field pricing report is cumbersome. Once the PCO determines that a report is necessary, a request is submitted to the ACO with a copy going to DCAA. Upon receipt of the request, the ACO reviews the request and the proposal, if available. Then the ACO prepares a request for audit and sends it to DCAA. Upon receipt of the request, DCAA coordinates with the ACO and initiates the audit. Upon completion, the audit report is transmitted to both the ACO and PCO. Usually, the

ACO prepares a memorandum transmitting the audit report and technical evaluation , if required, to the PCO. This sequential and compartmentalized process adds little value and, in most cases, the reasonableness of the proposed cost and profit could be established by the PCO without any significant involvement by DCAA or DCMC.

This process not only results in unnecessary field pricing reports, but also adds to the time required to award a contract. Typically, field pricing reports require 45 to 60 days, which just adds unnecessarily to the time required to award contracts.

In the event this recommendation is implemented and the PCO decides that field pricing assistance or an audit is not needed, other acquisition personnel should not perform substantially the same work that would be accomplished by an audit, i.e., perform cost analysis utilizing the contractor's books and records.

The risk to the government related to overpricing on a cost-type contract is much less than on a fixed price contract. Reimbursement on a cost-type contract is based on incurred cost, plus the predetermined fee that is established during the initial pricing stage. In contrast, the price paid by the government on a fixed price contract (both cost and fee) is established during the initial pricing stage. In monetary terms, the risk to the government on a cost-type contract is merely the fee, or only \$80,000 on a \$1 million cost-type contract (assuming an 8% profit). On the other hand, the risk to the government on a \$500,000 fixed price contract is \$500,000.

Resulting Effect

Benefits

- Reduce DCMC and DCAA resources applied to low risk cost-type proposals, allowing application to higher pay-off activities.
- Allows PCO to make decisions relating to pricing on low risk cost-type proposals.
- Fewer organizations are involved in the pricing process.
- Reduce the cycle time to award a contract.

Disadvantages

- The reasonableness of the price will be limited to a price/cost analysis performed by the PCO, which is not as extensive as a field pricing evaluation.
- Independent assessment of the contractor's price proposal is not obtained.

Risk Management

The risk of raising the threshold for requesting field pricing reports on cost-type proposals is minimal. The primary risk is the potential for having an unreasonably high estimated cost and fee on a cost-type contract. Because the contractor is reimbursed based on cost incurred, the risk is associated with the overstated and potentially unreasonable fee. However, the recommendation is related to relatively small contracts which have not historically been unreasonably priced.

Risk is mitigated since the contracts are subject to downward adjustment as a result of TINA.

The PCO will have the option of requesting a field pricing report when a determination of a fair and reasonable cost/fee cannot be made.

Implementation Plan

Task A: Issue acquisition policy guidance allowing for increase to the threshold for requesting a field pricing report

- DFARS 215.805-5(a)(1)(A)(3) should be revised to read:

"Cost-type proposals exceeding \$10 \$4 million from offerors without significant estimating system deficiencies."

Responsibility: Office of primary responsibility to prepare and staff the DFARS case is the Director of Defense Procurement.

Milestones

Revise DFARS

|=====|
0 3 6 9
(Months)

Metrics

Customer Survey. Send Customer Surveys to PCO's to determine if new process has been beneficial. The survey should address the impact on cycle time, relationships, contract administration, etc.

Recommendation 6

Improve PCO communication with DCAA

Improve PCO communication with DCAA by providing the contracting officer the flexibility of obtaining field pricing assistance directly from DCAA without going through the ACO.

Discussion

The process the PCO must follow in obtaining field pricing assistance is cumbersome and does not provide the PCO the flexibility to obtain support in the most efficient manner. As a result of the current regulations, communication between the PCO and DCAA is hampered and the award of contracts is needlessly delayed.

Communication between the PCO and DCAA is hampered by the unnecessary requirement that requests for field pricing assistance be channeled through the ACO. When the PCO determines that field pricing assistance is required, a request for a field pricing report is addressed to the ACO, with a copy to DCAA. The ACO reviews the request and the proposal to determine the analysis approach, i. e. the depth and scope of the proposal review consistent with the pricing request, complexity and dollar value of the contractor's proposal, risk to the government and applicable regulations. If an audit is required, the ACO requests audit assistance from DCAA. In many instances, the PCO may not need a field pricing report, but only an audit to determine the reasonableness of the proposed price, yet to comply with FAR must submit the request through the ACO.

The current process imposes an unnecessary burden on DCMC to process "audit only" PCO requests. As it now stands, the ACO receives the "audit only" request from the PCO, requests an audit from DCAA and furnishes the report to the PCO via a transmittal memorandum.

Because the audit request is processed through the ACO, communication between the PCO and the auditor is unnecessarily inhibited and can result in the following consequences.

The needs of the primary customer (PCO) are not always clearly communicated to the DCAA auditor. The PCO may have some specific areas of concern and these areas may not be adequately covered because of the lack of sufficient communication.

After an audit is begun, the PCO may determine that an audit is unnecessary, yet because the cancellation goes through the ACO, the notification to the auditor may be untimely. The end result is that audit resources are wasted. Cancellation of DCAA audit reviews occur on a regular basis and can be extremely costly.

Since the request for audit comes from the ACO the auditor must keep both the PCO and ACO informed of audit problems, potential audit report qualifications and audit results, creating additional workload for the auditor.

It takes longer to obtain a field pricing report from the ACO than if only an audit is requested from DCAA. Another 10 - 20 days can be added to the process.

This is not to say that the PCO never communicates directly with the DCAA auditor, or that the DCAA auditor cannot communicate with the PCO. However, because DCAA receives the request for audit from the ACO, communication primarily is between the ACO and DCAA. Audit issues and problems encountered during the audit are often discussed with the ACO, who then discusses these same audit issues and problems with the PCO. This process is often cumbersome, duplicative and does not provide the PCO sufficient and timely information to make decisions related to the procurement.

The requirement for the PCO to request audit through the ACO is clearly stated in FAR 15.805-5(c)(1):

When initiating field pricing support, the contracting officer shall do so by sending a request to the cognizant administrative contracting officer (ACO). When field pricing support is not available, or is exempted by agency regulations, the contracting officer may initiate an audit by sending the request directly to the cognizant audit office.

It goes on to say that these "... field pricing procedures shall not preclude free and open communication among the contracting officer, ACO, and auditor." DCAA auditors are encouraged to communicate with the procurement community in general, and with the PCO on a specific request.

In practice, open communication does not always occur because the ACO is placed between the two parties.

Despite the FAR requirement to process audit request through the ACO, some PCO's send them directly to the auditor because this allows them to get their job done more efficiently. This clearly demonstrates the validity of this recommendation. The PCO should have the latitude of either going to the ACO for a field pricing report, or going directly to the auditor, depending on the circumstances. Sending the request for audit directly to DCAA would not prevent the PCO from advising the ACO of the audit request and asking the ACO for any information that might be pertinent.

Resulting Effect

Benefits

- Improves communication between PCO and DCAA. The specific needs of the PCO will more likely be met if more effective communication occurs.
- Eliminates a non-essential step in the process. Reduces administrative activity performed by DCMC and non-essential coordination activity currently performed by DCAA.
- Reduces cycle time to award contract.

Disadvantages

- Imposes coordination requirement on PCO.
- The ACO may not be fully knowledgeable of a contract for which they may subsequently provide contract administrative services.

Risk Management

The risk to the government related to providing the PCO the flexibility of requesting audit assistance directly from DCAA is minimal. The primary risk is that the ACO may not be aware of potential contract administrative requirements associated with a potential contract. This can be mitigated if the ACO is provided a copy of audit requests that are addressed directly to DCAA.

Implementation Plan

Task A: Issue acquisition policy guidance to streamline PCO communication with DCAA

- FAR 15.805-5(c)(1) should be revised to read as follows:

"When initiating field pricing support, the contracting officer shall do so by sending a request to the cognizant administrative contracting officer (ACO) or cognizant audit office, depending on the needs of the contracting officer. When field pricing support is not available, or is exempted by agency regulations, or an audit is all that is needed, the contracting officer may initiate an audit by sending the request directly to the cognizant audit office. ~~In both cases, the~~ The contracting officer shall..."

Responsibility: Office of primary responsibility to prepare and staff the FAR case is the Director of Defense Procurement.

Milestones

Revise FAR |=====|
 0 3 6 9
 (Months)

Metrics

Customer Survey. Identify "audit only" requests sent directly to DCAA and send survey to the ACO, DCAA and PCO asking specific questions with respect to the new process. The questions should address the impact on cycle time, relationships, contract administration, etc.

Recommendation 7

Use TINA more effectively in the procurement process

- A. Reduce the need for contractor price proposal updates, including "Sweeps," by allowing for a Certificate of Current Cost or Pricing Data cut-off date other than the date of agreement on price.
- B. Establish a "significance" criteria that can be used in assessing contractor violations of the Truth in Negotiation Act so that insignificant potential violations are not pursued by the government.

Discussion

The sole source procurement process frequently requires contractor's to submit numerous price proposal updates and DCAA/DCMC to evaluate the updates. In many instances, this culminates in the contractor performing a "sweep" after an agreement on price is reached even though the government does not require the contractor to perform a "sweep." To make things worse, an audit is often obtained on the contractor's "sweep." Contractors assert that updates and "sweeps" result from the requirements imposed by the Truth in Negotiations Act (TINA)¹⁹. Furthermore, the government has exacerbated the problem by recommending relatively insignificant contract price adjustments as a result of defective pricing audits. These continuous contractor updates, including "Sweeps," and the government insistence on pursuing insignificant amounts, add little value to the process, but does add days, weeks and sometimes months to the cycle time.

TINA clearly impacts the critical path of contracts awarded without competition. As a result, the contractor is required to certify "...that to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.801 of the Federal Acquisition Regulation (FAR) and required under FAR Subsection 15.804-2) submitted either actually or by specific identification in writing, to the contracting officer...in support of

¹⁹10 U.S.C. 2306a

concluded]." ²⁰ After award, if any price negotiated in connection with the contract was increased by a "significant" amount because the contractor furnished data that were not current, accurate and complete, the government is entitled to a price adjustment, including profit or fee. Furthermore, interest and penalty provisions were added to TINA in 1985. The consequences of the required certification, and potential penalty, is that contractors update price proposals on a regular basis. Contractors are hesitant to agree that defective pricing exists because it could result in a civil or criminal investigation, and at the least, can be perceived as a reflection on the integrity of the organization.

The requirement for the contractor to prepare a "sweep" will be reduced if the proposed FAR change is implemented. The TINA Drafting Team which was tasked with implementing FASTA in the FAR, recommended changes which would allow the contracting officer more flexibility in establishing the cut-off date. The recommended changes to FAR did not result from FASTA, but incorporated and emphasized the wording which was already in the law prior to FASTA. We support this change. Currently, in those instances where cost or pricing data is required, a contractor must sign a Certificate of Current Cost or Pricing Data which states that the cost or pricing data are accurate, complete and current as of the date the contractor and the government agree on price. The proposed change would allow the parties to establish a date other than the one on which price agreement was reached. The date agreed to by the parties should be as close as possible to the date of agreement on price. Accordingly, the parties could agree to a cut-off date for the submission of cost or pricing data which is earlier than the date of agreement on price. This proposed change has the potential for reducing the updates/sweeps prepared by the contractor. It could work something like this:

The contractor submits a proposal on 1 February; a field pricing report, including audit report, is issued in 60 days, or 1 April. The contractor submits an update on 7 April, negotiations commence on 10 April and agreement on price is reached on 14 April.

The parties could agree that the cut-off date for submitting cost or pricing data could be 7 April or 14 April. If the 7 April date is established, the need for any further updates or sweeps would be eliminated.

The best way to reduce "sweeps" is for all parties to come to the table prepared to complete negotiations quickly. Using a cut-off date earlier than the date of agreement on price allows the contracting officer more flexibility in negotiating a contract. In those

²⁰FAR 15.804-4

situations where the contractor does not have significant estimating deficiencies, does not have a history of defective pricing and has been willing to negotiate contracts in an expeditious manner, the contracting officer should be able to agree to a date earlier than the date of agreement on price. The proposed change to the FAR would provide the contracting officer this option. It certainly would not be appropriate in all circumstance and with all contractors.

Again, we support this change to the FAR recommended by the TINA Drafting Team. It has the potential of correcting the current problem with "sweeps."

Our second recommendation addresses the problem of DCAA issuing audit reports recommending insignificant contract price adjustments as a result of TINA audits. DCAA audits are designed to identify violations of TINA and when a potential violation is identified, extensive effort is expended in preparing the audit report. Before the report is issued, the contractor is given an opportunity to review the recommended adjustment. The contractor reviews the data provided by the auditor, and in some cases, provides comments to the auditor. Typically, the contractor will review the pricing action for potential offsets to the auditor's recommended contract adjustment. If offsets are found, the contractor must certify the offsets and they are reviewed by DCAA for consideration in the audit report. The PCO gets involved in the process prior to issuance of the audit report. Coordination between the PCO and auditor is common during the audit. Also, the PCO is provided a copy of the draft audit report and asked to provide any relevant comments. After the audit report is issued, the PCO is primarily responsible for resolving any differences. This is an extremely complex and time consuming process.

An adjustment in contract price is required when it is increased by any significant amount because the contractor did not furnish accurate, complete, or current cost or pricing data, as certified in the contractor's Certificate of Current Cost or Pricing Data. DCAA issues numerous audit reports which recommend insignificant price adjustments. As evidence of this, in FY 1994 DCAA issued 61 reports recommending price adjustments of less than \$50,000. This represents 29% of the positive reports issued but only 1% of the total recommended price adjustments. Furthermore, 97 reports recommending price adjustments of less than \$100,000 were issued. These represented 45% of the positive reports issued, but only 3% of the total recommended adjustments. The data that follows clearly illustrates this point.

Recommended Adjustment	Number of Reports	Percent of Total	Recommended Adjustment	Percent of Total
OVER \$10 MILLION	1	0.5	\$ 18,297,000	15 %
\$1 - 10 MILLION	23	10.7	66,099,000	56
\$500,000 TO \$1 MILLION	20	9.3	14,332,000	12
\$100,000 TO \$500,000	73	34.5	16,188,000	14
\$50,000 TO \$100,000	36	16.8	2,586,000	2
LESS THAN \$50,000	61	28.6	1,445,000	1
Total	214	100	\$118,947,000	100

The above data includes "add-on" audits which are issued only to monetize the burden rates resulting from subcontract defective pricing audits issued by other DCAA offices. Subcontract audits are also included in the above data. It can be argued that these "add-on" audits should be excluded from the above data since they do not represent specific noncompliance issues; however, some of the "add-on" audits relate to subcontract audits containing recommended adjustments less than \$100,000. Excluding the data for "add-on" audits does not change the conclusions reached, i. e. reports with recommended adjustments of less than \$100,000, excluding "add-on" reports, represent 42 percent of the positive reports issued, but only 2.7 percent of the total recommended adjustments.

The regulations do not define what is significant, nor do they provide any criteria for determining significance. Moreover, procurement policy has not been promulgated which addresses this issue. The courts and the Board of Contract Appeals have rendered differing decisions regarding what is a significant amount. In one case, the board found that an overstatement of \$21,000 on a \$15 million contract to be significant by disregarding what may be significant in terms of percentages.²¹ In another case, the board's decision on this issue was what appeared to be a departure from its ruling in *American Bosch Arma*.²² It expressed doubts as to whether the government would have actually moved to something other than a firm fixed price contract to accommodate a factor of 16/100 of 1% of the contract price, particularly in view of its previous award of similar vehicles amounting to more than \$50 million on a firm fixed price basis.

²¹ *American Bosch Arma Corp.*, ASBCA 10305.

²² *FMC Corp.*, ASBCA 10095.

Referring to its decision in American Bosch Arma, the board stated that "while we have said that 'significance' within the meaning of the Price Reduction Clause does not bear any relationship to percentage of the total contract price, it seems to us that such percentages do affect significance of negotiations for contract price."

DCAA has provided little specific guidance to auditors for determining significance. The guidance follows:

CAM 14-120.1 Materiality of Defective Pricing Findings

- a. The TINA and regulations do not define what is a "significant amount" by which a contract price was increased because the contractor furnished defective cost or pricing data. The Courts and the BCA have made differing decisions regarding what is a significant amount. Whether or not the amount of defective pricing findings is presented as recommended price adjustment in a report should be determined based upon the auditor's judgment for each defective pricing audit.
- b. The government expends a substantial amount of resources finding, pursuing, and settling claims of defective pricing. Accordingly, materiality should be one of the underlying factors when doing post award audits. In determining the significance of defective pricing, consider the magnitude of the defective data including all applicable burdens (see 10-1-3.3j(2)). Make this judgment considering surrounding circumstances including both the absolute defective amount and its relationship to the total contract amount. Auditors should base their materiality considerations on the dollar amount of the findings, collectively significantly by element, and the value of the specific contract.
- c. DCAA has not established a materiality level for its defective pricing program. The recommended price adjustments must consider the significance of each issue and what caused the defects. Findings may be immaterial to a particular pricing action, but indicative of system deficiencies or suspected irregular conduct, and should be reported as such. On the other hand, system deficiencies may have an impact on all contract actions thereby influencing the decision for reporting the systemic defect.

Although DCAA has not established a materiality level in its guidance, it is obvious that immaterial amounts are being reported. In addition to the difficulty in defining significance, the DoDIG has taken the position that all amounts are significant. This roadblock will need to be overcome.

We recognize the difficulty of defining "significance." However, we recommend that specific dollar values, and percentages be used in determining significance. These amounts/percentages would be used in deciding to pursue potential violations with TINA. We recommend the following procurement policy be established:

Firm Fixed Price Contracts. Recommended adjustments less than \$50,000 would not be considered significant, with two exceptions. The two exceptions are (i) when the amount is less than \$50,000, but more than 5% of the contract price and (ii) systemic deficiencies which impact multiple contracts will be considered in total, not by contract. The threshold would be applied without considering prime add-on factors, but would be applied after considering offsets approved by the contracting officer.

Other Type Contracts. The \$50,000 threshold, stated above, would be used, but would be computed based on the potential net savings to the government, considering government's share and the negotiated profit/fee.

Resulting Effect

Benefits

- Cycle time should be reduced if "sweeps" are not performed by the contractor.
- Reduces resources applied to non-value added updates and "Sweeps."
- The extensive resources used in addressing insignificant defective pricing issues will be reduced.

Disadvantages

- If a cut-off date before agreement on price is established, the opportunity for reduced prices during the intervening periods may be missed.
- If small defective pricing issues are not pursued, the government will not receive the benefits of potential downward price adjustments.

Risk Management

The primary risk of using a cut-off date before agreement on price, is the opportunity for reduced prices for data available between the date of agreement on price and the cut-off date may lost.

The primary risk to the government, if a significance criteria is established, is that recommended adjustments to contract prices amounting to approximately four million dollars will not be pursued. This risk is inherent in establishing a specific materiality criteria. On the other hand, substantial benefit accrues the government as a result of not chasing these insignificant recommended adjustments. Extensive government resources will be saved by not pursuing these issues.

Implementation Plan

Task A: Establish a materiality criteria in implementing TINA.

- Issue audit guidance which contains a materiality criteria consistent with recommendations in this report

Responsibility: Office of primary responsibility is DCAA.

Milestones

Develop revised guidance	===
Issue revised guidance	===
	0 2 4
	(Months)

Metrics

Customer Survey. Send Customer Surveys to PCO's to determine if new process has been beneficial. The survey should address the cost impact to the government, effect on relationships, etc.

APPENDIX A

DEFINITION OF ACRONYMS

ACAT	Acquisition Category
ACO	Administrative Contracting Officer
AP	Acquisition Plan
ASBCA	Armed Services Board of Contract Appeals
ASR	Acquisition Strategy Report
BCM	Business Clearance Memorandum
CAGE	Commercial and Government Entity
CALS	Computer-Aided Logistic Support
CAM	Contract Administration Manual
CAS	Contract Administrative Service
CBD	Commerce Business Daily
CFR	Code of Federal Regulations
CICA	Competition in Contracting Act
CLIN	Contract Line Item Number
CPFF	Cost plus Fixed Fee
CPM	Contractor Program Manager
DAC	Defense Acquisition Circular
DAWIA	Defense Acquisition Workforce Improvement Act
DCAA	Defense Contract Audit Agency
DCMC	Defense Contract Management Command
DFARS	Defense Federal Acquisition Regulations Supplement
DoD	Department of Defense
DoDD	Department of Defense Directive
DoDI	Department of Defense Instruction
DoDIG	Department of Defense Inspector General
DoL	Department of Labor
EPA	Economic Price Adjustment
EEO	Equal Employment Opportunity
FAR	Federal Acquisition Regulations
FASTA	Federal Acquisition Streamlining Act
FIP	Federal Information Processing
FOIA	Freedom of Information Act
GAO	General Accounting Office
IP	Industrial Preparedness
IG	Inspector General
IRAC	Internal Review Audit Compliance

J&A	Justification and Approval
JPATS	Joint Primary Aircraft Training System
JDAM	Joint Direct Attack Munition
MIL-HDBK	Military Handbook
MIL-STD	Military Standard
MOCAS	Modernization of Contract Administrative System
MOU	Memorandum of Understanding
MOR	Memorandum of Record
OFCCP	Office of Federal Contract Compliance Programs, Department of Labor
US	United States
OSD	Office of Secretary of Defense
OUSDA(A&T)	Office of the Undersecretary of Defense for Acquisition and Technology
OUSDA/DP	Office of the Undersecretary of Defense for Acquisition/Director of Procurement
OUSDA/DP(DAR)	Office of the Undersecretary of Defense for Acquisition/Director of Procurement (Defense Acquisition Regulations)
PAT	Process Action Team
PCO	Procuring Contracting Officer
PM	Project Manager
PR	Procurement Request
R&M	Reliability and Maintainability
RFP	Request for Proposal
SAT	Simplified Acquisition Threshold
SBA	Small Business Administration
SOW	Statement of Work
TINA	Truth in Negotiation Act
USD(A&T)	Undersecretary of Defense for Acquisition and Technology
USC	United States Code

APPENDIX B

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DRAFT MEMORANDUM

MEMORANDUM FOR Secretaries of the Military Departments
 Comptroller of the Department of Defense
 General Counsel of the Department of Defense
 Inspector General of the Department of Defense
 Director, Defense Logistics Agency
 Director, Defense Procurement
 President, Defense Acquisition University
 Director, DCAA

REF: (a) Process Action Team Report on the Sole Source Procurement Process

SUBJECT: Teaming In a Sole Source Procurement

ENCL: (1) Teaming in the Sole Source Environment
 (2) Measuring the Impact of Teaming

In October 1994, this office created process action teams on the Procurement Process, as an effort to reform the acquisition process within the Department of Defense. The teams were tasked with the responsibility of recommending ways to re-engineer and improve the process. In accomplishing this task, it became clear that great benefit can be gained through a teaming concept in the sole source arena. As discussed in Reference (a), the teaming concept and its flexible degrees of implementation, permits all parties involved to use their resources more effectively, resulting in improved acquisitions. Enclosure (1) describes the benefits of teaming throughout the process. This information shall be made available to all buying commands. It is in the best interest of the Department of Defense to pursue, educate and implement the teaming concept as soon as possible. In the pursuit of this goal, sole source teaming lead projects will be established, implemented and reviewed.

All military departments and defense agencies shall identify a minimum of three lead projects, each with a value of no less than \$10 million, and utilize teaming as follows:

- (a) Project One - full teaming (contractor and all interested government parties)
- (b) Project Two - limited teaming (teaming within the government only)
- (c) Project Three - no teaming, process as usual

Projects of more than \$10M for all three categories is preferred. However, if that is not possible, projects of lesser value may be selected. Each military department and defense agency is responsible for establishing and implementing the procedure for accomplishing this task.

All military departments and defense agencies have six months to identify, and an additional six months to implement the teaming lead projects. Summary results of the lead projects must be submitted to this office at the conclusion of the projects, defined as contract award. The results must address the following topics. The summary results must employ the measurement metrics parameters established in Enclosure (2).

- (a) Criteria for Project Selection
- (b) Implementation Procedures
- (c) Measurement Methodology
- (d) Results
- (e) Conclusions Reached
- (f) Recommendations/Lessons Learned

In addition, post-contract yearly reporting will be submitted, detailing any visible administrative benefits from teaming.

Signature Block

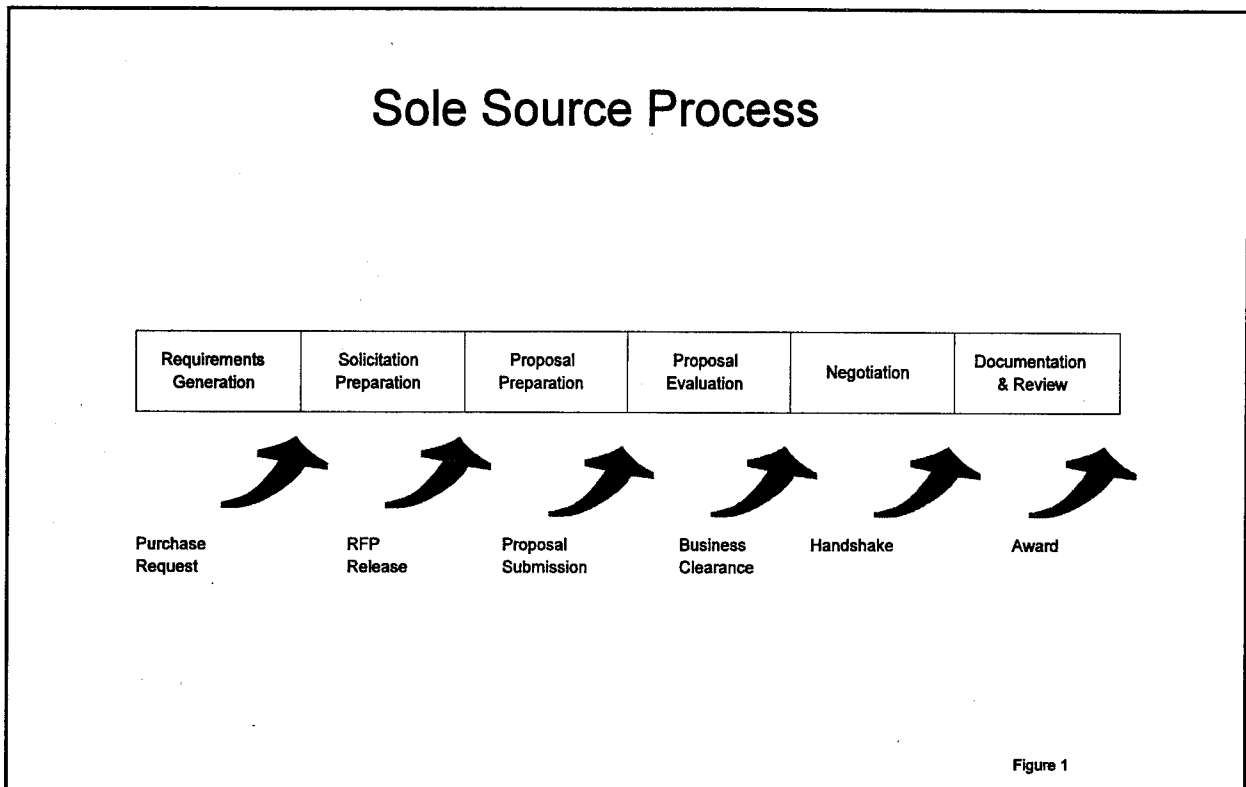
Recommendation 1A

TEAMING IN THE SOLE SOURCE ENVIRONMENT

DISCUSSION AND BACKGROUND

The current sole source procurement process is based upon distrust and arises out of a fear that the government will be harmed if it trusts its sole source contractors and reveals what it knows about its procurements that those contractors do not know. In some cases that fear may be justified by the realities of the situation, but in other cases the fear may be entirely unsupported by the facts. Establishing an alternative approach for sole source procurements provides flexibility and opportunity in a process currently thought of as "worst case" contracting. In an attempt to improve sole source procurements a Process Action Team (PAT) looked at the current procedures and concluded that the process could be improved by implementing teaming. Teaming encompasses the involvement of the major parties in the process, i.e., User, Program Manager, Logisticians, Engineers, Procuring Contracting Officer (PCO), Defense Contract Audit Agency (DCAA), cognizant Defense Contract Management Command (DCMD) Office, and the Contractor.

The sole source procurement process is portrayed in Figure 1. In practice the lines separating the six phases are much less distinct than the picture implies, and a subsequent phase may actually begin before the preceding phase is fully completed. But, generally speaking, the idea that each phase is currently conducted largely in isolation from the preceding phases(s) and that the participants within each phase do not include the full range of people involved in the award of a sole source contract is an accurate depiction. It is precisely this phenomenon, people working in isolation from others who might have offered considerable assistance, that the sole source procurement PAT team identified as the underlying causal problem with the current process.



The following is a discussion of the benefits of teaming in each of the six phases.

Requirements Generation Phase

Contractor involvement in this phase would provide an understanding of the user's needs and perhaps provide the user with alternatives. Contractor involvement during the requirements development process (development of SOW, specifications, drawings, data requirements, support requirements, test requirements, etc.) would provide the program management staff with a whole new perspective throughout the process. The contractor will provide insight on the manufacturing and producibility aspects of the process as well as gaining a better understanding of the requirements; thus, significantly reducing the manufacturing and producibility problems which plague early product development. This interaction would also greatly reduce the time required for evaluation of the proposal. Involvement of the PCO would provide a better understanding of the requirement and permit identification of information required to develop contract line items/subline items for the contract, as well as identification of any special provisions that may need to be developed. This would result in reduction of time required for development of the contract. Further reduction of time can be realized through the use of electronic media to transmit the requirements documentation and the use of video teleconferencing technology would save time and would permit

PM/PCO/DCMC/DCAA/Contractor personnel to work together from their own facilities. This would reduce the amount of time personnel would be required to travel and work outside their offices. This electronic capability should be used throughout the process to the extent practicable.

While the total manpower requirements may be the same without teaming, those requirements are spread over the entire sole source procurement process. With teaming, there would be extensive up front (requirements generation/proposal preparation) involvement, but reduced requirements in the later phases of the process.

Solicitation Phase

A benefit of full teaming to this point is the ability to use letter solicitations in lieu of formal solicitations. Because of the involvement of the performer in the requirements definition phase, the SOW/specifications would be more thorough; therefore, eliminating the need for the lengthy process of issuing draft solicitations and reworking the RFP. The letter solicitation would have as attachments the SOW, specifications, drawings, data requirements list, and applicable clauses and provisions. The letter would request submission of a proposal and would also provide identification of contract line items and delivery requirements.

Transmission of the "PR Package" to the PCO and transmission of the solicitation to the contractor should be through electronic media, to the maximum extent practicable.

Contractor Proposal Preparation Phase

Government involvement in this phase would positively influence the remainder of the process. The involvement of DCAA/DCMC personnel during the development of the cost proposal would identify any areas that needed more supporting data and highlight those areas that require discussion between the contractor, DCAA/DCMC, and the PCO. These areas could be resolved during this phase of the process. Involvement of the program management staff would better ensure the contractor's approach to meeting the requirements of the SOW is adequate. The formal proposal would then reflect data that had been reviewed at some level by government personnel and should significantly reduce time in both the evaluation and negotiation phases.

Consideration should be given to the use of a Memorandum of Understanding (MOU) that would be signed by representatives of the contractor and the government. The purpose of the memorandum is to reflect the understanding as of a point in time, and it is not in any way to be considered a legal binding document. For instance, it could identify those areas wherein agreement was reached and which would not be a matter of further negotiation and would thereby reduce the time required for proposal evaluation and negotiation in the event these were still required. This approach can be effective only if the personnel working the project are trusted and empowered to make judgments, based on their intimate knowledge of the

procurement at hand. This empowerment process would be required of both government and contractor management. If employees are empowered to make judgments and come to agreement on cost/price details, technical areas, and provisions, the MOU would replace the pre-negotiation business clearance memorandum.

In this phase, as in the requirements generation phase, information should be transmitted through electronic media to all parties involved. If government personnel are not teamed with the contractor in this phase, initial estimates can be electronically transmitted to DCAA so that their review can be started before submission of the formal proposal. If all parties are teaming, use of electronic media would permit the participants to work more from their offices.

Proposal Evaluation Phase

The process of evaluation of the proposal changes significantly with the early involvement of all parties to the process. Any evaluation still required would probably be a review of the formal proposal to validate the joint efforts of the parties. This interaction could, at best, eliminate the need for a formal technical evaluation. At the least, the result would be a substantial reduction in the time for the evaluation phase. The evaluation phase would essentially be the preparation of the appropriate business clearance memorandum. There might not be a need for the classic pre-negotiation/post-negotiation business clearance memoranda when full teaming exists. If, as a result of the involvement of government personnel in the proposal preparation, agreement was reached on all matters, a Memorandum of Record could be prepared which documents what happened through the various phases of the process. The MOU would be attached to the MOR. This would serve as the post-negotiation business clearance memorandum and would be provided to government management as a means of keeping them informed of the agreement reached.

In those instances when you might use limited teaming, the process is impacted positively by teaming of government personnel in the evaluation phase. This would result in a unified evaluation report and pre-negotiation position.

Negotiation Phase

With the implementation of a teaming arrangement in all phases, all items pertinent to the procurement would have been discussed and may be fully agreed upon during the definition of the requirement, request for proposal, and preparation of the proposal. In this case, there would be no need for negotiations. The MOU could be used to document the entire process and would replace both the pre-and post-negotiation business clearance memoranda. In other cases, there may be a need for further negotiation of items that could not be resolved. In such cases, there should not be a requirement for the standard pre-and post-negotiation clearances. An MOR could be used in this circumstance to delineate the decisions made after negotiations are completed.

If teaming with the contractor was not employed in the early phases, teaming of the government personnel in all phases would still have a positive impact on the negotiation process. The position would be unified and the government would have a stronger position at the negotiation table. Even though negotiating in a sole source environment is viewed as placing the government at a disadvantage, the unified position would give the government personnel more leverage in achieving their negotiation objectives. In this environment, employees should be empowered to exercise independent judgment and come to agreement on pertinent contract terms.

Documentation/Review Phase

Since, in a teaming approach the MOR could be used to delineate the results of negotiations, there would no longer be a requirement for review and approval of a post-negotiation business clearance. The documentation and review phases would be considerably shortened.

The use of electronic media in this phase would save time by providing for electronic review of completed documentation, including fiscal commitment; electronic transmission of contract documents for signature; and electronic transmission of copies of signed contracts to the distribution list.

When we look at the process as a whole, the benefits of teaming, full or limited, are readily discerned. Full teaming could change the perception of government parties that they are at a considerable disadvantage in sole source situations. The government personnel would be more knowledgeable about the contractor's technical and cost positions and the methodology used would be apparent. The government's position also is improved by limited teaming only among government participants. The understanding of the requirements and the contractor's proposal is enhanced when government personnel work together through these phases. The result is a unified understanding and a much stronger position at the negotiation table.

TO TEAM OR NOT TO TEAM

One of the chief benefits to be derived from a teaming approach is the enhanced understanding of the requirement and the approach to satisfying that requirement on the parts of all team participants. The first question regarding the extent of teaming, once the decision to use a teaming approach has been made, is the extent of government teaming appropriate to the particular procurement; not all procurements, for example, will need to involve extensive participation by the contract administration/audit organizations. But once the decision regarding the extent of government teaming has been made, the issue of contractor participation must still be addressed. Some rough guidelines for these decisions are suggested below. The government must be mindful, however, that there are various levels of contractor team participation as well as levels of government participation and that greater subcontractor participation on the government/contractor team may provide all parties with still greater insight into the details of the procurement, including an improved understanding of the basis of the

likely cost of the acquisition. Having said this, the parties must also remember that a larger team will usually require additional government and prime contractor resources.

A contractor's past performance cannot determine whether or not the government will contract with it when that contractor is the only available source of the supply or service. *How* the government will contract with that contractor, however, and *what kind of working relationship* will result from that contract, should be a function of that contractor's past performance, to include the status and quality of that contractor's purchasing system, property management system, estimating system, and all other systems that bear upon the quality and cost of the contractor's performance. A superior past performance record, coupled with validated systems designed to ensure good program management and the protection of the government's interests, provide an objective basis for establishing a relationship of trust and cooperation between the parties, rather than the more traditional adversarial relationship that too often characterizes government - contractor dealings.

When the government contemplates contracting on a sole source basis with a contractor whose past performance and systems status provide a basis for trust, the government should consciously seek to establish a teaming arrangement. On the other hand, when a contractor's past performance and/or systems status suggest that the government should seek to protect its interests through formal contractual mechanisms, a teaming approach with the contractor may not be appropriate. In those cases, the contracting officer and program manager should not jeopardize the government's interests by adopting a fully open or teaming approach, but should instead "team" with the contractor only to the extent that the government's interests remain protected.

The decision regarding teaming is ultimately a matter of judgment and cannot be strictly prescribed on the basis of a pre-established set of criteria. The very idea of a dual-tracked approach to contracting on a sole source basis is premised upon a commitment to providing acquisition personnel an appropriate amount of flexibility in doing their jobs and then trusting them to use that flexibility wisely. This memorandum, then, does not presume to dictate the circumstances in which teaming should or should not be employed. In addition, and as noted above, I recognize that there will be degrees of teaming, both within the government and between the government and contractors, depending upon the circumstances of the procurement.

Having said this, there are several questions, some of which are implied in the comments above, that may serve to guide the program/project officer and contracting officer in making their decision(s) regarding teaming:

1. Does this particular procurement warrant teaming?
 - (a) Although teaming can, and under certain conditions almost certainly will, reduce the overall acquisition cycle time and program costs, teaming does require an "up-front" investment of resources by all organizations intending to

function as team members. The absence of managements' willingness to dedicate adequate resources during the teaming period will preclude effective teaming.

(b) Not all procurements require teaming to be done well. Purchases of commercial items, for example, particularly those that are relatively uncomplicated and of a small dollar value, are not likely to substantially benefit from teaming efforts. When the expected payoff from teaming is negligible, don't team.

2. Is the contractor interested in a teaming approach?

(a) Although teaming, when the circumstances warrant it, will provide the parties with vastly improved communications and understanding, teaming requires all parties to let down their guard and trust all the members of the team to act in the best interest of the team in accomplishing its goal. Some contractors (and some government personnel) may not be willing to divulge the normally "close-hold" data to all team members to the extent full teaming requires. If that is the case, don't team.

(b) If the government will not team with the contractor for any reason, but the procurement warrants the maximum teaming possible and the government is prepared to commit the resources as discussed above, the opportunity for government teaming still exists.

3. Does the contractor's past performance suggest that teaming might work?

(a) The answer to this question provides the first of a two-part basis for establishing a relationship of trust between the parties. Ultimately, of course, trust will depend upon the actions of each member of the team. But initially the government must have some basis for believing that a particular contractor is trustworthy, worth the initial trust investment. Few indicators provide a more solid basis for that first step than a contractor's past performance.

(b) Although no service or agency in DoD currently has a fully functioning past performance collection/dissemination system in place, greater reliance on past performance in the future in connection with competitive acquisitions is, at this point, a given. The question is not whether the government will use past performance in the future, but how and to what extent we will use it. The establishment of one or more past performance systems is, then, only a matter of time; DoD should therefore take steps to maximize the utility of the systems we are about to establish, including the use of those systems and the data collected in connection with sole source procurements.

4. Are the contractor's purchasing system, accounting system, compensation system, property/material management system, estimating system, and cost/schedule management system approved?

(a) Each of the identified systems refers to a set of controls imposed by a contractor on various processes related to its business. Within the upper and lower control limits of a stability chart, variations from the mean are, by definition, acceptable. When the contractor's systems are approved, the government's interests are protected because the variations in the system are relatively minor and fall within the bounds of acceptability. These approved systems, and the implied protection of government interests that the approvals entail, provide the second part of the two-part basis of initial trust in a contractor. In effect, we trust the status of the various systems to tell us when we can trust the people we plan to deal with.

5. Can you trust the specific individuals with whom you will be working?

(a) This question will inevitably be asked, but it is placed last because although it may be the most obvious of this series of questions, it is perhaps the least relevant of the series as well. In the first place, the answer to this question will be, by far, the most subjective of all the answers provided. The dynamics of personalities, for example, will color this answer in a way that will be difficult to separate from all other considerations. Dislike does not mean and should not be equated to distrust, but it will often be difficult to distinguish between the two. In addition, all previous relations have been structured by a system premised upon distrust of the opposite party, and, therefore, the behaviors of the system's participants must reflect those premises to some extent. How people will behave in a context of mutual trust can be finally determined only by their actions in that context. Nevertheless, the question must be asked. Once asked, however, the questioner should be mindful of the obstacles to reaching an accurate response and should frequently be prepared to rely on the answers to questions three and four as better guides.

(b) The second consideration in connection with this question is its applicability to relations within the government team. Many of the participants on such a team will have worked "together" in the past only infrequently. And on at least some of those occasions, the outcome of the efforts may have been strong feelings of dislike and even distrust, as some participants may have placed parochial interests above those of the larger group or government as a whole. All of the considerations mentioned above, however, are equally applicable to these relations as well. A willingness to trust other government team members should be the starting point for a teaming arrangement and should continue to govern the relationship until one of the members gives the other(s) a reason to adopt a different view.

Teaming should not be seen as an all or nothing concept. If there is reason to deal with the contractors in the classic "arm's length" environment, the teaming would be limited to government personnel. The current environment is one wherein no one trusts anyone else. If the teaming approach accomplishes nothing more than promoting trust and communication

between the various government players, substantial improvement in terms of quality and cycle time are likely to be achieved.

MEASURING THE IMPACT OF TEAMING

To ensure consistency among all military departments and defense agencies in measuring the impact of teaming on the sole source procurement process, the following guidelines are established.

- Measure the impact of teaming on the sole source procurement process using the lead projects at each department/agency to establish data to be measured. Suggested elements to be measured are:

- Administrative lead time (requirements generation through award)
 - Process time
 - Number and value of contract changes
 - Percentage of Overrun Costs
 - Customer Satisfaction - User, Program Manager, Contracting Officer, Contractor (Survey)

- Measure effect of cost/schedule performance data on program schedule and final cost.

All lead projects would be processed after implementation of FASTA requirements. Each department/agency will process three projects: full teaming, government only teaming, and no teaming. At least one of the projects should require CPR data. Comparison of the administrative lead time for these three scenarios will clearly demonstrate the effect of teaming on the sole source procurement process.

Enclosure (2)

DRAFT MEMORANDUM

MEMORANDUM FOR Secretaries of the Military Departments
 Directors of the Defense Agencies
 President, Defense Acquisition University

SUBJECT: Use of Letter Solicitations in Sole Source Procurements

In October 1994, the Office of the Under Secretary of Defense created process action teams within the Department of Defense as an effort to re-engineer and improve the procurement process. In accomplishing this task, it became clear that the use of letter solicitations reduces the cycle time expended in drafting formal solicitations. It is in the best interest of the Department of Defense to pursue, educate and implement the use of letter solicitations.

All military departments and defense agencies are directed to issue policy guidance, within ninety (90) days, in the use of letter solicitations versus formal solicitations in sole source procurements to the maximum practicable extent.

Signature Block

Recommendation 1C

DRAFT MEMORANDUM

MEMORANDUM FOR Secretaries of the Military Departments
 Directors of the Defense Agencies
 President, Defense Acquisition University

SUBJECT: Streamlining the Business Clearance Memorandum Process
 in Teaming Situations for Sole Source Procurements

REFERENCE: (a) Report of the Procurement Process Action Team

In October 1994, the Office of the Under Secretary of Defense created process action teams within the Department of Defense as an effort to re-engineer and improve the procurement process. The team that studied the sole source procurement process recommended alternative methods for handling those procurements. Use of teaming throughout the process provides the opportunity for streamlining the Business Clearance Memorandum process. When government and contractor personnel work together from the beginning of the process, both sides have a better understanding of the requirement and the cost of satisfying the requirements. Decisions regarding acceptability of costs and other matters can be made as the team is working through the process. It is in the best interest of the Department of Defense to implement a streamlined Business Clearance Memorandum process as soon as practicable.

The following summarizes the recommendations concerning this process:

A Memorandum of Understanding (MOU) would be used in lieu of a Pre-Negotiation Business Clearance Memorandum. This MOU would reflect the understanding of the parties concerning the technical and cost matters discussed during the process. It would identify areas wherein agreement was reached and which would not be a matter of further negotiation thereby reducing time for evaluation and negotiation, in the event these were still required. The MOU would be signed by the representatives of the contractor and the government.

If, as a result of involvement of government personnel in the proposal preparation, agreement was reached on all matters, a Memorandum of Record (MOR) could be prepared which documents what happened through the various phases of the process. The MOU would become an attachment to the MOR. This would serve as the post-negotiation business clearance memorandum and would be provided to government management as a means of keeping them informed of the agreement reached.

All military departments and defense agencies are directed to issue policy guidance within ninety days to empower personnel working in a teaming environment to streamline the Business Clearance Memorandum consistent with the recommendations in reference (a).

Signature Block

Recommendation 1D

DRAFT MEMORANDUM

MEMORANDUM FOR Service Acquisition Executives
 Director, Defense Logistics Agency

SUBJECT: Earlier Processing of J&As

1. In concert with recent DoD initiatives in procurement reform, each of the Military Departments and DLA is requested to review existing guidance on J&A processing to ensure unnecessary delays in obtaining approval are not being employed. This advance notice is provided for your action and is effective immediately on all other than full and open competition efforts where a J&A is in use.
2. Statutory and Federal policies do not require approval of acquisition documentation before obtaining approval of J&As. J&As should be processed simultaneous with acquisition documentation to allow for a teaming arrangement between the major parties earlier in the process, reducing the length of the procurement cycle.
3. Procurement Commands are encouraged to process J&As simultaneous with acquisition documentation on all new sole source procurement actions.

Signature Block

Recommendation 3B

DRAFT MEMORANDUM

MEMORANDUM FOR Service Acquisition Executives
Director, Defense Logistics Agency

SUBJECT: Class Justification and Approvals (J&As)

1. In concert with recent DoD initiatives in procurement reform, each of the Military Departments and DLA is requested to review existing guidance on class J&As to ensure unnecessary time constraints are not being employed. This advance notice is provided for your action and is effective immediately on all sole source efforts where a class J&A is in use.
2. Statutory and Federal policies do not place constraints on the effectivity period of Class J&As. The benefits of not placing constraints on Class J&As are many. Class J&As for major and non major acquisitions could effectively reduce contracting support documentation within an acquisition phase, when multiple contracts are expected. In addition, class J&As could reduce contracting support documentation if the class J&A (if applicable) would remain in effect from Demonstration/Validation phase through Production/deployment.
3. Procurement Commands are directed to ensure this policy is in effect on all existing and new contracts with class J&As.

Signature Block

Recommendation 3C

DRAFT MEMORANDUM

MEMORANDUM FOR Service Acquisition Executives
 Director, Defense Logistics Agency

SUBJECT: Justification and Approvals (J&As)

1. In concert with recent DoD initiatives in procurement reform, each of the Military Services and DLA are requested to review existing guidance on approval of J&As to ensure unnecessary time constraints are not being employed. This advance notice is provided for your action and is effective immediately on all other than full and open competition efforts where a J&A is in use.
2. Title 10 U.S.C. § 2304 requires approval of the J&A before award of the contract. There is no statutory requirement on approval of the J&A before either issuance of the solicitation or commencement of negotiations. The only FAR/DFARS restriction beyond this is at FAR 6.303-1(a). Removal of agency policies requiring approval of the J&A before issuance of the solicitation will allow for earlier involvement of the major parties in the sole source process. Further it will allow the contracting officer to initiate the procurement cycle earlier and will provide the needed products to the user in a more timely manner.
3. Procurement Commands are directed to ensure this policy is in effect on all sole source new procurement actions.

Signature Block

Recommendation 3D

DRAFT MEMORANDUM

MEMORANDUM FOR Secretaries of the Military Departments
Directors of the Defense Agencies
President, Defense Acquisition University

SUBJECT: Prohibition on Restrictive Procurement Policy Guidance

In October 1994, the Office of the Under Secretary of Defense created process action teams within the Department of Defense in an effort to re-engineer and improve the procurement process. In accomplishing this task, it became clear that the agencies were implementing policies that extends cycle time. It is in the best interest of the Department of Defense to pursue, educate and implement processes that reduce cycle time and empower the workforce as soon as possible.

All military and defense agencies are instructed to incorporate into their respective service supplements to the FAR/DFARS the requirement that management(s) shall review the need to continue each existing review related to procurement on a biennial basis from the date of its initial establishment. In the absence of a determination of a continued requirement, documented in writing, the undocumented review shall be eliminated within three months of its anniversary date. To ensure consistent application of this policy, I am requesting that the DoD IG and the IGs of the Services and Defense Agencies, include a review of its implementation, as a part of the oversight reviews of contracting organizations.

All military departments and defense agencies are encouraged to implement policy that does not extend lead time, to delegate decisions to the lowest level and to impose requirements no more restrictive than that in FAR and DFARS.

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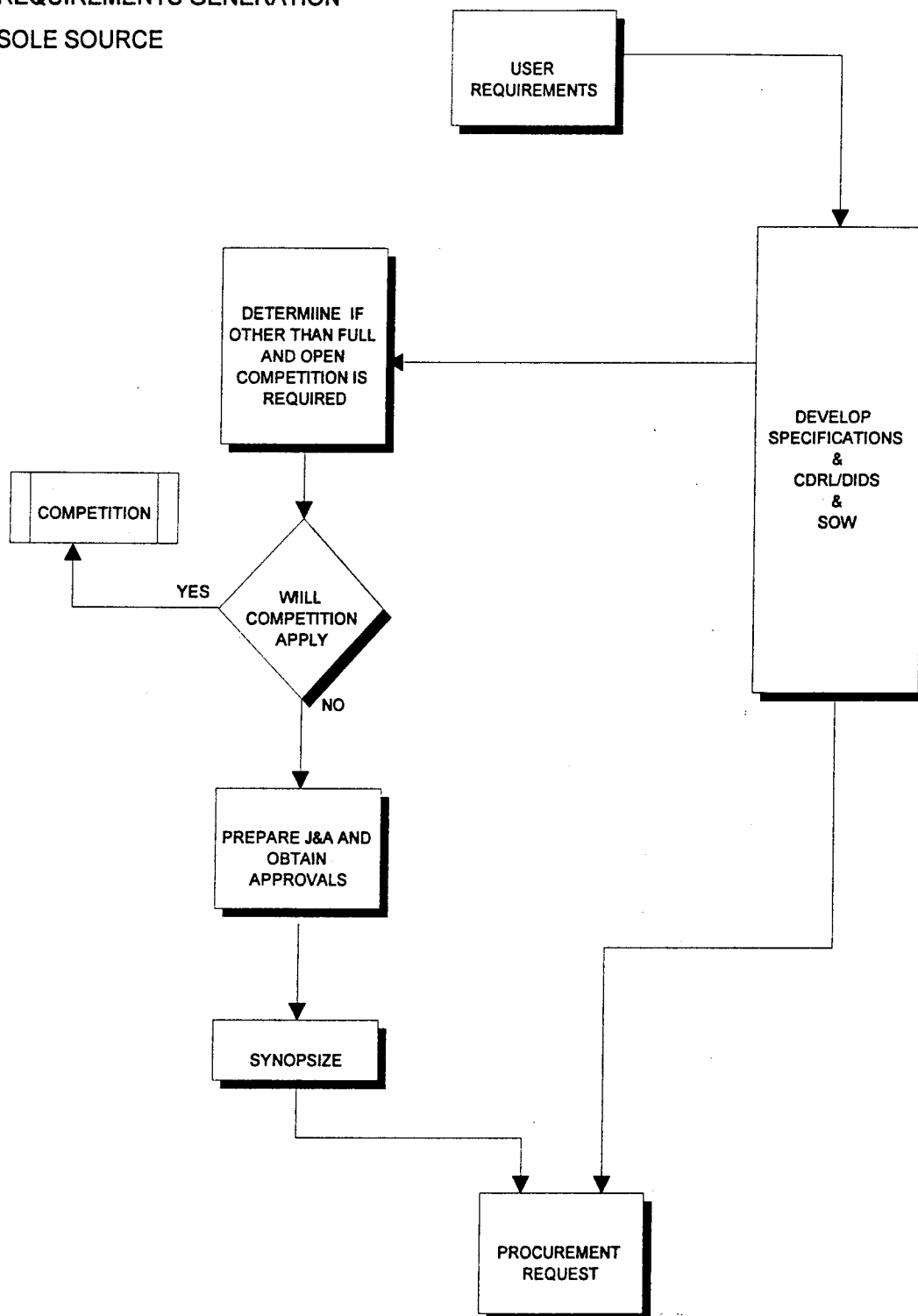
Recommendation 4

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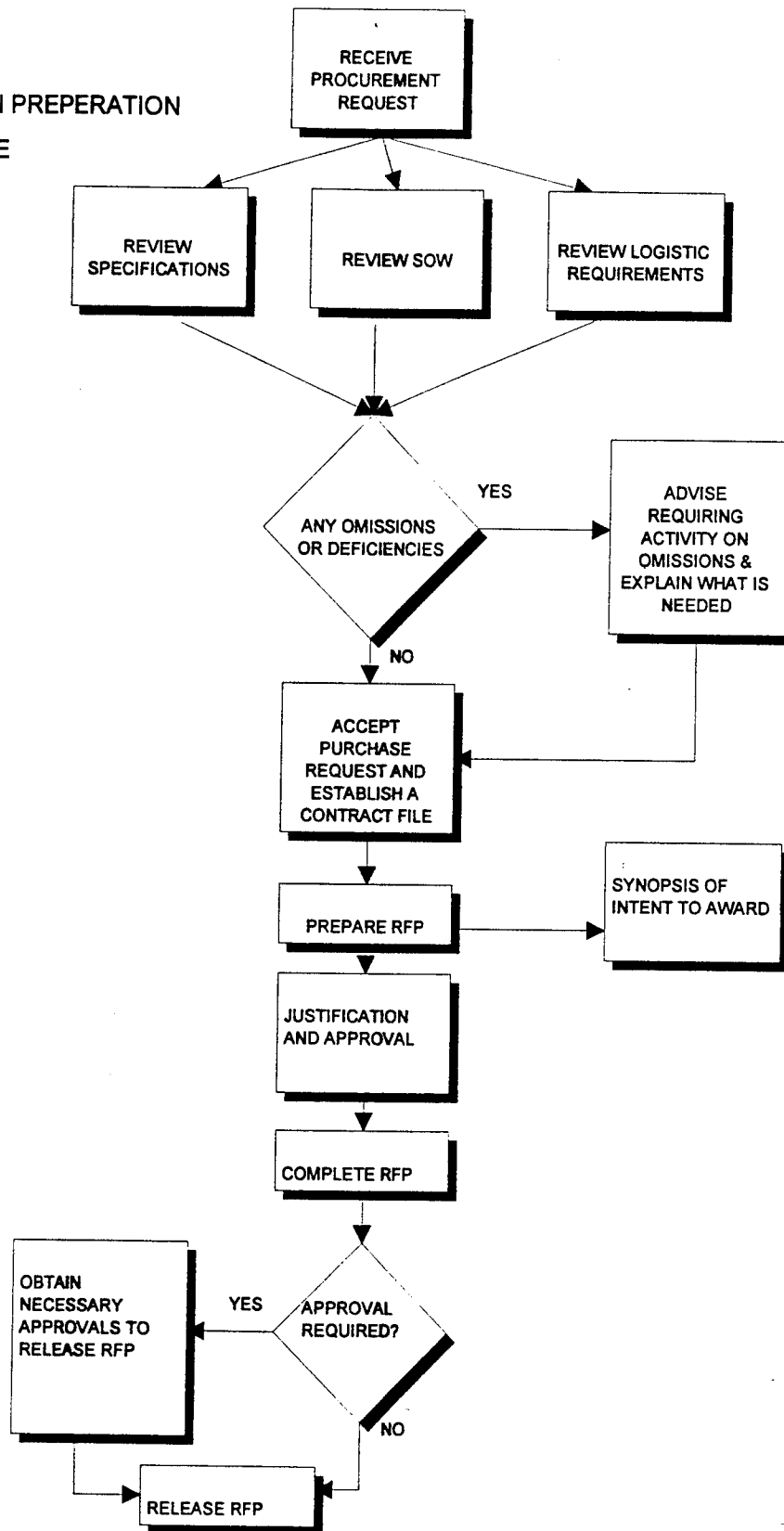
APPENDIX D: PROCUREMENT FLOW CHARTS

REQUIREMENTS GENERATION

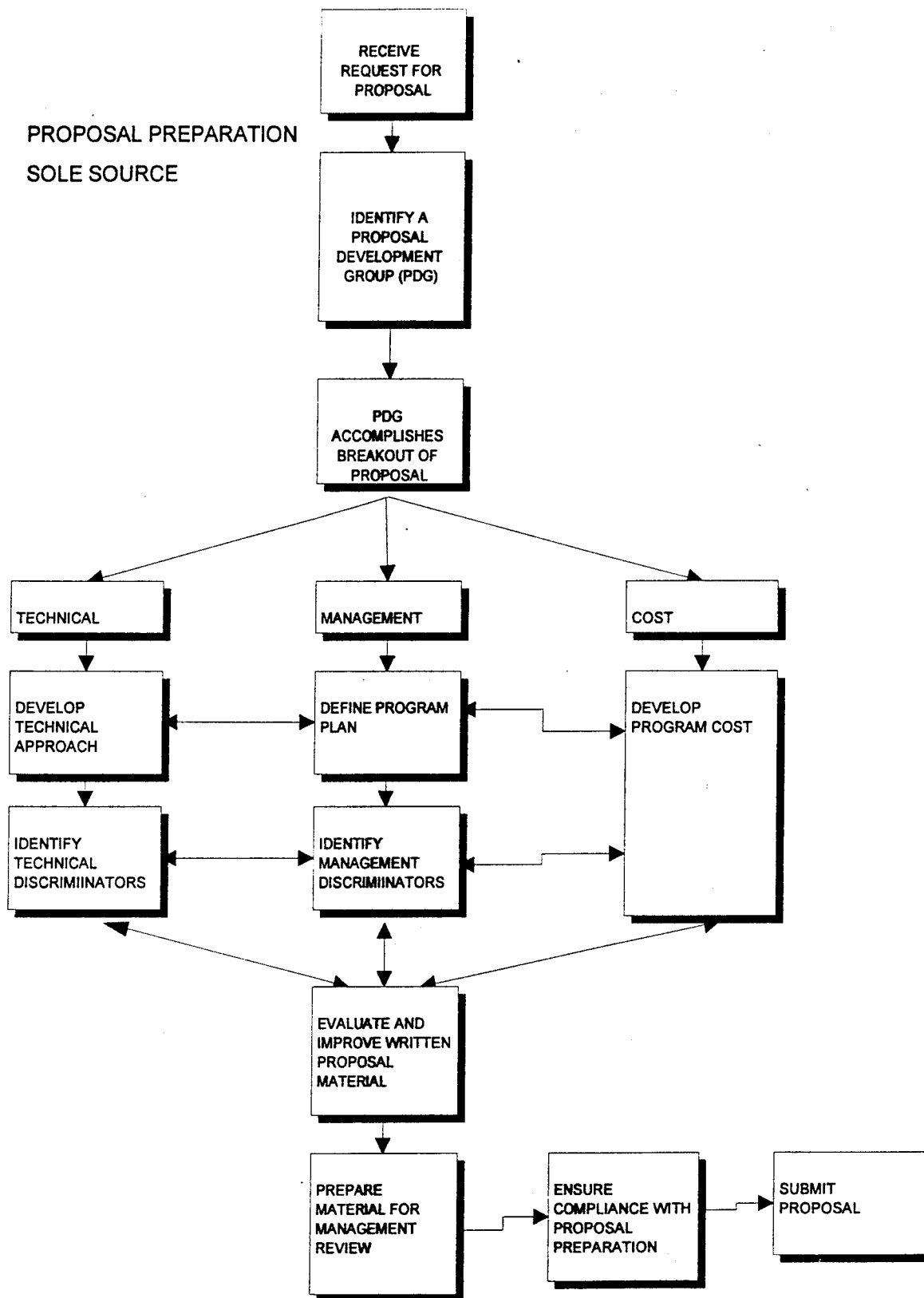
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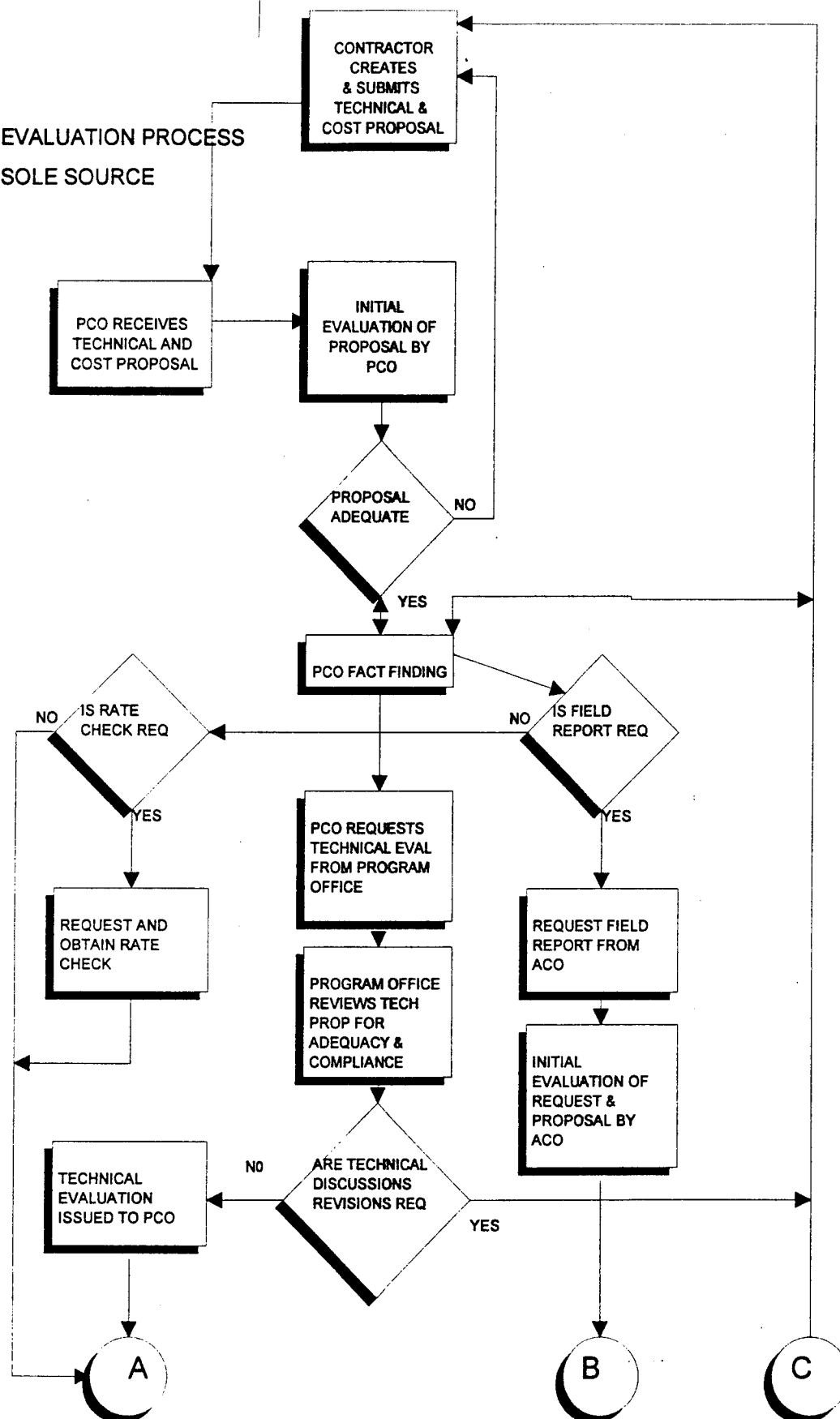
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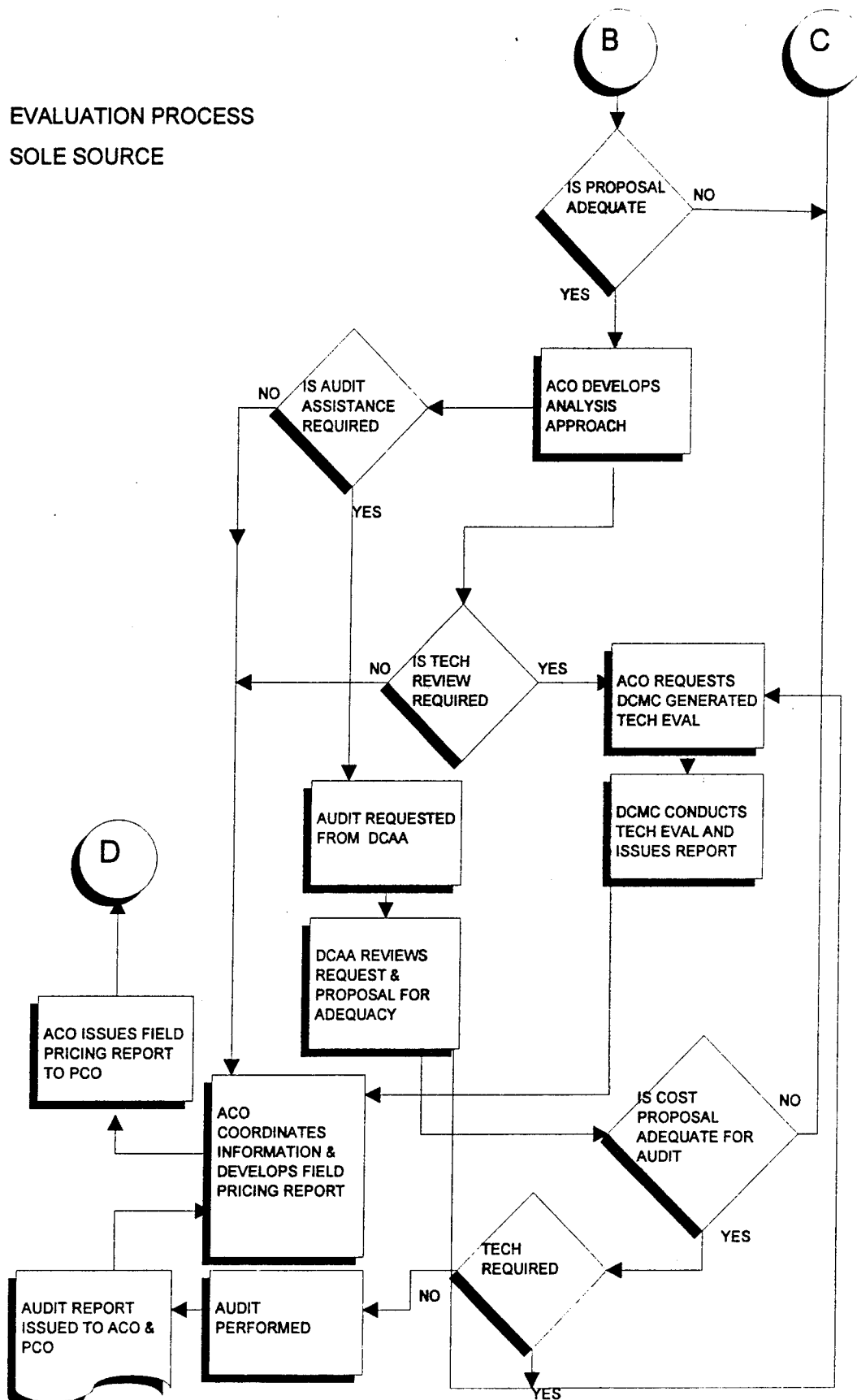
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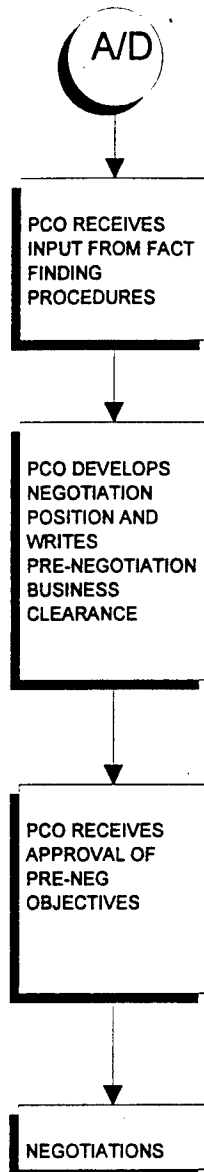
**EVALUATION PROCESS
SOLE SOURCE**



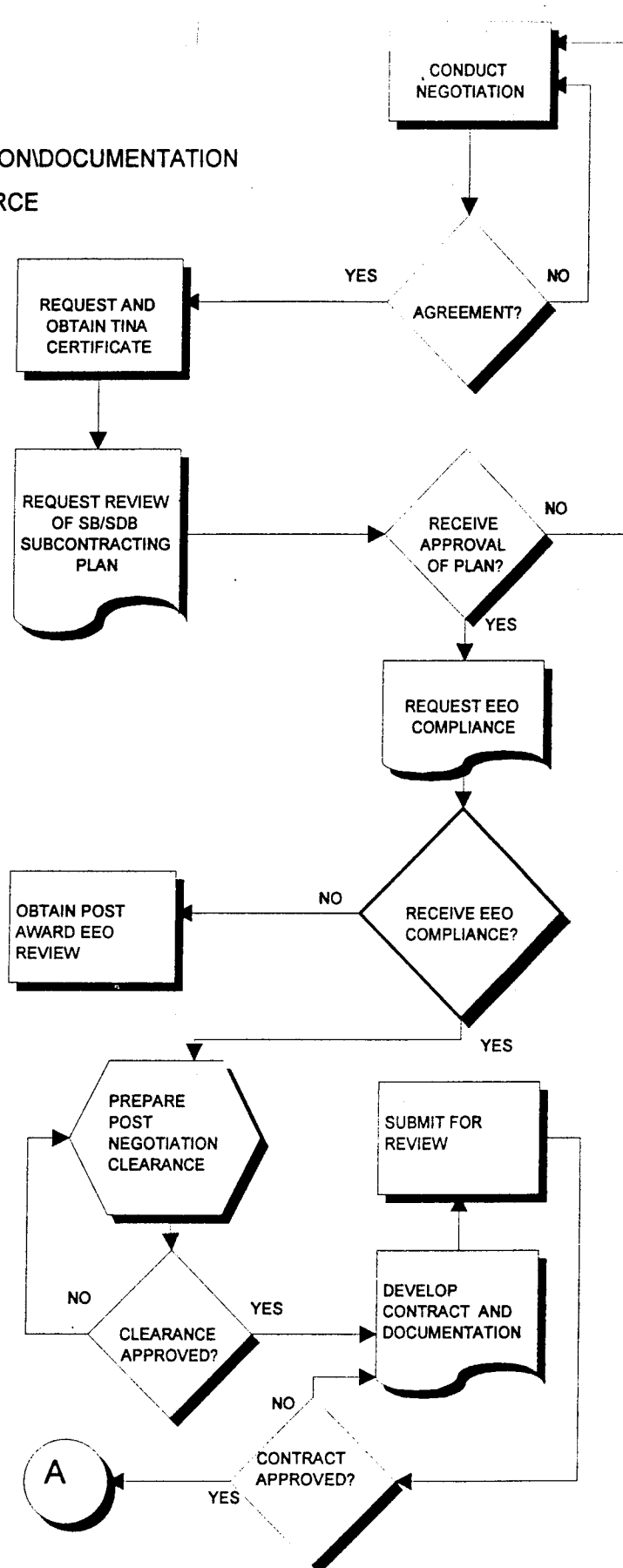
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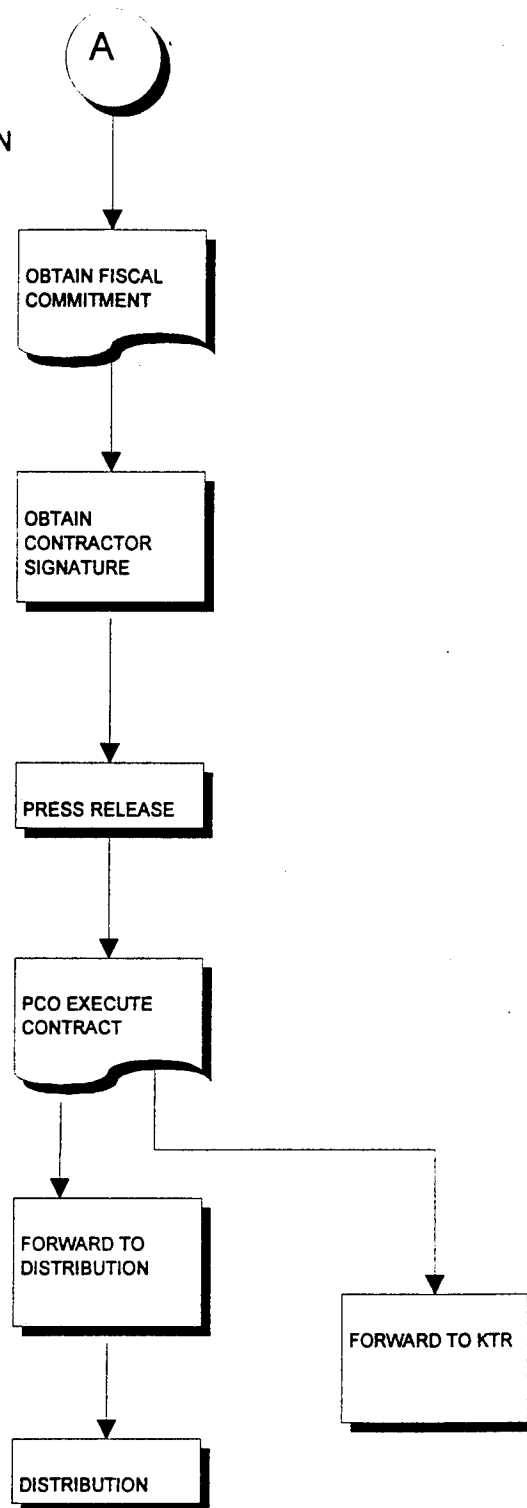
EVALUATION PROCESS
SOLE SOURCE



NEGOTIATION DOCUMENTATION
SOLE SOURCE



NEGOTIATION\DOCUMENTATION
SOLE SOURCE



Chapter Three

Competitive Procurement Process

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Introduction

The Charter

The Department of Defense (DoD) acquisition system is a complex web of laws, regulations, and policies, adopted for laudable reasons over many years. While each rule individually has (or had) a purpose for its adoption, and may be important to the process as a whole, the combined effect of all the rules is an overloaded system, divorced from good value and customer service, that is often paralyzed and ineffectual, and at best cumbersome and complex. In recognition of this, the Under Secretary of Defense for Acquisition and Technology (USD(A&T)) directed that a cross-functional Process Action Team (PAT) be formed, with a wide range of procurement experience and perspectives, to re-engineer and streamline the procurement process. The PAT was divided into three subteams with specific areas of focus; the language in the charter pertaining to the subteam focusing on the competitive process reads:

"Streamline the competitive source selection process. Reducing the cycle time on a repeatable basis is essential if DoD is to maximize the efficient use of scarce resources. An objective in this area is to provide assistance/guidance regarding the source selection process which will enable the users of this process to obtain its benefits in a more timely manner."

The PAT began its work on 17 October 1994, first defining the framework within which it would work and developing a statement regarding the PAT's **scope**:

The mission of the PAT is to examine DoD's current procurement process from the point of identification of a need by the requiring official through contract award, to include the debriefing and protest processes. The team's purpose is to re-engineer specific elements of the competitive source selection process to make it more efficient and effective and to ensure its timely responsiveness to customer needs.

The team developed a general model of how the current procurement process actually works and brainstormed a conceptual model of the "ideal" source selection process, which was the genesis of its recommendations, detailed in the following pages. The PAT's recommendations have undergone significant revisions--including additions and deletions--since its preliminary report.

Objective

The objective of the Competition subteam was to develop a comprehensive plan to re-engineer specific elements of the competitive procurement process to make it more efficient and effective, while balancing the nation's social and economic goals and ensuring the integrity of the process. Particular attention was focused on streamlining initiatives, continuous process improvement and customer satisfaction with regard to quality, timeliness, and cost.

Methodology

To arrive at recommendations for streamlining the Competitive Source Selection process, the PAT -

- first flow-charted in some detail a model of the current acquisition process, from the identification of a requirement to the award and defense of a contract,
- then imagined and described an "ideal" or unconstrained system, on a private-sector model,
- then added to the ideal model certain necessary public-sector and social-policy principles, and finally
- contrasted the two models to highlight areas where current procedures clearly deviate from good purchasing principles.

This conceptual framework yielded certain preliminary recommendations, which the PAT distributed to several key agencies and offices within the defense acquisition community. Based on the comments the PAT received on its draft report, several preliminary recommendations changed, or were clarified, deleted, or made more realistic and achievable. As a result, the final report is somewhat less "ideal" than the PAT's preliminary set of recommendations.

After some initial discussion the PAT made some key observations that shaped its overall analysis and helped form many of its recommendations:

- that the FAR and the DFARS are in many situations less rigid and constrained than agency practice;
- that many inefficient practices are not mandated by law or regulation at all but are simply conservative interpretations--wounds that risk-averse agencies inflict upon themselves; and
- that contracting offices are characterized by certain powerful "cultures" or biases that may need to be reversed in order to streamline contracting practice.

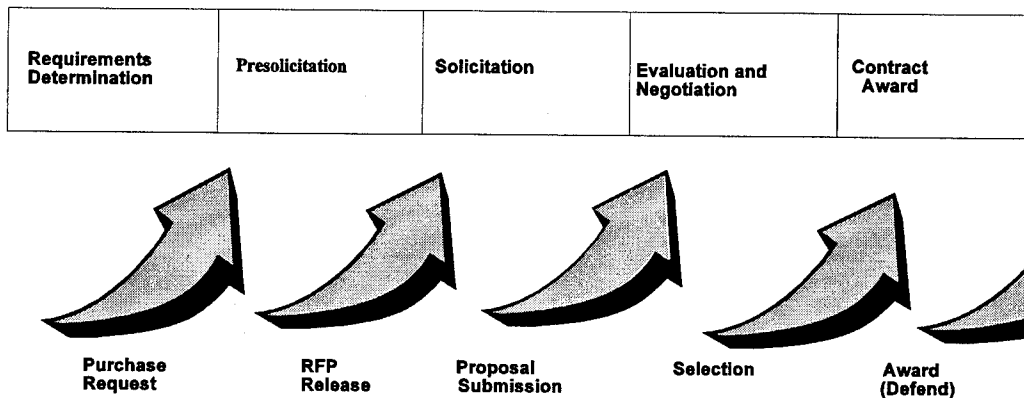
Over time, all organizations tend to develop risk-averse policies and behaviors and to establish controls over previously unconstrained practices. In this regard, the services, military agencies, and local contracting activities have themselves limited some of the contracting officer's decision-making flexibility otherwise left open in the regulations: local policy offices and legal counsel often contribute to this conservative tendency. Examples of this include the way some agencies have encouraged or required contracting officers to expand their competitive ranges as much as possible or have discouraged or prohibited contracting officers from awarding against initial offers. Accordingly, many of the PAT's recommendations are attempts to reform agency culture and heal "self-inflicted wounds."

The Current Competitive Source Selection Process:

The overall acquisition process, as viewed by the PAT, was primarily segmented into five different phases :

- **Requirements Determination,**
- **Presolicitation,**
- **Solicitation,**
- **Evaluation and Negotiation, and**
- **Award.**

Existing Competitive Procurement Process



Each of these phases is briefly described as follows:

Requirements Determination Phase: The process begins when an agency or person determines a need for a supply or service. The process varies considerably depending upon the complexity of the item required.

Presolicitation Phase: The process includes developing a statement of work and specifications; identifying needed data; determining delivery requirements; obtaining the proper approvals (not previously obtained under the requirements-determination phase); identifying funding; preparing an acquisition strategy and acquisition plan; preparing requirements for technical proposals and evaluation criteria; preparing written documentation, determinations,

and findings required by regulation; and conducting pre-solicitation conferences.

Solicitation Phase: The process includes synopsisizing and advertising, preparing the solicitation, referring to Counsel for legal review, issuing the solicitation, conducting preproposal conferences, and receiving offers.

Evaluation and Negotiations: The process includes evaluating the technical and cost/price aspects of initial proposals, determining the competitive range (if applicable), preparing and approving the pre-negotiation business clearance (or the clearance recommending award on initial offers, as applicable), conducting discussions, requesting revised proposals or Best and Final Offers (as applicable), reevaluating the proposals, determining contractor responsibility (and eligibility, if applicable), obtaining EEO compliance, approving the Small Business Subcontracting Plan (as applicable), preparing and approving the post-negotiation clearance, selecting the source, and notifying Congress (if applicable).

Contract Award: The process includes making the award, coordinating with the Small Business Administration (if the requirement was a competitive 8(a) acquisition), notifying unsuccessful offerors, debriefing unsuccessful offerors, and defending against any protests.

Imagining the Ideal System:

After describing to its satisfaction the competitive acquisition process in a generic but detailed framework, the PAT felt that it needed to find ways to help it imagine the process afresh--to "shift its paradigms," "think outside the box," and "re-engineer," in accordance with the charter. To do this, the PAT decided to brainstorm what it perceived to be an "ideal" buying process and to consider some of the freedoms that the private sector enjoys in its purchasing operations. Private businesses normally buy under powerful incentives to emphasize customer service and minimize total costs, which should be among DoD's objectives as well. The PAT determined that the hallmarks of the ideal system should be as follows:

- All purchasing actions would be approved at the lowest practical level in the organization and would not require reviews or concurrences from outside agencies with their own agendas--particularly agendas conflicting with best-value purchasing decisions.
- There would be a system in place--a complete database--that would guide customers, requirements personnel, and project managers (PMs) in preparing clear and complete Statements of Work (SOWs) and Purchase Requests (PRs) the first time, so that every PR would be workable as soon as it reached the buyer's desk.

- The PM and the PCO would decide on the appropriate number of sources to solicit and with whom to negotiate. The PCO would be free to limit competition to a reasonable number of offerors; limiting competition would be considered a rational business decision, taking into account the fact that administrative lead times constitute an important cost to the taxpayer that needs to be controlled. The whole acquisition process would emphasize the **best value** to the Government as the customer.
- Agencies would be free to fill requirements by use of options and long-term or multi-year contracts as much as possible. The total number of contracts would be reduced. The PCO would be free to add new requirements to existing contracts if doing so made good business sense. Long-term contractual relationships would be encouraged if they served legitimate Government interests.
- Agencies would be free to consider their requirements determinations flexible over the lives of procurements and of contracts. When requirements change in the middle of negotiations, the implementation of such changes would be done in such a way to avoid resolicitation and to minimize any delays in the negotiation and award processes. Procedures would allow for flexible competitive negotiations.
- PCOs would be freer in their use of negotiation tools. PCOs would be constrained only by good business judgment and effective negotiation technique in the type of information they would be free to disclose to competing offerors during negotiations.
- The process would be driven by certain "first principles" over other secondary goals: first principles would include the best use of taxpayer money, the best interests of the Government, ideal (very short) lead times, improved customer service and satisfaction, the best quality and value, and fairness to competitors (whenever competition is appropriate). The process would NOT be driven by a principle of maximum competition or maximum inclusiveness whenever such a principle would add unreasonable administrative costs or subvert an effective procurement system. The process would be based on the PCO's sense of "what it takes" to make a good buy, managing rather than avoiding risk.
- Protests, as we know them, would be eliminated, with their stay and remedy provisions and their ability to halt contract performance. Some other less-disruptive mechanisms would be devised to assure the system's fairness, integrity, and accountability to basic principles of good buying, and to prevent

abuses.

- Agencies would be free to cultivate their vendor/supplier bases.

In its final state, the PAT's report does not reflect all of these "ideal" features, aiming, as it does, for widespread support and achievability.

Social Policy Goals:

After describing an "ideal" procurement system based on a private-sector model, the PAT wanted to add to its model a number of fundamental principles that necessarily apply to Government buyers because they use public funds:

- The Government procurement system must adhere to the basic principles of integrity that apply to all good businesses but that especially apply to the public sector: in this regard the system -
 - needs to be fair and open and not arbitrary,
 - needs to address the fiduciary responsibility of the PCO to the taxpayer, and should preclude any fraud, waste, and abuse, and
 - needs to promote effective competition.
- In addition, there are certain social-policy goals that apply only to the Government that must be acknowledged and promoted, particularly the small-business and small-disadvantaged-business (SDB) goals.

RECOMMENDATIONS

The PAT developed recommendations within four of the five phases identified above. In addition, the PAT developed some general recommendations that apply to the system as a whole. The PAT's recommendations in this area are summarized in the following categories:

- General
- Requirements Determination
- Presolicitation
- Solicitation
- Evaluation and Negotiation
- Contract Award
- Other

As conclusions were being formulated and matched against the PAT's basic charter, a common theme began to emerge: i.e., a need to strike a balance between "**efficiency**" and "**fairness**" in the group's recommendations as they would affect the acquisition process. The charter objective, as stated previously, focused attention on "providing assistance/guidance . . . which will enable the **users** of this process to obtain its benefits in a more timely manner" As recommendations surfaced to improve the efficiency of the process for the users, it became apparent to the PAT that these could be construed by some as a limitation on the "fairness" objective in competitive source selections. The PAT believes, however, that it has addressed these concerns in its deliberations and in the discussions that follow.

GENERAL RECOMMENDATIONS

- **Recommendation 1** - Increased Threshold for Simplified Procedures for the Acquisition of Fungible Commodities
- **Recommendation 2** - Contractor Profile System

Recommendation - 1

The threshold for simplified "small-purchase" procedures should be raised to \$1 Million for the acquisition of a special class of commercial items identified as "fungible goods."

Discussion

Certain classes of commercial commodities are defined as "fungible goods," which are characterized by common industry standards and a high degree of product uniformity. Examples include steel, oil, wheat, sugar, and lumber. The private sector buys and sells fungible goods, even at very high dollar values, with very simplified procedures--over the phone, for the most part--because industry follows standard manufacturing and quality processes and because requirements definitions for such commodities allow for little ambiguity. Moreover, the prices of some fungible commodities (though not all) are highly volatile. Requirements for such commodities are often reduced to basic elements: specification, grade, quantity, dimensions, etc. The procedures that buyers in the private sector follow for such commodities at high dollar values are comparable to the "small-purchase" procedures described in FAR Part 13. Government buyers should be allowed similar latitude.

Truly **fungible** goods constitute a subset of the broader, more diverse class of products described as "commercial." Two simple examples should illustrate the distinction between fungibles and other commercial products. Software packages for personal computers--spreadsheets, for instance--are commercial but not fungible. All spreadsheets have certain features in common, but the products sold by the various software developers have unique, differentiating features, adding a necessary element of complexity to the purchasing process. A customer with a preference for LOTUS 1-2-3 or a requirement for a particular LOTUS feature may not be satisfied with EXCEL, or vice versa. Stainless steel plate, on the other hand, is fungible. A customer with a requirement for **three plates of corrosion-resistant steel, hot-rolled, commercial standard ASTM-A167, 0.250 inch thick, 48 inches wide, 144 inches long, class 310, condition A, finish 1 descaled**, would care primarily about the seller's price and delivery and the conformity of the delivered plates to the appropriate specification, but would probably not care about where the plates were rolled and cut.

In the Government, acquisition procedures and controls are currently determined by the absolute dollar value of the purchase, without consideration given to the inherent difficulty, complexity, or availability of the product or service being bought or the degree of competition or uniformity characterizing the relevant industry. This is a significant departure from commercial practice. **The PAT believes that dollar thresholds are the wrong criteria on which to base certain decisions on acquisition method**--that some buys over the current Simplified Acquisition Threshold (SAT) can be much simpler than other buys under the SAT, depending on the requirement and the commercial availability and standardization in the industry. **Government acquisition procedures should be determined to a much greater extent by the nature of the relevant product and industry.**

The PAT acknowledges that the Federal Acquisition Streamlining Act of 1994 (FASTA) has established a new SAT of \$100,000 and has mandated new streamlined procedures for buys under that threshold. However, FASTA also limits agencies from using such procedures over \$50,000 until the agency is Federal Acquisition Computer Network (FACNET) certified. FASTA also requires the FAR to prescribe clauses and procedures for commercial items that are consistent with "standard commercial practice," but it is not clear at this point how this change will be implemented. It is likely that, after implementation of FASTA, the Government will still be obliged to solicit and negotiate in writing or via electronic means for commercial items over the threshold. **The PAT believes that the provisions of FASTA do not go far enough for the acquisition of fungible goods. The PAT proposes that acquisition reform be expanded and extended for fungible goods and that the Government adopt truly commercial procedures, at higher dollar values, for buys of such commodities.**

Because of their uniformity from producer to producer, their well-established commercial standards and product descriptions, and their highly developed commercial distribution systems, truly fungible goods are the simplest commodities to purchase. Buyers of such products, both in the public and private sectors, specify a limited number of variables in their solicitations, while sellers typically specify only price and delivery in their offers. Because of this inherent simplicity, transactions in the private sector, regardless of dollar value, are conducted on the phone and confirmed by simple purchase orders. In the Government, on the other hand, all transactions over the SAT require the elaborate controls, procedures, timeframes, and contract vehicles specified in FAR Parts 6, 14 and 15, adding unnecessary administrative costs and long lead times to otherwise simple competitive purchase actions. For fungible commodities, the procedures in FAR Parts 6, 14 and 15 are truly non-value-added; rather, the procedures in FAR 13.106 would be sufficient--even in very large buys--to obtain effective competition "to ensure that the purchase is advantageous to the Government, price and other factors considered, including the administrative cost of the procurement."

Accordingly, high-dollar acquisitions of fungible commodities should be recategorized as simplified purchases and exempt from CICA and subcontracting-plan requirements. For such buys, PCOs should be free -

- not to prepare written acquisition plans;
- to solicit and negotiate in a manner consistent with commercial practice--including solicitation by telephone--as long as steps are taken to promote competition to the maximum practical extent I/A/W FAR 13.106, and to specify any reasonable deadline for the receipt of offers;
- not to synopsize requirements or publicize in the CBD as long as the Government's requirements are publicized via FACNET or otherwise posted electronically and available to the public;
- to simplify solicitation and purchase order documents to the maximum

- practicable extent, including, if the agency so desires, the incorporation of all provisions/clauses by reference to a Master Solicitation or Basic Agreement;
- to negotiate without elaborate documentation, negotiation memoranda, or business clearances;
- to revise requirements (or amend solicitations) orally or electronically; and
- to award with a purchase order or two-party purchase order.

Such acquisitions should still be subject to appropriate set-asides in accordance with FAR 13.105 and Part 19. To preclude any negative impact of this recommendation on small business **and specifically on small manufacturers**, the set-aside thresholds should remain substantially unchanged despite the recommended change in the threshold governing acquisition method. That is, if this recommendation is adopted and if simplified procedures are followed for acquisitions of fungible goods under \$1 Million, then -

- up to \$100,000, the small-business small-purchase set-aside should still apply, and procurements should continue to be reserved for small businesses offering domestic products;
- between \$100,000 and \$1 Million, whenever the conditions of FAR 19.502-2 apply (that is, when there are at least two viable small manufacturers in the relevant industry), simplified acquisitions for fungible goods should be reserved for small businesses offering the products of small businesses;
- when the conditions of FAR 19.502-2 do not apply, then the terms of the small-business small-purchase set-aside should apply;
- otherwise the acquisition would be unrestricted;
- partial set-asides would not apply to acquisitions of fungible goods because partial-set-aside procedures are inherently too complex to incorporate into simplified procedures.

Purchases of fungible commercial commodities are not extensive in relation to all of DoD purchases. Only limited numbers of contracting officers will need to be trained in these types of specialized acquisitions.

Resulting Effect

Benefits:

- Should reduce lead times for a broad class of contract actions.
- Would follow commercial practices.

Disadvantages/Risk-Management:

- **Impact on Competition:** An objection might be made that adoption of this recommendation would be detrimental to competition, since it would recategorize a significant number of high-dollar acquisitions as simplified purchases and exempt them from CICA under FAR 6.001(a).

Response: The PAT maintains that adoption of this recommendation would have little impact on the rate of real, effective competition on such buys. Contractors would not notice the change in terms of any diminished degree of access, but only in terms of the speed and rationality of the process and its similarity to the private-sector process with which they are already familiar. It is important to keep in mind that, today, in many industries and with many commercial commodities, the degree of competition on the Government's purchases of supplies is not limited by the number of solicitations that the buyers issue--or by anything, for that matter, that the Government does. Rather, the state of communications technology today, plus the large number of **bidders services** in the marketplace (i.e., businesses that specialize in buying the Government's current acquisition requirements data and selling and disseminating it in a very timely fashion to their small-business clients), ensures that the Government's requirements automatically receive very wide publicity, prior to any actions taken by the Government PCO.

DoD buyers for fungible commodities routinely receive more offers than they solicit.

Contracting Officers today find that they do not have to take any extraordinary actions to secure or ensure competition where -

- common industry standards exist,
- products in the marketplace are marked by a high degree of uniformity,
- commodities are widely available in the commercial marketplace,
- there are multiple offerors who can satisfy the Government's requirements,
- sellers are accustomed to submitting offers to their commercial customers in very short timeframes, and
- the state of technology and communications assures the wide publicity of the Government's acquisition requirements to interested concerns.

Consequently, exempting high-dollar buys of fungible commodities from the requirements of CICA will not negatively impact competition.

- **Performance Risk:** Unilateral purchase instruments--purchase orders--are inherently risky for the Government and do not ensure contractor performance. (Private-sector

buyers typically have much greater assurance of performance under simple purchase orders than the Government because of their freedom to blacklist any seller who provides less than optimal performance.) Large-dollar purchases of supplies, on the other hand, can represent critical Government requirements for which binding instruments are advisable. An objection can be made, therefore, that raising the threshold for simplified procedures increases the risk of poor performance and nonperformance on important contracts.

Response: If this recommendation is adopted, Contracting Officers should be encouraged to require the contractors' signed acceptance of high-dollar purchase orders and thus convert them to two-party purchase orders--which should add little administrative time to the overall process.

- **Applicability:** Agencies would need to exercise care in identifying true fungible commodities and industries for which simplified procedures are appropriate. Many commodities may **appear** to be standard and uniform, but may actually be characterized by a high degree of variability in critical product quality, for which simplified procedures would be highly risky and inappropriate. Moreover, different items within a single Federal Supply Class (FSC) or Standard Industrial Classification (SIC) can have different commercial or fungible characteristics.

Response: The determination to use simplified procedures for fungible goods should be made on an acquisition-by-acquisition basis, should be the PCO's responsibility, and should be based on market research and the PCO's knowledge of the relevant industry.

Implementation Plan

- The Deputy Under Secretary of Defense (Acquisition Reform) (DUSD(AR)) should refer this recommendation to the appropriate regulatory implementation team for FASTA to determine whether implementation can be accomplished as an extension of FASTA or whether further statutory relief is required in subsequent legislation.
- If further statutory relief is required, DUSD(AR) should draft the necessary proposed legislation, to include -
 - A workable definition of "fungible" commodities. The PAT proposes the following definition:

[For acquisitions of fungible commodities, when the contracting officer

determines that the supplies being bought are fungible and that the use of simplified procedures would be in the Government's best interest, special simplified procedures may be used [up to \$1 Million]. A "fungible" commodity is defined as a commercial commodity of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Fungible commodities are characterized by common industry standards, with little potential for ambiguity in item descriptions; fungible commodities are typically marked by high degrees of competition, availability, and product uniformity in the marketplace, which the private sector buys and sells, at high dollar values, with very simplified procedures and short timeframes. Commodities may be fungible even when manufacturers attempt artificial product differentiation by means of branding or packaging: flour, sugar, bananas, and motor oil, for example, remain fungible even though they are retailed to consumers under familiar brand names. Requirements for fungible commodities are often reduced to basic elements: specification, grade, quantity, dimensions, etc. "Fungible" commodities exclude items, commercial or noncommercial, that are significantly differentiated from producer to producer.]

- A specification that, for acquisitions of fungible goods up to \$1 million Contracting Officers may elect -
 - to solicit orally, as long as steps are taken to promote competition to the maximum practical extent in accordance with FAR 13.106, and to specify any reasonable deadline for the receipt of offers;
 - not to synopsise requirements or publicize in the CBD as long as the Government's requirements are publicized via FACNET or otherwise posted electronically and available to the public;
 - to award with a purchase order or two-party purchase order.
- The following *unique* small-business reservation/set-aside priority for acquisitions of fungible goods up to \$1 million:
 - up to \$100,000, the small-business small-purchase set-aside should still apply, and procurements should continue to be reserved for small businesses offering domestic products;
 - between \$100,000 and \$1 Million, whenever the conditions of FAR 19.502-2 apply (that is, when there are at least two viable small manufacturers in the relevant industry), simplified

acquisitions for fungible goods should be reserved for small businesses offering the products of small businesses;

- when the conditions of FAR 19.502-2 do not apply, then the terms of the small-business small-purchase set-aside should apply;
 - otherwise the acquisition would be unrestricted;
 - partial set-asides would not apply to acquisitions of fungible goods because partial-set-aside procedures are inherently too complex to incorporate into simplified procedures.
- After the necessary statutory changes, the Director, Defense Procurement, should refer the necessary regulatory changes to the DAR Council to process in accordance with standard procedures. Implementation of this recommendation would require numerous changes to the language in FAR Parts 5, 6, 13, 14, 15, and 19. Regulations would require a workable definition of "fungible" commodities, similar to that proposed below:

PART 13: SIMPLIFIED ACQUISITION PROCEDURES

13.101 Definitions

... ["Fungible Commodities" are defined as commercial commodities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Among the characteristics of fungible goods:

- (a) common industry standards exist;
- (b) there is little potential for ambiguity in item descriptions;
- (c) commodities are marked by high degrees of competition, availability, and product uniformity in the marketplace;
- (d) the private sector buys and sells such goods, at high dollar values, with very simplified procedures and short timeframes;
- (e) requirements for such commodities are often reduced to basic elements: specification, grade, quantity, dimensions, etc.;
- (f) "fungible" commodities exclude items, commercial or noncommercial, that are *significantly* differentiated from producer to producer; and
- (g) commodities may be fungible even when manufacturers attempt artificial product differentiation by means of branding or packaging: flour, sugar, bananas, and motor oil, for example, remain fungible even though they are retailed to consumers under familiar brand names.]

Milestones

- | | |
|----------------|--|
| Months 1 - 12 | The Deputy Under Secretary of Defense (Acquisition Reform) drafts and processes the recommended legislative changes. |
| Months 13 - 18 | The Director, Defense Procurement, refers the legislative change to the DAR Council, which processes in accordance with standard procedures. |

Metrics

- Benefits should be measured by comparing pre-implementation average PALT to post-implementation PALT for selected commodities/FSCs. Success would be determined if a clear reduction in lead-times can be attributed to the use of simplified procedures.
- Performance risk could also be measured by determining whether defaults, production (post-award) lead-times, and customer and depot complaints increase on acquisitions using the revised threshold. Likewise, the impact of adopting this recommendation on small business could be tested by measuring and comparing pre- and post-implementation data regarding awards to small business and awards for small-business material (two different measures).

Recommendation - 2

Preaward Surveys (PASs) should be discouraged whenever sufficient contractor data is available from commercial sources. Commercial supplier-profile reports should be expanded to include more information useful to Government buyers.

Discussion

DoD buyers should rely as much as possible on timely, commercial supplier-profile reports (such as the various products sold by Dun & Bradstreet Information Services (D&B) and its competitors) and reduce their reliance on Government Preaward Surveys (PASs). Commercial supplier-profile reports are generally faster and less costly than PASs and are available on Federal Supply Schedule (FSS). PCOs should request PASs only when they need information not available from less costly sources. This recommendation is based on the recognition that PCOs frequently request PASs when they only need very limited and specific information on suppliers that may be available from alternative sources. In implementing this recommendation, DoD should explore with the General Services Administration (GSA) the possibility of modifying such reports to better serve the Government's unique data and data-verification requirements.

Buyers in the private sector obtain very timely and thorough evaluations of potential suppliers from commercial reporting services: their principal advantages over PASs are their timeliness and cost. The Defense Contract Management Command (DCMC) estimates the average cost of performing a PAS at \$1504, while D&B, for example, provides two comprehensive supplier evaluation and performance reports to its clients at a total cost of \$95. DCMC requires 30 days to complete a PAS report, while D&B is able to provide supplier reports to its clients within 24 hours. Presumably D&B does not now provide ALL of the information on potential suppliers that Government buyers are likely to need, but the significant cost difference does suggest that commercial organizations dedicated to collecting, consolidating, and disseminating information on a constant basis can be more efficient than a Government activity performing acquisition-specific site-visits and surveys.

Partly because the Government uses its purchasing system to promote socio-economic goals, it admittedly requires more types of information on suppliers than does the typical purchasing department in a private business. Also, the Government frequently needs the **verification** of information obtained from contractors, which a routine commercial report does not currently do. To be truly valuable, the ideal supplier-profile system--which does not now exist, either in the

Government or in the private sector--should include data related to a contractor's past performance, solvency, and general responsibility, as well as instant authoritative information about its -

- socio-economic status under various statutes,
- technical capabilities, and
- quality processes.

Nevertheless, the principle is the same, and commercial services might be modifiable to supply Government-specific information and verification as well.

An ideal information system designed to support the Government contracting process would have to draw data from a variety of **Government** as well as commercial sources. Nevertheless, preference should be given to a commercially-developed system modified to suit Government needs, rather than a Government-developed system, which would require creation of a new bureaucracy. The results of any Government PASs should be communicated to the commercial reporting concerns who would then disseminate this information to Government buyers who might need it.

This recommendation is consistent with the recommendation regarding PASs in the Report prepared by the Contract Administration Services PAT.

Resulting Effect

Benefits:

Adoption of this recommendation -

- Would reduce pre-award lead times and streamline the process for a large number of contract actions.
- Should reduce the need for PASs and avoid the costs associated with PASs.
- Focusing on contractor qualifications and past performance and providing more information to buyers in these areas should enhance contractor compliance with the Government's requirements.
- Could lead to the greater mechanization of the buying process. Much buyer time is actually spent, even on small and simple buys, obtaining and evaluating information on

offerors. If such information were readily available, a larger number of source-selections might be made mechanically. In this respect it would enhance the greater use of automated purchasing systems and the continued downsizing of the Government's contracting workforce.

Disadvantages/Risk Management:

- **Coordination:** If adoption of this recommendation did succeed in reducing the need for PASs, it is likely to impact the need for specific resources at DCMC. Adoption would also likely impact workload and resources at the SBA and the DoL and therefore would require their endorsement and cooperation. For example, the system recommended here would require that size-determination data be supplied by the SBA.

Response: The PAT believes that DCMC will not find this change threatening but will find other value-added uses and functions for existing resources. Whether adoption of this recommendation would result in a net increase or decrease in demand on resources at the SBA and the DoL is impossible to determine at this stage.

- **Feasibility:** Mechanisms will need to be developed by which Government data relating to contractors--the results of PASs and SBA size determinations, for example--are communicated to commercial reporting concerns and disseminated via their reports.

Response: A crucial assumption underlying this recommendation is that commercial supplier-profile databases do not currently contain some of the information that would be most valuable to Government buyers and therefore would need to be modified and expanded to better serve the Government's unique data requirements. The feasibility of any expanded use of commercial supplier-profile reports rests on whether and how Government data can be supplied to reporting concerns. The implementation plan, therefore, specifies that the Director of Defense Procurement explore with GSA the expansion of data on these reports.

- **Costs:** Contracting activities are currently free to obtain supplier profile reports from the commercial reporting services on GSA schedule, in lieu of requesting PASs from DCMC, whenever a commercial report would be sufficient for the PCO's needs. The cost savings of the commercial-report option vice the PAS benefits the Government as a whole; nevertheless, **individual activities now have a cost incentive to request PASs.** This is because DCMC bears most of the cost of the PAS (except for the added cycle time, which the buying activity absorbs), while the buying activities now **pay** out of their own budgets for each individual commercial report.

Response: There is no evidence to suggest that activities request PASs when low-cost

commercial reports would suffice specifically to avoid the cost of the commercial reports. However, if commercial reports continue to be underutilized after the FAR expressly encourages their use, DoD should consider developing a system or mechanism to incentivize their use at the buying-activity level, in terms of the activity's budget.

- **Contractor Versus Government Performance:** Objections can be made (1) that collecting, maintaining, and disseminating information on Government contractors is an inherently Governmental function that must be performed by Government personnel, and (2) that the elimination of PASs will affect Government jobs.

Response: (1) Determining a contractor's responsibility is an inherently Governmental function. Maintaining and disseminating supplier information, on the other hand, is routinely done in the private sector and the Government has always had the option of obtaining responsibility-related data from commercial sources. Purchasing a commercial report, for example, has always been available as an alternative procedure to the PAS; therefore, collecting, maintaining, and disseminating information on Government contractors is not an inherently Governmental function. (2) Moreover, the PAT is recommending neither the elimination nor the contracting-out of the PAS function as it is now performed by DCMC and DCAA. The PAT believes that some acquisition-specific PASs, performed by Government personnel, may always be necessary. Rather, the PAT's recommendation is simply to utilize the most efficient and cost-effective technique to gather routine information on regular Government contractors.

- **Release of Government Data:** Substantial data that Government activities currently maintain on contractors should not be communicated to commercial reporting services for dissemination to subscribers, either because the data is subjective, confidential, proprietary, incomplete, or inaccurate. Government data used in the source-selection process would also have to allow for industry review and appeal, in much the same way that consumers today review and appeal information contained in their credit profiles.

Response: Government agencies should exercise great care in releasing data to commercial reporting concerns.

Implementation Plan

- The Director, Defense Procurement, should issue a letter to the General Services Administration (GSA) requesting the inclusion of more Government-specific information in commercial supplier-profile reports and other modifications to make the reports more valuable to DoD buyers. A draft letter is included in this report.

- The Director, Defense Procurement, should refer the following FAR changes to the DAR Council:

9.105-1 Obtaining Information

... (c) The contracting officer should use the following sources of information to support determinations of responsibility or nonresponsibility:

... [(7) Commercial sources of supplier information of a type offered to buyers in the private sector (for example, supplier performance and evaluation reports by Dun & Bradstreet Information Services and its competitors).]

9.106 Preaward surveys

9.106-1 Conditions for preaward surveys

(a) A preaward survey is normally required when the information on hand or readily available to the contracting officer is not sufficient to make a determination regarding responsibility. However, if the contemplated contract (1) will be for \$25,000 or less or (2) will have a fixed price of less than \$100,000 and will involve commercial products (see 11.001) only, the contracting officer should *not* request a preaward survey unless circumstances justify its Cost. **[Preaward surveys should also not be requested if sufficient relevant information is available from commercial sources (see 9.105-1(c)(7).)]**

Milestones

Month 1	The Director, Defense Procurement, refers recommended FAR changes to the DAR Council for implementation. The Director, Defense Procurement, requests GSA to explore the expansion and modification of supplier-profile reports available on FSS.
Months 2 - 7	DAR Council processes proposed FAR changes in accordance with standard procedures.

Metrics

- Post-implementation benefits should be measured by comparing pre- and post-implementation PALT. Any reduction in cycle time should be translated, for comparison purposes, into a cost-avoidance figure.
- Any reduction in the number of PASs should be measured, plus the associated cost avoidance. All cost-avoidance figures should be compared to the direct costs of requesting the commercial reports.
- The following variables should be measured both before and after implementation to determine if any change in contractor performance can be attributed to the use of a commercial supplier-profile system: post-award lead-times, defaults, delivery extensions, and customer and/or depot complaints.

REQUIREMENTS DETERMINATION RECOMMENDATIONS

During its research efforts, the PAT found a number of ongoing initiatives within DOD related to the development of comprehensive, automated, on-line sources of current acquisition tools, references, policies, practices, and "lessons learned." These initiatives are anticipated to assist in the development of requirements determination documents. In view of these ongoing activities, the PAT has no further specific recommendation to offer in the area of REQUIREMENTS DETERMINATIONS.

PRESOLICITATION RECOMMENDATIONS

- **Recommendation 3 - Prequalification**
- **Recommendation 4 - DELETED**
- **Recommendation 5 - Elimination of Preference for Sealed Bidding**
- **Recommendation 6 - Limitation of Evaluation Factors**
- **Recommendation 7 - Use of Informal Source Selections**
- **Recommendation 8 - Early Involvement of DCAA/ACO**
- **Recommendation 9 - DELETED**

Recommendation - 3

The Government should practice the prequalification of sources to the widest possible extent, whenever it makes good business sense, particularly in industries where prequalification conforms to commercial practice. For commercial items, the approval level for justifying a qualification requirement should be lowered from "head of agency" to the Chief of the Contracting Office.

Discussion

On acquisitions where it is practical, contracting officers should consider only offers from prequalified sources. Especially, in activities where -

- technically-based industry standards exist for the commodities and services being acquired,
- repeated acquisitions are performed for the same categories of commercial-type supplies and services, and
- competition is assured by the large number of available suppliers in relevant industries,

prequalification of sources is a very useful streamlining tool and should be employed to the maximum practical extent. It is effective in avoiding the administrative effort and cost otherwise spent in evaluations of unqualified offers.

The list of definitions in FAR 9.201 pertaining to qualification requirements should include the term "Qualified Suppliers List" (QSL) and define it as a list of sources for commercial items in a particular industry whose **quality-assurance processes**--rather than individual **products**--have been reviewed and approved. The QSL concept is consistent with current commercial buying practice for commercial items. A QSL would typically be established for more than one product in a specific commodity grouping (for example, a QSL for suppliers of bulk steel products). Agencies should be encouraged to maintain QSLs, as well as Qualified Products Lists (QPLs) and Qualified Manufacturers Lists (QMLs), as appropriate, and to specify, on as many acquisitions as possible, that award will be made only to qualified sources. Agencies should use prequalification to establish contractors' technical and quality-assurance capabilities in accordance, as much as possible, with commercial quality standards (such as ISO9000). Though prequalification requires that contractors be reviewed on a periodic basis, and therefore that additional up-front resources be allocated to the acquisition process, it tends to save time and money in the source-selection and production stages of acquisition.

The PAT also discussed alternative prequalification methods that would apply on an acquisition-by-acquisition basis for supplies or services for which no industry standards exist and when it would be impractical for activities to maintain lists of qualified firms: for example, PCOs may request presolicitation technical-qualification statements from potential offerors, make qualification determinations thereby, and solicit only qualified firms.

Whatever qualification method is used, the approval levels in the regulations for establishing qualification requirements are unnecessarily high and essentially non-value-added. 10 U.S.C. 2319 states that the "head of the agency" shall prepare a written justification for establishing any qualification requirement. FAR 9.202 specifies the "head of the agency or designee" to prepare the necessary justification. DFARS 209.202 designates specific agency- or HQ-level officials whose approvals are necessary. Beyond this, agency policy is inconsistent: some services or agencies have further delegated the necessary approvals for establishing qualification requirements to the HCA, while other agencies have not supplemented DFARS 209.202 and therefore still require HQ-level approvals. The PAT believes that qualification requirements make good business sense in some activities with some industries, commodities, and services, and that it would be impractical in others. The appropriate value-added organizational level for this business decision should be the contracting activity. The PAT proposes that the written justification for the use of a qualification requirement, as specified at FAR 9.202, be approved by the Chief of the Contracting Office, and that the DFARS be revised to this effect.

The PAT believes that, though the qualification technique holds considerable promise and appeal in providing the Government some degree of control over its supplier base, the PAT could not, in the time allowed, be sufficiently definitive regarding the implementation of this recommendation. The PAT is leaving open many unresolved issues regarding the applicability,

expansion, and implementation of qualification requirements, and its policy, competition, and resource implications. Accordingly, the PAT is recommending, as part of its Implementation Plan, that a follow-on PAT be formed, to include Technical and Quality-Assurance as well as Contracting personnel, to study the recommended expansion of qualification requirements in DoD contracts. The recommendation for a follow-on PAT is made in accordance with Part V., subparagraph d., of the PAT's Charter.

Resulting Effect

Benefits:

- Will reduce cycle time in the source-selection process.
- Will enhance assurance of contract performance and compliance with contract terms. Will incentivize contractors to improve their quality-assurance processes and provide better customer service.
- Should reduce the need for contract administration and oversight.

Disadvantages/Risk Management:

- **Resources:** Adopting this recommendation would be impractical in many activities because it requires strong local technical support. The prequalification process assumes -
 - that an activity has the resources to perform substantial market research and analysis, and
 - that contractors' technical and quality-assurance processes are regularly reviewed.

Therefore, prequalification requires agencies to incur additional up-front costs in return for time and cost savings during the source-selection phase.

Response: Adoption will essentially require some shifting of burden and resources to market research and technical support. Activities without adequate resources in technical analysis would not realize administrative savings in establishing prequalification requirements. The PAT is recommending that prequalification be considered more often and used more

extensively but is **not** recommending that it applies to every activity or to every industry. The use of a qualification requirement is a business decision that should be made at the local level, taking the activity's resources into consideration.

- **Impact on Competition:** An objection can be made that qualification requirements may appear to be detrimental to competition.

Response: The PAT addressed in its deliberations the apparent effect of qualification requirements on competition, and concluded that the qualification of suppliers is completely compatible with full and open competition. Its rationale: multiple offers from firms that are not qualified to perform and have no real opportunity to be awarded a contract do not constitute true competition. Prequalification should not and cannot be used to eliminate offers from truly qualified firms. FAR Subpart 9.2 specifies the steps that agencies must take to ensure that interested firms have an adequate opportunity to become qualified before award. There are sufficient safeguards in the system to ensure that qualification not be used to restrict competition. Agencies should publicize their qualification requirements and application procedures and make them widely available to new potential suppliers; moreover, agencies should ensure that their qualification requirements are limited to valid business factors and not be written in a way to favor some firms or to exclude other truly qualified suppliers.

Implementation Plan

- The Deputy Under Secretary of Defense (Acquisition Reform) (DUSD(AR)) should establish a Process Action Team (PAT), to include Technical, Quality-Assurance, and Contracting personnel, to study the issue of qualification: its applicability, its expansion and implementation, and its policy, competition, and resource implications.
- The Director, Defense Procurement, should refer the following regulatory changes to the DAR Council: Implementation would require a revision to FAR 9.201 and DFARS 209.202, as follows:

FAR SUBPART 9.2 QUALIFICATION REQUIREMENTS

9.201 Definitions

... ["Qualified suppliers list (QSL)" means a list of sources for commercial items in a particular industry or commodity group whose quality-assurance processes, rather than individual products, have been reviewed and approved. A QSL would typically be established for more than one product in a specific commodity grouping (for example, a QSL for suppliers of bulk steel products).]

DFARS SUBPART 209.2 QUALIFICATIONS REQUIREMENTS

209.202 Policy

(a)(1) The inclusion of **[any]** qualification requirements ~~in specifications for products which are to be included on a Qualified Products List [in an acquisition or group of acquisitions, and the written justification,]~~ requires approval of **[the Chief of the Contracting Office.]** the following--

~~Army--Headquarters, U.S. Army Materiel Command, AMCCE-PSE~~

~~Navy--Office of the Assistant Secretary of the Navy (research, Development, and Acquisition)(Acquisition Policy, Integrity, and Accountability)~~

~~Air Force--Departmental Standardization Office, SAF/AQXL~~

~~Defense Advanced Research Projects Agency--Director, Contracts Management Office~~

~~Defense Information Services Agency--Director, Acquisition Management~~

~~Defense Intelligence Agency--Principal Assistant for Acquisition~~

~~Defense Logistics Agency--Executive Director, Technical and Logistics Services~~

~~Defense Mapping Agency--Director of Acquisition~~

~~Defense Nuclear Agency--Director, Acquisition Management~~

~~National Security Agency--Director of Procurement~~

~~On-Site Inspection Agency--Chief, Acquisition Management~~

~~Strategic Defense Initiative Organization--Director~~

Milestones

- Month 1 The Deputy Under Secretary of Defense (Acquisition Reform) (DUSD(AR)) establishes a follow-on PAT to study and recommend the expansion of the use of qualification.
- The Director, Defense Procurement, refers necessary regulatory changes to the DAR Council.
- Month 2 - 7 DAR Council processes regulatory changes in accordance with standard procedures.
- The Qualification PAT meets and reports on its recommendations regarding the expansion of the use of qualification.

Metrics

- Lead Times: Activities that elect to emphasize qualification requirements in their acquisitions should measure pre- and post-implementation PALT.
- Activities should measure any increased demand on resources for market research and technical support.
- The following variables should be measured both before and after implementation to determine if any change in contractor performance can be attributed to the use of qualification requirements: post-award lead-times, defaults, delivery extensions, and customer and/or depot complaints.

Recommendation - 4 - *DELETED*

Recommendation - 5

Revise the Competition in Contracting Act to eliminate the preference for the use of sealed bidding over the use of competitive proposals. Revise FAR 6.401, "Sealed bidding and competitive proposals," accordingly to eliminate the requirement for written documentation to support the contracting officer's decision to use negotiated procedures.

Discussion

The Competition in Contracting Act (CICA) language at 10 U.S.C. 2304(a)(2) that provides a preference for the use of sealed bidding is a non-value added holdover from the absolute preference for formal advertising which existed prior to CICA. In accordance with 10 U.S.C. 2304(a)(1)(B), the contracting officer is empowered to exercise good judgment in selecting the method of contracting that best meets the needs of the government. The contracting officer should not be encumbered by a non-value added preference. 10 U.S.C. 2304(a)(2) should be deleted, and FAR 6.401, "Sealed bidding and competitive proposals," should be revised, to eliminate the preference for the use of sealed bidding and any requirement to provide for written documentation on the selection of method to be used.

Resulting Effect

Benefits:

- Empowers the contracting officer to exercise good judgment in selecting the method of contracting that best meets the needs of the government.
- Eliminates unnecessary documentation.

Disadvantages/Risk Management:

- There is no risk.

Implementation Plan

The Deputy Under Secretary of Defense (AR) should draft recommended statutory change to CICA, at 10 U.S.C. 2304(a)(2). A suggested draft is as follows:

10 U.S.C. 2304(a)(2)

~~(2) In determining the competitive procedure appropriate under the circumstances, the head of an agency--~~

~~(A) shall solicit sealed bids if--~~

~~(i) time permits the solicitation, submission, and evaluation of sealed bids;~~

~~(ii) the award will be made on the basis of price and other price-related factors;~~

~~(iii) it is not necessary to conduct discussions with the responding sources about their bids; and~~

~~(iv) there is a reasonable expectation of receiving more than one sealed bid; and~~

~~(B) shall request competitive proposals if sealed bids are not appropriate under clause (A).~~

Once the statutory change is approved, the Director, Defense Procurement, should refer the matter to the DAR Council to be processed in accordance with standard procedures. The following change to FAR 6.401 is recommended:

6.401 Sealed bidding and competitive proposals

Sealed bidding and competitive proposals, as described in Parts 14 and 15, are both acceptable procedures for use under Subparts 6.1, 6.2 and, when appropriate, under Subpart 6.3. Contracting officers shall exercise good judgment in selecting the method of contracting that best meets the needs of the Government. ~~If the choice is to use competitive proposals rather than sealed bidding, the contracting officer shall briefly explain in writing, which of the four conditions in paragraph (a) of this section has not been met. No additional documentation or justification is required.~~

(a) *Sealed bids.* (See Part 14 for procedures.) Contracting officers shall **[may]** solicit sealed bids if--

- (1) Time permits the solicitation, submission, and evaluation of sealed bids;
- (2) The award will be made on the basis of price and other price-related factors;
- (3) It is not necessary to conduct discussions with the responding offerors about their bids; and
- (4) There is a reasonable expectation of receiving more than one sealed bid.

(b) *Competitive proposals.* (See Part 15 for procedures.)

(1) Contracting Officer's may request competitive proposals if sealed bids are not appropriate under paragraph (a) above [, or if it is in the best interest of the government].

Milestones

Month 1-12	The Deputy Under Secretary of Defense (AR) should draft recommended statutory change and process in accordance with standard procedures.
Month 13-16	The DAR Council should process in accordance with standard procedures.

Metrics

The magnitude of this change is minimal and does not merit the expense of collecting measurement data. The only applicable metrics would be (1) customer satisfaction (contracts personnel) in the deletion of one piece of unnecessary paperwork and (2) further inherent discretion on the part of the contracting officer .

Recommendation - 6

Maximum emphasis should be placed on limiting the number of evaluation factors in competitive source selections. Evaluation plans should include only those factors which will allow true discrimination between offerors.

Discussion

DoD competitive source selections sometimes reflect a proliferation of technical evaluation criteria in an effort to evaluate every possible variable. This process adds time and cost to the source selection process in terms of government resources needed to develop criteria and to evaluate responses as well as the industry resources required to prepare proposals in response to the multitude of criteria.

The PAT received briefings and presentations from various agencies and found limiting the number of the evaluation factors to be a common theme in reducing cycle time and effectively acquiring the desired product or service. The Air Force Acquisition Model (AFAMS) lists limiting the number of technical evaluation criteria as an effective "lessons learned." An Air Force Source Selection Streamlining Action Group concluded in a report in March 1988, that limiting the number of evaluation factors (which facilitated the initiative of limiting the number of evaluation personnel and the number of pages in a proposal) contributed toward streamlining the acquisition process. The report reflected that the acquisition process of the SRAM II missile, prior to streamlining initiatives, required 405 personnel and took 226 days. By contrast, the streamlined acquisition process, which limited evaluation factors, for the AGM-65 IR Maverick missile required 34 personnel and took 147 days. The streamlining initiatives cited in the report included the reduction of the number of evaluation factors from 40+ down to 10 over an array of acquisitions.

Technical evaluation factors should be limited to those areas that are pivotal in successful contract performance and with which an offeror's compliance must be established prior to award; and in a best value source selection, the factors should also be those that will allow discrimination in technical capability/superiority among offerors.

No regulatory or statutory change is required to implement this recommendation.

However, there is a current bias in the acquisition culture that promotes the proliferation of evaluation factors, and this bias needs to be reversed. The recommendation does require emphasis by agencies on the merits of this approach.

Resulting Effect

Benefits:

- Reduced Administrative Lead Time (ALT) and associated cost. Reduced time in (1) defining technical criteria, (2) defining what is required in technical proposals, (3) developing Source Selection Plans, (4) preparing proposals (by offerors), and (5) evaluating proposals.
- Focuses evaluation and award selection on pivotal factors.

Disadvantages/Risk Management:

- Depth of evaluation is decreased.

Response: This risk is mitigated if the evaluation criteria selected are those that are pivotal in successful contract performance.

- Not every functional area may have input to the source selection process.

Response: This risk is one that causes concern only from a risk avoidance standpoint, i.e., if every functional area is represented then "nothing will be missed". Depending on the circumstances, it may not require evaluation criteria for functional areas such as computer resources support, training, transportation, personnel, safety or other areas. In other instances, functional areas such as safety may be pivotal.

- Requires culture change.

Response: It is normal to expect a "cultural" resistance to any move away from a practice based upon risk avoidance. Currently, many acquisitions endeavor to have criteria that encompass every functional area associated with the program. To eliminate this practice is a departure from a paradigm comfort zone, and resistance can be anticipated.

Implementation Plan

The Director, Defense Procurement should staff a memo for the signature of the Under Secretary of Defense (A&T). The memo would include the essence of this recommendation and others, that seek to endorse cultural changes required to move from risk avoidance to risk management. (A draft memorandum is provided with this report.)

Milestones

Month 1	The Director, Defense Procurement should staff a memorandum for the signature of the Under Secretary of Defense (A&T) (see implementation).
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Metrics

- Measure time required for evaluation. Compare results to average of comparable acquisitions that did not specifically limit the number of evaluation factors. (Comparable acquisitions must be comparable in terms of complexity of the item being acquired, number of potential viable offerors, and contract value.)
- Measure number of personnel required. Compare results to average of comparable acquisitions that did not specifically limit the number of evaluation factors. (Comparable acquisitions must be comparable in terms of complexity of the item being acquired, number of potential viable offerors, and contract value.)
- Customer satisfaction. Is the customer satisfied with the results, as applicable, in terms of (1) reduced time, (2) reduced number of personnel required, and/or (3) quality of contract?

Recommendation - 7

Restrict use of the formal source selection process for "less than major" acquisitions.
Require agency to obtain a waiver from the appropriate service secretariat or designee prior to using the formal source selection process for "less than major" acquisitions.

Discussion

The use of the formal source selection process for "less than major" acquisitions can be costly and time consuming and may not materially add value to the outcome. The PAT has defined "less than major" systems as those systems that do not fall in the category of major systems. A system shall be considered a major system, as defined in 10 USC 2302(5), if (i) DoD is responsible for the system and the total expenditures for research, development, test, and evaluation for the system are estimated to be more than \$75,000,000 (based on fiscal year 1980 dollars) or the eventual total expenditure for procurement is estimated to be more than \$300,000,000 (based on fiscal year 1980 constant dollars); (ii) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed \$750,000 (based on fiscal year 1980 constant dollars) or the threshold for a "major system" established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled "Major Systems Acquisitions," whichever is greater; or (iii) the system is designated a "major system" by the head of the agency responsible for the system.

According to the Federal Acquisition Regulation (FAR), a source selection process is considered "formal" when a specific evaluation group structure is established to evaluate and select the source for contract award. The FAR currently requires the use of the formal source selection process for the acquisition of major systems and/or programs of high dollar-value. The "formal" source-selection organization typically consists of an evaluation board, advisory council, and designated source-selection authority (SSA) at a management level often far above that of the contracting officer.

The FAR does not provide a definition for "informal" source selection. However, most agencies have established informal source selection procedures which are similar to formal ones in that an evaluation team and SSA are established and a source selection plan is used. Informal source selections, generally do not, however, utilize an advisory council and the SSA is at a much lower level than is the case for formal source selections.

When using the formal source selection process, the agency head or a designee ensures that

the official to be responsible for the source selection is formally designated as the source selection authority. The responsibilities of the Source Selection Authority (SSA) , as outlined in regulations and guidance include (1) the formal establishment of an evaluation group appropriately structured to the requirement of the particular solicitation, (2) approve the source-selection plan, and (3) utilize the evaluation factors established in the solicitation to make the source-selection decision. The duties outlined above for the SSA are also performed, for an informal source selection, often by the Procuring Contracting Officer (PCO) or his/her supervisor. Restricting the use of the "formal" source selection process for "less than major" acquisitions would reduce the number of briefings and additional reviews that often add little value to the procurement.

The PAT does not wish to arbitrarily usurp legitimate management prerogatives to tailor decision making and SSA authority when circumstances dictate, however our discussions and research have generated a conclusion that a strong tendency has developed at many DoD agencies and activities to routinely push source selection authority upward to higher management levels. This SSA "creep" has resulted in substantial time delays, an explosion of briefings and many manhours spent in re-affirming decisions made by those at the working level.

For example, a dollar threshold of \$5M for the use of the formal source selection process has been routinely used at one DoD agency. One rationale offered for the use of the formal source selection process at this dollar threshold is that when review is required at a higher level, a better quality of documentation is generated. The quality of documentation associated with an acquisition should not be determined by the level of review; however, the quantity often is. Another example is an acquisition for a commodity which was estimated to cost \$4M and was competed utilizing the formal source selection process with an SSA at the four star level.

The formal source selection process, designed for use on major systems, contains many layers of review and oversight. This structure is appropriate for acquiring major systems. However, there is often insufficient value added by the many layers of review required by the formal source selection process for those acquisitions that do not meet the "major systems" definition. The PAT believes that utilizing the informal process with an SSA at a level no higher than the contracting division chief or program manager level is appropriate for less than major acquisitions. In exceptional cases an agency may utilize the formal process on procurements which are below the major systems dollar threshold, because the head of the agency has the authority to designate a procurement as major.

Resulting Effect

Benefits:

- Removal of additional layers of review of would reduce procurement administrative lead time (PALT).
- Would provide for better customer satisfaction by reducing PALT
- Lowers the decision-making authority to a level more familiar with the details of the acquisition.

Disadvantages/Risk Management:

- Limits involvement of senior management

Implementation Plan

- The Director, Defense Procurement (DDP) should staff a memo for the signature of the Under Secretary of Defense (A&T). The memo would include the essence of this recommendation and would endorse the cultural changes required to move from risk avoidance to risk management. (A draft memo is provided with this report.)

Milestones

60 days Issue memo

Metrics

- Compare acquisition lead times for informal source selections versus formal source selections for similar acquisitions.
- Customer satisfaction as measured by a survey of the quality of the source selection.
- Number of times waivers requested to utilize the "formal" source selection process.

Recommendation - 8

Require the inclusion and utilization of field support (DCMC/DCAA) services in the procurement process at the earliest possible stage of acquisition planning when the PCO and/or Program Manager determines that such services will enhance the acquisition.

Discussion

The procurement process cycle time can be extended because of the failure to include important players early in the process (i.e., DCMC, DCAA). The DPRO Commander, Administrative Contracting Officer (ACO), the Program Integrater and their supporting staff are crucial members of the acquisition team and should be considered essential players in the planning stages of an acquisition. Delays in the procurement process can occur when the procuring contracting activity inadvertently fails to incorporate necessary clauses, contract data requirements, or other pertinent information into the solicitations and/or contract. The involvement of DCMC and DCAA in the early stages of an acquisition, would ensure that the solicitation is structured so that the information provided by the offerors is specific and will allow a more comprehensive evaluation. Increased use of communication and coordination vehicles (e.g., DCAA Procurement Liaison Auditor (PLA) Network) at the earliest planning stage of the acquisition could minimize these shortcomings.

This recommendation is consistent with the recommendation proposed by the CAS PAT.

Resulting Effect

Benefits:

- The involvement of DCMC and DCAA in the early planning stages of the acquisition could reduce the procurement administrative lead time (PALT).
- Identification of problems in the early stage of the preparation of solicitations could result in reducing the need for post-award conferences.

- Improved contract quality resulting in reduction of the number of contract modifications .

Disadvantages/Risk Management:

- The possibility of having to acquire additional resources to implement this recommendation.

Response: The increased demand on resources will be more than offset by the potential savings in the improved process. Moreover, it is the PAT's understanding that DLA has recognized the need for liaison services and is in the process of establishing such positions in a number of large buying commands.

- Request for DCMC/DCAA involvement in the early stages of the procurement when it is not proper and/or appropriate.

Response: Coordination between DCMC, the Program Manager/requiring activity and the PCO during the early planning stages of an acquisition would eliminate an inappropriate request for DCMC involvement.

Implementation Plan

The Competitive Source Selection Process PAT concurs with and recommends the adoption of the implementation plan proposed by the Contract Administration Reform PAT as it pertains to early CAS involvement.

Milestones

The Competitive Source Selection Process PAT concurs with and recommend the adoption of the milestones outlined and proposed by the Contract Administration Reform PAT as it pertains to early CAS involvement.



Metrics

The Competitive Source Selection Process PAT recommends the utilization of the metrics proposed by the Contract Administration Reform PAT as it pertains to early CAS involvement.

Recommendation - 9 - *DELETED*

SOLICITATION RECOMMENDATIONS

- **Recommendation 10** - Synopsis and Response Time
- **Recommendation 11** - EC/EDI and TDP
- **Recommendation 12** - [One-on-One Preproposal Conference] **Recommendation Deleted, Discussion Retained**

Recommendation - 10

This recommendation applies to all non-commercial contract actions greater than the simplified acquisition threshold.

- Change the FAR to provide an exception that eliminates the requirement to synopsise an intended solicitation/contract in the Commerce Business Daily when the action can be posted, accessed, and downloaded through FACNET.
- Change the FAR to eliminate the requirement for a minimum proposal submission response time, and instead permit the Contracting Officer to establish a response time which will afford potential offerors a reasonable opportunity to respond to a solicitation.
- Change the FAR to allow for a combined synopsis and solicitation when the one document can contain all the information necessary for the offeror to prepare an offer.

Discussion

The PAT realizes that the FASTA of 1994 provided express flexibility into the publicizing and response time for acquisitions expected to exceed \$25,000, but not expected to exceed the simplified acquisition threshold as follows:

"The contracting officer is required to establish a response time which will afford potential offerors a reasonable opportunity to respond for acquisitions at or below the simplified acquisition threshold. The response time for these acquisitions can be less

than the 30 day response time required for acquisitions expected to exceed the simplified acquisitions threshold. Furthermore, acquisitions made via certified FACNET are exempt from the posting and synopsis requirements under FAR Part 5."

In addition, the PAT is aware of the recent FAR language developed by the Commercial Items Drafting Team of the FASTA Implementation Project. Specifically, they propose (1) to combine the CBD synopsis and solicitation into a single CBD synopsis/solicitation (for commercial items) when appropriate and (2) exempt the acquisition of commercial items from the 30 days' response time for receipt of bids or proposals from the date of issuance of a solicitation.

Due to the recent proposed changes as stated above, the PAT's recommended changes apply to those acquisitions other than commercial items and above the simplified acquisition threshold.

Presently, FAR 5.203 (a) and (f) requires the current publicizing and response timeframes for synopsis as follows:

- 10 days to transmit a notice to the Commerce Business Daily (CBD) if transmittal **is not** done electronically;
- 6 days to transmit a notice to the CBD if transmittal **is** done electronically, and;
- 15 days between synopsis publication and solicitation issue date.

The PAT believes that if a contracting activity has the capability to issue a combined CBD synopsis/solicitation then it is not necessary to publish a separate CBD synopsis 15 days before the issuance of the solicitation and therefore is an avoidable addition to administrative lead times. However, not all synopses/solicitations can be easily combined. A combined synopsis/solicitation would not be appropriate when the lengthy addenda to the solicitation cannot be transmitted electronically or is too excessive for CBD submission. In these instances, the current regulations would apply. The PAT also believes that by exploiting current electronic capabilities, agencies should be able to issue their synopsis and solicitation simultaneously, and still serve the purpose of making requirements widely and quickly publicized and available to industry.

As stated in FAR 5.201, the primary purposes of the CBD notice are to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities. The intent of the Competition in Contracting Act (CICA) could be met even when the present required timeframes are compressed. In many cases, 30 days is more than adequate to secure competitive offers and small business participation. Often, under non-complex requirements or for commercial or repetitive requirements, prime/subcontractor relationships have already been established and contractors (including small business contractors) have the capability to respond to the government's requirements in less than 30

days. Contracting officers should have the flexibility to compress the solicitation timeframe when business needs and the marketplace support doing so.

Resulting Effect

Benefits:

- Reduces PALT
- A reduction in the preparation of J&As, specifically the unusual and compelling urgency justification allowed under FAR 6.302-2.

Disadvantages/Risk Management:

- Requires change in the Small Business Act (15 U.S.C. 637) and the Office of Federal Procurement Policy Act (41 U.S.C. 416).

Response: Although this requires statutory change, the FASTA revised the Office of Federal Procurement Policy Act and Small Business Act to provide flexibility into the publicizing and response time for acquisitions expected to exceed \$25,000, but not expected to exceed the simplified acquisition threshold. This PAT is capitalizing on the momentum of these changes by expanding this revision to acquisitions for other than commercial items and above the simplified acquisition threshold. The Commercial Items and Simplified Acquisition Drafting Teams relied on this Act to reflect the intent of Congress to allow flexibility regarding submission of offers.

- Opponents may argue that the contracting officer may make "unreasonable" determinations regarding response time and as a result reduce opportunities for competition.

Response: If Congress believed that adequate competition could be obtained by passing the FASTA which provided flexibility on response time for commercial items and simplified acquisitions, then the same argument holds for the remaining acquisitions. The following statistics from the Directorate for Information Operation and Reports point out that the remaining acquisitions are a small percentage. In 1993, there were 226,000 procurements that were over the small purchase threshold of \$25,000. With the implementation of the \$100,000 simplified acquisition threshold approximately 118,000 (52.2%) of these 226,000 procurements are now covered by the recent FASTA changes noted above. In Fiscal Year 1993, small purchases (under \$25,000) represented 97.9 percent of all DoD actions with a value \$14.6 billion. The simplified acquisitions threshold from FASTA added another 118,000 actions and

\$5.4 billion of procurements. It is anticipated that full FASTA implementation will apply to 99% of the actions and 14.5 percent of the dollars. Based on these figures, only 1% of the actions remain above the \$100,000 dollar simplified acquisition threshold. This percentage is even less when the acquisition of commercial items is taken into consideration.

- The primary purposes of the CBD notice are to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities. Wouldn't allowing less than 30 days for solicitation and concurrent synopsis/solicitation diminish small business participation?

Response: The FASTA provided express flexibility into the publicizing and response time for acquisitions expected to exceed \$25,000, but not expected to exceed the simplified acquisition threshold. These acquisitions are specifically for small business concerns. If the intent of the CBD notice can be met for small business acquisitions under \$100,000 then the same rationale applies to acquisitions over \$100,000 for both large and small businesses.

Implementation Plan

The DUSD(AR) should draft recommended statutory changes to the Small Business Act (15 U.S.C. 637) and the Office of Federal Procurement Act (41 U.S.C. 416). These changes should be coordinated and processed in accordance with standard procedures. Once the final change to the statute is passed by Congress, the Director, Defense Procurement should refer to the DAR Council for implementing appropriate regulatory changes.

The PAT recommends the draft changes to 15 U.S.C. 637(e) and (g) and 41 U.S.C. 416(a) and (c) be as follows:

15 U.S.C. 637(e) and 41 U.S.C. 416(a)

- (A) issue the solicitation earlier than 15 days after the date on which the notice is published by the Secretary of Commerce **[except when the CBD synopsis includes in item 17 of the synopsis a description of the item(s) to be acquired along with all other information necessary for the offeror to prepare an offer];** or
- (B) ~~in the case of a contract or order estimated to be greater than the simplified acquisition threshold,~~ establish a deadline for the submission of all bids or proposals in response to the notice required by paragraph (1)(a) that --
 - (i) in the case of an order under a basic agreement, basic ordering agreement, or similar arrangement, ~~is earlier than the date 30 days~~ **[affords potential offerors a reasonable opportunity to respond]** after the date the notice required by paragraph (1)(a)(ii) is

published;

(ii) in the case of a solicitation for research and development, ~~is earlier than the date 45 days~~ **[affords potential offerors a reasonable opportunity to respond]** after the date the notice required by paragraph (1)(A)(i) is published; or

(iii) in any other case, ~~is earlier than the date 30 days~~ **[affords potential offerors a reasonable opportunity to respond]** after the date the solicitation is issued.

15 U.S.C. 637(g) and 41 U.S.C. 416(c)

(A) the proposed procurement ~~is for an amount not greater than the simplified acquisition threshold and is to be made through a system with interim FACNET capability certified pursuant to section 30A(a)(1) or with full FACNET capability certified pursuant to section 30A(a)(2);~~

~~(B)(i) the proposed procurement is for an amount not greater than \$250,000 and is to be made through a system with full FACNET capability certified pursuant to section 30A(a)(2); and~~

~~"(ii) a certification has been made pursuant to section 30A(b) that Government-wide FACNET capability has been implemented;"~~

In addition, the PAT recommends the following FAR changes: (Note due to the uncertainty of the final FAR language drafted by the Simplified Acquisition Threshold and Commercial Items Drafting Teams, the PAT's changes are based on how the FAR exists today without consideration of potential FAR changes.)

5.202 Exceptions

The contracting officer need not submit the notice required by 5.201 when -

(a) The contracting officer determines that -

[(13) The contract action can be made through FACNET.]

5.203 Publicizing and response time.

Whenever agencies are required to publish notice of contract action under 5.201, they shall proceed as follows:

(a) A notice of the contract action shall be published in the CBD at least 15 days before issuance of a solicitation **[except when the CBD synopsis includes in item 17 of the synopsis a description of the item(s) to be acquired along with all other information necessary for the offeror to prepare an offer.]**

(b) ~~Agencies shall allow at least 30 days' response time~~ **[The contracting officer shall establish a response time which will afford potential offerors a reasonable**

opportunity] for receipt of bids or proposals from the date of issuance of a solicitation.

(c) ~~Agencies shall allow at least 30 days response time~~ **[The contracting officer shall establish a response time which will afford potential offerors a reasonable opportunity to respond]** from the date of publication of a proper notice of intent to contract for architect-engineer services or before issuance of an order under a basic ordering agreement or similar arrangement.

(d) ~~Agencies shall allow at least 45 days' response time~~ **[The contracting officer shall establish a response time which will afford potential offerors a reasonable opportunity to respond]** for receipt of bids or proposal form the date of publication of the notice required in 5.201 for contract actions categorized as research and development.

Milestones

Month 1-12:	DUSD(AR) drafts and coordinates changes to statute.
Month 13-18:	Director, Defense Procurement refers to DAR Council for resulting regulatory changes. DAR Council processes in accordance with standard procedures.

Metrics

- An immediate measurement following implementation of the FAR language will be a reduction in PALT for synopsis/solicitation for a 6 month period and compare these figures with the number of days for synopsis/solicitation for a 6 month period following the implementation of the revised FAR language.

Recommendation - 11

Significantly increase the utilization of electronic/digital Technical Data/Drawing/Documentation Packages (TDPs) and Numerical Code (NC) manufacturing.

Discussion

The PAT recommends that DoD Corporate Information Management Council encourage the development and distribution of software that will facilitate a significant increase in the utilization of electronic/digital TDPs and NC manufacturing in order to reduce the time required to: (1) prepare government solicitations, (2) make awards, and (3) administer the resulting contract.

The vision is to make the entire TDP and NC manufacturing process as paperless as possible, thereby reducing cycle time and obtaining a better quality product. The TDP will be electronic/digital with the master copy maintained by the configuration control manager. The electronic/digital TDPs can quickly and easily be changed with minimum expense and with immediate transmittal to all concerned parties. Computer aided design, computer aided manufacturing (CAD/CAM) and computer aided logistics support programs can readily be interfaced with, and electronically/digitally transported to, TDPs and solicitations and contracts. Numerical Codes manufacturing tapes for hardware and software packages can be obtained during the Engineering and Manufacturing Development (EMD) Phase (as reviewed and approved during MIL-STD-973/1521 reviews and First Article Test /Reliability Qualification Test program) and incorporated into the overall TDP. This process would ensure that all potential offerors would have immediate access to the latest revision of the TDPs on which to propose. Even with current communication system limitations on electronic data, large TDPs can be provided quickly to interested firms electronically/digitally. Transfer can be by modem to a personal computer or by copy of diskette or compact disk.

The use of Numerical Control manufacturing tapes for standard numerically controlled manufacturing machines will not only foster effective competition, reduce start-up and other manufacturing costs, but will also permit delivery to the government of uniform quality products.

Resulting Effect

Benefits:

- The procurement process will be streamlined. The use of electronic/digital TDPs and NC will permit shorter solicitation periods.
- The use of electronic/digital TDPs and NC manufacturing will result in better quality products.
- The post-award cost and time associated with modifications and/or revisions such as Engineering Change Proposals (ECPs), Specification Change Notices (SCNs), and Notice of Revisions (NORs) will all be reduced.

Disadvantages/Risk Management:

- There is a government cost associated with phasing in electronic/digital TDPs and NC manufacturing.

Response: The PAT recognizes that there will be additional costs associated with the investment in the technology identified with this recommendation. However, development of an electronic/digital TDP is actually less expensive than developing a manual (paper) TDP. All new developed items can be in electronic/digital TDP and have Numerical Control tapes developed as part of the Engineering and Manufacturing Development (EMD) phase. A decision has to be made on an individual basis on the economic viability of converting old TDPs to electronic/digital TDPs. This economic decision will depend on several factors primarily focused on cost of conversion compared to anticipated savings in terms of time and quality of product.

- All small business firms may not have the required capability. There could be a cost to industry to implement this recommendation.

Response: In order to adopt world class business processes, we need world class suppliers. World class suppliers that provide goods that require sophisticated manufacturing techniques already use CAD/CAM, and numerical control machinery. Therefore, the cost of implementing this recommendation has, for the most part, already been borne by the industrial base, both large and small businesses, that will respond to our solicitations. Small business that do not have the capability can subcontract that portion of the effort.

Implementation

The Director, Defense Procurement should refer this recommendation to the DoD Corporate Information Management Council for endorsement.

Milestones

Month 1 The Director, Defense Procurement should refer this recommendation to the DoD Corporate Information Management Council for endorsement.

Recommendation - 12 - DELETED

[Modify current rules to allow an activity to hold one-on-one pre-proposal conferences and not provide all offerors the questions and answers of all offerors.] - **Recommendation deleted, discussion retained.**

Discussion

The PAT, after receipt of comments and further consideration, decided to delete this recommendation from the report as a *recommendation* but to retain the discussion as raising a valid issue for consideration:

[FAR 15.409 establishes rules for pre-proposal conferences that requires PCOs to "***furnish all prospective offerors identical information concerning the proposed acquisition, make a complete record of the conference, and promptly furnish a copy of that record to all prospective offerors.***"

Industry response during these conferences suggests that contractors do not ask all the questions they would like to ask because the government's current process requires the disclosure of all questions and answers to all interested offerors. As currently practiced, contractors often refrain from asking questions that highlight their individual approaches for fear that such questions will give away their ideas to their competitors. While the practice of providing all the questions and answers to all offerors is intended to provide all offerors equal information, it creates a vacuum in the communication flow and subverts the purpose of the conference.

This PAT's recommendation **modifies this idea slightly from providing *identical information* to providing *equal access to information***. This idea also imitates a current practice in the government's source selection process whereby, after receipt of proposals, individual contractors' proposals are evaluated. Then, clarifications and deficiencies are individually addressed to each contractor--not all bundled together and sent to all offerors.

To improve the pre-proposal conference tool, the PAT recommends that activities be free to hold preproposal conferences with offerors on a ***one-on-one*** or "interview" basis. Contracting Officers would have to specify in advance in the solicitation that they intended to use this technique. Contractors can raise questions about the use of this technique before it is employed. The Contracting officer would have to decide about whether this technique is

appropriate after they receive contractor comments. The government would establish a specific time limit that would apply to all offerors (i.e., one hour, four hours, etc.). The government officials present would have to be the same individuals for all contractors and would be the individuals who will be evaluating the contractors' proposals. In this forum, the questions that a contractor would pose to the government, and the government's responses, would not be provided to other offerors. Only when the government discovers an ambiguity in the solicitation would it provide all the offerors information obtained by an offeror during a one-on-one conference. A memo to the file would be prepared after each meeting in the same detail as currently provided for post award debriefings.

The one-on-one technique would provide the government a valuable tool to clarify with contractors one at a time their unique concerns, and would be especially valuable when the government's requirements are vague and the solutions or approaches could vary. In addition, this recommendation would provide more effective communication between the government and offerors. It would be particularly valuable to offerors other than the incumbent contractor, who usually already understands the Government's needs and therefore enjoys an advantage.

The one-on-one technique would allow the incumbent's competitors to seek the precise clarifications they needed and would tend to put competitions on more equal footings, especially when a competitor's approach is innovative and new. Additionally, this technique would help the government to sort out those potential offerors whose approaches are clearly unacceptable--for instance, when contractors intend to offer their commercial off-the-shelf products, for which they see applications that may not be appropriate--and sort these out at an early stage, before the companies expended significant time and money preparing their proposals.

Resulting Effect

Benefits:

- Better communications could be fostered by contractors having one-on-one interviews with the government officials who will be evaluating their proposals. No matter how clear the agency thinks its solicitations communicate their needs, experience has shown that back and forth "open" communications is an iterative process. Early one-on-one pre-proposal conferences will foster a better understanding of agency needs and help suppliers communicate their solutions to our needs.
- Better proposals and a better meeting of the minds will be achieved by early one-on-one

conversations with potential suppliers. The technique would preclude situations by which agencies issue large "cleanup" modifications after award, made necessary by the lack of a "meeting of the minds" during the selection process. Hopefully, through better up-front communications, this can be avoided.

- Increased competition would be fostered because suppliers not used to an activity's culture could explore their ideas before committing valuable resources and time in writing a proposal to meet the government's needs. Incumbent contractors will already have a good understanding of an agency's requirements.

Disadvantages/Risk Management:

- There seems to be an institutional fear that non-disclosure could create an appearance of impropriety. The appearance that one contractor, who asked good questions, was given information that was not given to all potential offerors helped them prepare their proposal could result in undermining the integrity of the procurement process or generate protests. This could result in protests after award, thereby further increasing procurement lead time.

Response: This technique assumes that more than one person will be present during these one-on-one preproposal conferences. Typically, collusion is difficult when more than one government procurement official is present. PCOs or SSAs are tasked with the conduct of the source selection and procurement integrity so their presence would provide assurance of propriety. In addition, when all parties have equal access to information, then the appearance of favoritism or unfair advantage is less because all parties have access to government officials.

- Up-front acquisition time may be extended due to increased demands for access to government personnel in preproposal bidders conferences.

Response: The PAT recognizes that this technique would require more up front time. This recommendation would be applicable to acquisitions that have not been competitively procured before and the activity has tried to express its requirement in the best manner possible. One-on-one pre-proposal conferences would give offerors and the requirements generators and evaluators a chance to discuss the government's requirements before the offeror prepares their proposal. If an activity does not feel that they may effectively use this technique or the offerors are not comfortable with this alternative, then it should not be used.

- This technique may generate additional protests, thereby increasing, rather than decreasing the competitive source selection process.

Response: Contractors would be notified of the use of one-on-one pre-proposal

conferences before the release of RFP. They could voice their concerns before award. If they are unable to participate, for example due to geographical hardship, they could notify the activity and an alternate procedure could be used including teleconferencing. If the general "marketplace" was resistant to the idea, traditional pre-proposal conferences could be used.

- An objection can be made that this technique will be employed inconsistently?

Response: Written guidance should be provided by agencies to help the PCO conduct these one-on-one preproposal conferences, to address, among other things, proper procedures and the level of documentation to be maintained. If detailed records are required, then protest discovery procedures could reveal proprietary data to competitors, thereby making the preproposal conferences useless.]

Implementation Plan

Not applicable. Agencies may request one-time FAR deviations if they feel this concept to be of value.

EVALUATION AND NEGOTIATION RECOMMENDATIONS

- **Recommendation 13** - Expand Definition of Clarification
 - **Recommendation 14** - Revise Criteria for Competitive Range
 - **Recommendation 15** - Preliminary Down-Select Large Number of Proposals
 - **Recommendation 16** - Competitive Range of One
 - **Recommendation 17** - Certified Cost or Pricing Data Exemption
 - **Recommendation 18** - Limit COC Circumstances
-

Recommendation - 13

Expand the definition and use of "clarification" provided for in the FAR to encompass (without being considered discussions) the correction of minor deficiencies in a proposal that otherwise would be in line for award on initial offers or following best and final offers. Currently, resolution of any form of deficiency can only be resolved through discussions with all the offerors within the competitive range.

Discussion

Award on initial offers is sometimes precluded because the apparent successful offeror has one or two minor deficiencies. Currently, the only way to resolve these deficiencies is to enter into the protracted process of determining competitive range, holding discussions, and re-evaluating proposals, etc., at an increased cost to the government and industry. Instead, the PCO should document how resolution of the minor deficiencies would not displace any other offeror and proceed to award on initial offers. The same principle should apply to Best and Final Offers.

The conditions described herein do not cause a problem on all acquisitions; however, the conditions do exist often enough to require a remedy. When the situation does exist, the inability to resolve minor deficiencies with an otherwise successful offeror has a significant impact on the acquisition process. The PCO needs to be provided the tools that will allow award to be made without unnecessary cost to both the government and industry in terms of resources and time.

Example of Award on Initial Offers: The government issues a competitive best value acquisition for contractor support services. The evaluation criteria, in descending order of importance,

include Technical Approach, Key Personnel, Management Plan and Past Performance. Under Key Personnel, 15 resumes are required and the proposed personnel must meet or exceed the minimum personnel qualifications. Offeror A would have received an overall technical rating of BETTER (the next to highest possible technical rating) except that one resume was deficient (it did not appear to meet some of the minimum personal qualifications.) The proposal otherwise clearly represents the best value to the government from a technical and price standpoint, the proposal would otherwise be in line for award, and the proposed price is fair and reasonable. The PCO desires to make award on initial offers, as stated in the solicitation, and allow Offeror A to correct the deficiency in the resume. The PAT's recommendation would allow the parties to correct the deficiency and make award. **CURRENT REGULATION:** Currently, the regulations require that discussions must be held to resolve a deficiency. This requires the PCO to prepare a determination of competitive range, hold discussions with all offerors in the competitive range, receive and evaluate revised proposals and/or BAFOs, and then make award, **a course of action that can add weeks or months to the process as well as additional costs solely to resolve a minor deficiency.**

Example of Best and Final Offers: The solicitation document is the same as above. In this instance, discussions with offerors in the competitive range were necessary. After receipt of Best and Final Offers, Proposal A would have received an overall technical rating of BETTER except that one resume is deficient. The proposal otherwise clearly represents the best value to the government from a technical and price standpoint, the proposal would otherwise be in line for award, and the proposed price is fair and reasonable. The PAT's recommendation would allow the parties to correct the deficiency and make award. **CURRENT REGULATION:** Currently the regulations require that the PCO hold discussions to resolve a deficiency, and this case that would lead to a request for a second BAFO (which is strongly discouraged).

In the above examples, the recommendation applies only if the correction of the minor deficiency would not otherwise change the overall technical rating of the proposal (i.e., it would have been rated BETTER except for the deficiency and will remain a BETTER after the correction of the deficiency.

The PAT's recommendation does not change the definition of a (minor) deficiency but rather how such a minor deficiency would be treated under specific circumstances.

Resulting Effect

Benefits:

- Risk management vice risk avoidance.

- Substantially reduces PALT. Eliminates the lengthy process of determining competitive range, holding discussions, and evaluating revised proposals just to resolve minor deficiencies.
- Consistent with the intent in the RFP to award on initial offers.

Disadvantages/Risk Management:

- This expanded use of clarification could be abused.

Response: This risk can be managed by placing a limitation on its use to those instances where (1) the offeror in question is otherwise in line for award and represents the best value to the government, and (2) the correction of the deficiency would not otherwise change the overall technical rating of the proposal (i.e., it would have been rated as BETTER except for the deficiency and it will remain a BETTER after the correction of the deficiency).

Implementation Plan

The PAT recognizes that this recommendation could benefit from further review and a crisper definition of terms. The PAT recommends a follow-on PAT, as authorized under "V. Task Objectives, paragraph d" of our charter, to study the issue. The PAT should be provided with a copy of this recommendation, including the following, as a baseline for its review:

The PAT recommends that FAR 15.601, "Definitions," be revised to read as follows:

15.601 Definitions

"Clarification," as used in this subpart, means communication with an offeror for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal [**except as provided in 15.607(a).**] It is achieved by explanation or substantiation, either in response to Government inquiry or as initiated by the offeror. Unlike discussion (see definition below) [**and except as provided in 15.607(a),**] clarification does not give the offeror an opportunity to revise or modify its proposal, except to the extent that correction of apparent clerical mistakes results in a revision."

"Discussion," as used in this subpart, means any oral or written communication between the Government and an offeror, (other than communications conducted for the purpose of minor clarification [**and except as provided in 15.607(a)**]) whether or not initiated by the Government, that (a) involves information essential for determining the acceptability of a proposal, or (b) provides the offeror an opportunity to revise or modify its proposal."

FAR 15.607, "Disclosure of mistakes before award," paragraphs (a), (b), and (c) should be revised to read as follows:

15.607 Disclosure of mistakes before award

(a) Contracting Officers shall examine all proposals for minor informalities or irregularities and apparent clerical mistakes (see 14.405 and 14.406). Communication with offerors to resolve these matters is clarification, not discussion within the meaning of 15.610. **[For purposes of award on initial offers or after best and final offers, the Contracting Officer may resolve, through clarifications, limited minor deficiencies in a proposal (1) that is otherwise in line for award and represents the best value to the government, and (2) for which the correction of the limited minor deficiencies would not otherwise increase the overall technical rating of the proposal. Otherwise,]** However if the resulting communication prejudices the interest of other offerors, the contracting officer shall not make award without discussions with all offerors within the competitive range.

(b) Except as indicated in paragraph (c) below, mistakes **[and minor deficiencies]** not covered in paragraph (a) above are usually resolved during discussion (see 15.610).

(c) **[Otherwise,]** when award without discussions is contemplated, the contracting officer shall comply with the following procedures: (remainder unchanged)

Milestones

Month 1 Formation of recommended PAT.

Metrics

- Measure number of times the "expanded" use of clarification was invoked.
- Measure the number of protests with merit that resulted directly from the "expanded" use of clarification. A protest would only be considered to have merit if the limitations on allowing the correction of minor deficiencies were not followed.
- Measure potential PALT saved by eliminating the entire process beyond award on initial offers when the "expanded" use of clarification was invoked.

Recommendation - 14

Revise FAR 15.609, Competitive Range, to delete the language, "When there is a doubt as to whether a proposal is in the competitive range, the proposal should be included." The intent is to discourage broad competitive ranges.

Discussion

Although the FAR is read by some to give significant latitude to the contracting officer to determine the extent of the competitive range, there appears to be a bias in the procurement culture in favor of including a wide range of offerors. This bias is encouraged by the sentence at FAR 15.609: "When there is doubt as to whether a proposal is in the competitive range, the proposal should be included." It is also perpetuated by some PCOs' concern of protest. A competitive range that consists of offerors who truly do not have a reasonable chance for award serves no useful purpose and only prolongs the procurement process. It is costly and time consuming to both the government and industry. The problem is exacerbated when many offers are received - a trend that will become even more common with the emphasis on the acquisition of commercial items, electronic synopsis, and further expansion of EC/EDI.

In the following example there are 14 offerors, however with EC/EDI the number of offerors could be 100, so the workload could be magnified by a factor of 7. With every offeror included in the competitive range, the government must conduct discussions, issue a written request for a best and final offer (BAFO), and re-evaluate the revised and/or BAFO technical and cost/price proposal.

Example: The table on the following page summarizes offers received in response to a solicitation for services to be awarded upon a low-priced technically acceptable basis. All the offerors have the same level of minimum deficiencies but in each case the deficiencies can be easily corrected:

<u>Offeror</u>	<u>Price</u>	<u>Technical Evaluation</u>
A	\$50,000	Unacceptable, but can be made acceptable
B	\$52,500	same
C	\$54,000	same
D	\$55,000	same
E	\$55,400	same
F	\$59,250	same
G	\$59,700	same
H	\$61,300	same
I	\$63,200	same
J	\$66,500	same
K	\$79,000	same
L	\$80,900	same
M	\$81,000	same
N	\$81,500	same

One tendency among PCOs in determining a competitive range is to look for a "natural break." The competitive range for the above would probably be drawn at the dotted line. This does not necessarily mean that all offerors A through J truly have a reasonable chance for award, but it does embrace the regulatory requirement of "when there is a doubt as to whether a proposal is in the competitive range, the proposal should be included."

A broad competitive range (in this instance 10 offerors) will not affect the eventual outcome, i.e., **having more offerors within the competitive range does not obtain a better product or a better price.** The PAT believes that the regulation should be changed to eliminate the language on "when in doubt...." The proposed change is neither contrary to CICA nor inconsistent with the intent to award on initial offers (even if such an award is not possible). Offers still would be solicited according to CICA and those offerors who submitted their best technical and price proposals with initial offers would be those included in the competitive range. Eliminating the requirement to err on the side of inclusion strongly encourages offerors to get it right the first time.

Of course, every competitive range is unique and many are more complex than the above. Nothing in the PAT's recommendation suggests that PCOs should not consider all variables, such as extent of deficiencies and how much cost is expected to vary once deficiencies are corrected, prior to determining the competitive range.

Resulting Effect

Benefits:

- The recommendation focuses on risk management vice risk avoidance. Broad competitive ranges which include even doubtful offers is a form of risk avoidance. The

PAT's recommendation encourages the PCO to make a sound risk management decision and not to enlarge the competitive range just because it is safer (fear of protest).
- Strongly discourages offerors from submitting less than their best price and technical proposals on initial offers. Discourages hope of having a "second bite at the apple" to get a poor proposal right.
- Reduces PALT in terms of time to conduct discussions and re-evaluate reduced number of revised proposals and BAFOs.
- Reduces time/cost to offerors who do not have a reasonable chance for award.

Disadvantages/Risk Management:

- There are those who will say price is the easiest thing to revise during negotiations, and that offeror "J," for example, might reduce his price to below the price of "A."

Response. In the example provided, all the offerors in the competitive range will be offered the opportunity to revise their price, including offeror "A" (for whom the "ease of revision" philosophy applies equally), and the disparity in pricing could still exist.

- Potential for increased protests from offerors determined to be outside the competitive range who are accustomed to the current culture of "when in doubt" and who are used to getting a "second bite at the apple."

Response: This risk will be mitigated when the regulations empower the PCO to eliminate proposals that are in doubt.

Implementation Plan

The Director, Defense Procurement should refer the recommended FAR change to the DAR Council. The DAR Council should process in accordance with standard procedures.

The PAT recommends that FAR 15.609 be revised as follows:

15.609 Competitive Range

The contracting officer shall determine which proposals are in the competitive range for the purpose of conducting written or oral discussions (see FAR 15.610(b)). The competitive range shall be determined on the basis of cost or price and other factors that were stated in the solicitation and shall include all proposals that have a reasonable chance of being selected for award. ~~When there is a doubt as to whether a proposal is in the competitive range, the proposal should be included.~~

Milestones

Month 1	The Director, Defense Procurement should refer the recommended FAR change to the DAR Council.
Month 2 - 7	The DAR Council should process in accordance with standard procedures, including any requirement for public announcement, and revision to the FAR.

Metrics

- Measure time required to complete process after determining competitive range. Compare to average time required for comparable acquisitions under current FAR provision. (Comparable acquisitions must be comparable in terms of complexity of the item being acquired, number of potential viable offerors and contract value.)
- Customer satisfaction in terms of time for evaluation after discussion and total PALT.

Recommendation - 15

When a large number of proposals is anticipated, encourage a preliminary evaluation approach, using a limited number of evaluation factors, to down-select to a manageable number of proposals.

Discussion

The current practice of fully evaluating all proposals should not apply when a large number of proposals is received. The practice should be streamlined to quickly screen out of the competitive range those proposals that have no reasonable chance for award based upon evaluation of one or more evaluation factors including price. This process will reduce both cycle time and the expenditure of government assets. Likewise, because the evaluation and award process will be completed sooner, contractor resources will also be saved, since proposal preparation teams of noncompetitive and unsuccessful offerors can be disbanded earlier. In all instances, Section M of the request for proposals (RFP) should clearly provide the government's intent to perform a preliminary down-select and the criteria to be used. The criteria used is dependent upon what is being bought and whether award is to be made on a low priced technically acceptable or best value basis.

In the example illustrated in the table on the following page, 30 offers are received in response to a solicitation. Currently, most buying organizations would send all 30 offers for a complete technical evaluation. Performing a complete evaluation of all the proposals in this case would clearly not be productive. A down-select methodology allows the number of proposals to be reduced to a manageable number.

<u>OFFEROR</u>	<u>PRICE</u>	<u>OFFEROR</u>	<u>PRICE</u>
A	\$100,000	P	\$135,600
B	\$101,000	Q	\$135,800
C	\$102,000	R	\$136,000
D	\$105,000	S	\$136,200
E	\$106,000	T	\$136,400
F	\$108,000	U	\$136,600
G	\$112,000	V	\$137,250
H	\$115,000	W	\$137,500
I	\$118,000	X	\$138,000
J	\$120,000	Y	\$140,000
K	\$125,000	Z	\$169,000
L	\$130,000	AA	\$170,000
M	\$132,000	AB	\$185,000
N	\$135,200	AC	\$190,000
O	\$135,400	AD	\$210,000

Down-select. A simple example is where award is to be made to the **low priced technically acceptable offer**. For example, initially only offeror A (or A, B, and C), the lowest priced offer(s), would be forwarded for evaluation. If Offeror A is technically acceptable and all other requirements such as responsibility and price reasonableness exist, award is made. If offeror A is not technically acceptable the evaluation moves to the next low offeror and the process is repeated. The process may ultimately include determining a competitive range and having discussions, however it should not include a technical evaluation of all 30 proposals. Any competitive range should include only a reasonable number of proposals and should exclude the higher priced proposals.

Down-select. A more complex case would be in the **best value** situation (when the same 30 proposals are received.) A full evaluation of all proposals for both technical and price would be very time consuming and resource intensive. The RFP provided that the primary technical evaluation factor (clearly identified) and price/cost would be used in an initial down-select evaluation. (If appropriate, more than one technical evaluation factor could be used.) The technical evaluation team would evaluate that specific portion of the technical proposal on all offerors and the PCO would extract price/cost proposals. For proposals where a combination of technical deficiencies (or significant weaknesses in relation to other offerors) on the primary

technical factor and price do not warrant further consideration, there would be no further evaluation or consideration. A detailed technical evaluation on the other factors would then be performed on the remaining offerors. Once the entire evaluation had been completed, award would be made, or discussions would be held, as appropriate.

Resulting Effect

Benefits:

- Reduces cycle time for the acquisition
- Reduces government manpower
- Reduces offeror manpower

Disadvantages/Risk Management:

- Protests from excluded contractors are possible.

Response: If the decision to down-select is well documented and the criteria is listed in the RFP, the decision will be upheld by the protest forum. In their summary of several decisions by the GAO and the GSBCA, Nash and Cibinic state that:

"Contracting officers have broad discretion in determining whether to place a proposal within the competitive range. Their decisions in this regard will not be disturbed unless they are clearly shown to be arbitrary or unreasonable...." (*Competitive Negotiation: The Source Selection Process*, p. 410.)

- The possibility of missing the ultimate "best offer" exists.

Response: The risk of this is minimal because a proposal that holds promise of being the ultimate "best" offer is not anticipated to be deficient or comparatively weak in its initial offer on the most important technical criteria or significantly high in cost.

Implementation Plan

The Director, Defense Procurement should staff a memo for the signature of the Under Secretary of Defense (A&T). The memo would include the essence of this recommendation,

and others, that seek to endorse cultural changes required to move from risk avoidance to risk management. (A draft memo is provided with this report.)

████████████████████

Milestones

Month 1 The Director, Defense Procurement should staff the memorandum for the Under Secretary of Defense (A&T).

████████████████████

Metrics

- Measure time required to complete process of evaluating initial offers. Compare to average time required for comparable acquisitions under current FAR provision. (Comparable acquisitions must be comparable in terms of complexity of the item being acquired, number of offerors and contract value).
- Measure time required to complete entire process through award. Compare to average time required for comparable acquisitions under current FAR provision.
- Customer satisfaction in terms of time for initial evaluation, evaluation after discussion, and total PALT.

Recommendation - 16

If only one offeror has a reasonable chance for award, contracting officers should establish a competitive range of one rather than unnecessarily retaining other offerors.

Discussion

Under current regulations and culture, every effort is made to avoid a competitive range of one. PCOs strive to maintain the appearance of a competitive environment even when no realistic competition exists. When initial evaluation identifies only one offeror who has a realistic chance for award, PCOs still tend to retain other offerors in the competitive range in order to have competition for competition's sake.

The establishment of a competitive range of one on an acquisition is likely to save time, since written and oral discussions would only be held with that offeror. Contractor effort and expense would be saved by not keeping noncompetitive offers in the process. Since negotiations are being held with only one offeror, a better "meeting of the minds" will be accomplished up-front, which should lead to better contract performance and fewer contract changes.

One reason why competition is maintained is the Truth in Negotiations Act (TINA) requirement to obtain certified cost and pricing data in cases where price competition does not exist. By reducing the competitive range to one offeror, price competition is eliminated under the current definition and cost and pricing data would be required. For commercial items, the FAR rewrite, in almost all cases, would eliminate the need for cost and pricing data. For other than commercial items, the PAT's recommendation on certified cost and pricing data (Recommendation 17) should eliminate the need for certified cost and pricing data in almost all cases.

Another reason for the reluctance to reduce the competitive range to one is the threat of protest. GAO, however, has held in several cases that reduction of the competitive range to one is an acceptable practice. For some examples, see Nash and Cibinic, *Competitive Negotiation*, pages 411-412. The proposed new FAR language for the PAT team recommendation on minimizing the competitive range (recommendation 14) will make a competitive range of one more acceptable to the GAO or the GSBCA.

A further rationale for keeping offers in the competitive range is the possible reduction in price that may be obtained as a result of the negotiation and BAFO process. While price reductions may be possible in this area, the PCO should be given full flexibility to determine the value of further discussions and BAFOs.

Resulting Effect

Benefits:

- Reduces cycle time for the acquisition.
- Reduces government manpower.
- Reduces offeror manpower.

Disadvantages:

- Protests from excluded contractors are possible.

Response: If the decision to limit the competitive range to one is made for rational reasons and is well documented the protest authority will uphold the PCO.

- TINA may require that cost and pricing data be obtained.

Response: For commercial items, the ongoing FAR rewrite on commercial contracting, in almost all cases, will eliminate the requirement for cost and pricing data. For other than commercial items the PAT recommendation on Certified Cost or Pricing Data Exemption (Recommendation 17) should eliminate this requirement.

Implementation Plan

The Director, Defense Procurement should staff a memo for the signature of the Under Secretary of Defense (A&T). The memo would include the essence of this recommendation, and others, that seek to endorse cultural changes required to move from risk avoidance to risk management. (A draft memo is provided with this report.)

Milestones

Month 1 The Director, Defense Procurement should issue memorandum encouraging PCOs to limit the competitive range to one offeror when that offeror is clearly superior and no other offeror has a reasonable chance for award; or staff the alternative memorandum for the Under Secretary of Defense (A&T).

Metrics

- Measure time required to complete process of evaluating initial offers. Compare to average time required for comparable acquisitions under current FAR provision. (Comparable acquisitions must be comparable in terms of complexity of the item being acquired, number of offerors and contract value).
- Measure time required to complete entire process through award. Compare to average time required for comparable acquisitions under current FAR provision.
- Customer satisfaction in terms of time for initial evaluation, evaluation after discussion, and total PALT.

Recommendation - 17

Recommend that FAR 15.804-3 "Exemption from or waiver of submission of certified cost or pricing data," paragraph (b)(3) be modified to allow for broader exemptions when the price can be determined fair and reasonable based upon price analysis alone (for non-commercial items).

Discussion

The PAT recognizes that proposed FASTA implementing regulatory language modifying FAR 15.804-3, as published in the Federal Register for public comment, if promulgated, would fully satisfy the concerns giving rise to this recommendation. The PAT fully supports the proposed implementing regulatory language, but has retained this recommendation in the event the Federal Register language is not adopted.

The PAT believes that more reliance should be placed on price analysis, and that certified cost and pricing data should not be required when price analysis alone demonstrates that the price is fair and reasonable.

In order to establish that adequate price competition exists, FAR 15.804-3 requires, among other things, either:

- Two or more responsible offerors...submit priced offers responsive to the solicitation's expressed needs; or,
- Price analysis alone clearly demonstrates that the proposed price is reasonable in comparison with current or recent prices for the same...under contracts that resulted from adequate price competition.

Absent having two "responsive offers," the above only allows price analysis that uses a comparison to other contracts that resulted from adequate competition. This ignores all the other price analysis techniques under FAR 15.805-2, "Price Analysis." It creates a situation where regulation requires certified cost and pricing data even though it may not be needed to determine a fair and reasonable price. Most specifically, this can occur when the PCO is only considering one offeror, for example:

- Award is made on initial offers and only one of several proposals is technically acceptable at that point; or

- Multiple proposals have been received in response to a low-priced/technically acceptable requirement, and the low offeror is technically acceptable. The only reason for evaluating the other offerors is to meet the "adequate price competition" criteria of two "responsive" offerors; or
- The acquisition was competitively solicited but only one offer was received.

The recommended change to FAR 15.804-3 does not require a statutory change. Section 2306a of Title 10, United States Code, referred to as the Truth in Negotiations Act, does not mandate the receipt of offers from at least two sources in order to have adequate competition.

Resulting Effect

Benefits:

- Reduces PALT. Eliminates time involved in requesting, receiving, and evaluating certified cost and pricing data.
- Risk is managed rather than avoided. Obtaining certified cost and pricing data does not necessarily make the price more fair and reasonable.
- Reduces proposal preparation cost to contractors.
- Emulates commercial practices.

Disadvantages/Risk Management:

- There is a potential for higher pricing.

Response: Having contracts personnel adequately trained in price analysis will mitigate this risk. **The importance of adequate price analysis training cannot be over-emphasized.** Greater use of price analysis over \$500,000 requires contracting officers who have reached a certain level of training in price analysis techniques. When appropriate, a price analysis should include a risk analysis on the adequacy of the offeror's estimating system and whether there were any prior cost or pricing problems. Adequate price analysis should be able to detect pricing that is other than fair and reasonable. Obtaining cost and pricing data and performing

cost analysis does not, in of itself, ensure that higher pricing is not paid or that the price is fair and reasonable. Even when cost analysis is performed, price analysis is still required.

Implementation Plan

No action is necessary if the proposed FASTA implementing regulatory language modifying FAR 15.803-3, as published in the Federal Register for public comment, is promulgated. Otherwise--

The Director, Defense Procurement should refer the recommended FAR change to the DAR Council. The DAR Council should process in accordance with standard procedures.

The PAT recommends that FAR 15.804-3(b)(3) be revised to read as follows:

15.804-3 Exemptions from or waiver of submission of certified cost or pricing data.

(b) Adequate price competition.

"(3) A price is "based on" adequate competition, if:

[(i)] it results directly from price competition[;] or-if

[(ii) if only one offer is solicited and] price analysis alone clearly demonstrates that the proposed price is fair and reasonable in comparison with current or recent prices for the same or similar items purchased in comparable quantities, terms and conditions under contracts that resulted from adequate price competition; [or

(iii) it is received in response to a competitive solicitation and price analysis alone clearly demonstrates that the proposed price is reasonable.]"

Milestones

No action is necessary if the proposed FASTA implementing regulatory language modifying FAR 15.803-3, as published in the Federal Register for public comment, is promulgated. Otherwise--

Month 1	The Director, Defense Procurement should refer the recommended FAR change to the DAR Council.
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Month 2 - 7

The DAR Council should process in accordance with standard procedures.

Metrics

- Measure time involved in price analysis compared to other similar acquisitions that required cost analysis and price analysis.
- Customer satisfaction with resulting price.
- Industry satisfaction with reduced requests for certified cost and pricing data.

Recommendation - 18

Limit the requirement to refer a determination of nonresponsibility of a small business to the Small Business Administration (SBA) for a Certificate of Competency (COC) to the following circumstances:

- Only contracting activities that do not meet their established small business and small disadvantaged business (SDB) goals will be required to refer to the SBA for a COC. If activities have not met their goals, COCs will be required only when the following conditions apply:
 - When a small business is displaced by a large business ; or,
 - When a SDB is displaced by either a small business or a large business.

Discussion

The intent of the above recommendation is to (1) establish a reward to those contracting activities that meet their small business and SDB goals as well as to provide an incentive to those activities that do not meet their goals and (2) provide avenues that support socio-economic goals without having to go through the COC process. A contracting activity would not be required to refer to the SBA for a COC if it met or exceeded its established small business and SDB goals during the most recent reporting period. In addition, if a contracting officer determines a small business to be non-responsible and the next contractor in line for award is another small business, then a COC should not be required because the socio-economic goal is still maintained. However, the COC would still apply when a small business is displaced by a large business or a SDB is displaced by a small business or large business.

The difficulty contracting activities face with the requirement to refer to the SBA for a COC is twofold: the timeframe (within 15 working days) and the potential consequences of dealing with a COC. Although an appeal process exists in the FAR, discussions the PAT had with contracting officers revealed that the appeal process often does not prove worth the effort and only prolongs the procurement process. So, rather than file a formal appeal, contracting officers act upon the COC and award the contract. A problem arises when the contractor turns out to be a nonresponsible or marginal performer as the contracting officer determined initially. Contracting officers must then either default or live with a marginal performer resulting in a lack of customer satisfaction and a decrease in product quality.

Resulting Effect

Benefits:

- Allows the PCO to rely on his/her own responsibility determination and still fully support socio-economic goals and enhance quality acquisitions.
- Reduces the potential of awarding to a marginal performer and improves customer satisfaction.
- Reduces PALT by eliminating the number of circumstances that require referral to the SBA for a COC.

Disadvantages/Risk Management:

- Resistance from small business community.

Response: Although there will be resistance from the small business community, the PAT expects that the majority of the resistance will come from small businesses that are marginal performers or lack in areas of responsibility. These are the contractors that cause problems in performance, in poor customer satisfaction, and in additional reprocurement or rework costs for the government. Small businesses that are normally determined responsible by the PCO would not resist because they would not see this as a threat.

- Resistance from the Small Business Administration.

Response: This recommendation reduces the occasions when the SBA can overrule a contracting officer's determination that a small business should not be awarded a contract because it lacks certain elements of responsibility. The issue is risk. The SBA risks nothing by issuing a "bad" CoC. The risk is placed upon the contracting activity. PCO's are empowered within the FAR to make determinations of responsibility regarding large businesses. In this time of streamlining, it is not proper placement of accountability to give another agency of the Federal Government the authority to force a contracting officer to award a contract to an offeror that does not meet the basic standards of responsibility in accordance with FAR 9.104 or has failed a pre-award survey. The current procedures violate the principles of accountability, best value contracting, and performance-based contracting.

- Socio-economic goals may be met but what about protecting the individual company?

Response: The PAT believes that the socio-economic goals represent the small business community as a whole rather than the individual company. Contracting officers are not opposed to protecting the individual company as long as that individual company can provide a quality product or service on time at a fair and reasonable price.

Implementation Plan

The DUSD(AR) should draft recommended statutory changes to the Small Business Act (15 U.S.C. 637 Section 8). These changes should be coordinated and processed in accordance with standard procedures. Once the final change to the statute is passed by Congress, the Director, Defense Procurement should refer to the DAR Council for implementing appropriate regulatory changes.

The PAT recommends the draft change to the Small Business Act (15 U.S.C. 637 Section 8(b)(7)(A)) be as follows:

(7)(A) To certify to Government procurement officers, and officers engaged in the sale and disposal of Federal property, with respect to all elements of responsibility, including, but not limited to, capability, competency, capacity, credit, integrity, perseverance, and tenacity, of any small business concern or group of such concerns to receive and perform a specific Government contract. A government procurement officer or an officer engaged in the sale and disposal of Federal property may not, for any reason specified in the preceding sentence, preclude any small business concern or group of such concerns from being awarded such contract without referring the matter for a final disposition to the Administration **[unless (i) the small business concern is determined to be nonresponsible by the contracting officer and the next offeror in line for award is also a small business concern; or, (ii) the small disadvantaged concern is determined to be nonresponsible by the contracting officer and the next offeror in line for award is also a small disadvantaged business (SDB) concern; or, (iii) the contracting activity met or exceeded its established small business and SDB goals for the most recent reporting period .]**

The PAT also recommends the following addition to the DFARS:

219.602-1 Referral

[(a) Upon determining and documenting that a responsive small business lacks

certain elements of responsibility (including, but not limited to, competency, capability, capacity, credit, integrity, perseverance, and tenacity), the contracting officer shall -

- (2) Refer the matter to the cognizant SBA Regional Office in accordance with agency procedures, except that referral is not necessary if -
- (iii) the small business concern is determined to be nonresponsive by the contracting officer and the next offeror in line for award is also a small business concern; or,
 - (iv) the small disadvantaged concern is determined to be nonresponsive by the contracting officer and the next offeror in line for award is also a small disadvantaged business (SDB) concern; or,
 - (v) the contracting activity met or exceeded its established small business and SDB goals for the most recent reporting period .]

Milestones

Month 1-12:	DUSD(AR) drafts and coordinates changes to statute.
Month 13-18:	Director, Defense Procurement refers to DAR Council for resulting regulatory changes.

Metrics

- A representative group of contracting activities should obtain customer feedback on contractor performance for a 12 month period for those instances when the contracting officer made a determination of nonresponsibility, the SBA issued a COC, and the contracting officer subsequently awarded based upon that COC. This should be compared to comparable acquisitions awarded during that same period when the contracting officer did not have to refer to the SBA for a COC as a result of the implementation of the DFARS language.
- An immediate measurement following implementation of the DFARS language will be a reduction in PALT during the pre-award phase. A representative group of contracting activities should measure the number of days for the evaluation/negotiation phase for a 12 month period following the implementation of the revised DFARS language and compare with a 12 month period prior to implementation. The measurement will only include acquisitions that involve determination of nonresponsibility on the initial apparent successful offeror.

AWARD RECOMMENDATIONS

- **Recommendation 19** - Maximum Emphasis on Award on Initial Offers
- **Recommendation 20** - Require GAO to Rule on Dispositive Motions

Recommendation - 19

If a solicitation specifies that the government intends to evaluate proposals and make award (on initial offers) without discussions, contracting officers should make award consistent with that intention to the maximum practical extent.

Discussion

When FAR 52.215-16 (Alternate III), "Award," is included in the RFP, it specifically provides that the government intends to evaluate proposals and make award on initial offers, unless the contracting officer determines that discussions are necessary. All too often, PCOs do not award on initial offers even though doing so would result in an acceptable or technically superior product at a reasonable price. There appears to be a cultural bias that often encourages PCOs to enter into discussions primarily as a means of risk avoidance, such as fear of protest, or fear they have not obtained the lowest possible price. Any determination to hold discussions should be substantive. If a price can be determined to be fair and reasonable based upon initial offers, then any substantive rationale for holding discussions should not include the potential of obtaining a lower price.

Award on initial offers saves a significant amount of time. Deciding that discussions are necessary, determining competitive range, obtaining legal review, holding discussions, receiving revised proposals, requesting best and final offers and re-evaluating technical and cost/price proposals can add weeks or months to the process and increase costs to both industry and government.

No regulatory or statutory change is required. Policy may be required to place emphasis on the matter.

Resulting Effect

Benefits:

- **Significantly reduces PALT.** Eliminates time and cost (both government and offerors) expended during the discussion, revised proposal and/or BAFO, and re-evaluation process.
- Consistent with the stated intent in RFP. This is a pivotal provision of the solicitation.

Disadvantages/Risk Management:

- Some detractors may believe that award on initial offers may not realize the "lowest possible price."

Response: The intent of the government, as set forth in the FAR, is to award at a **fair and reasonable price**, which is not synonymous with the "lowest possible price."

- There may be a concern that award on initial offers **might** miss the ultimate "best offer", i.e., another proposal **might** become the ultimate "best offer" if discussions were held and offerors were allowed an opportunity to correct their deficiencies.

Response: This concern is one of risk avoidance, i.e., the lingering thought that perhaps "one more round" will improve **deficient** proposals and obtain a "better" offer. If the PCO includes the intent to award on initial offers in the RFP, then effective risk management adheres to the intent and does not arbitrarily revert to risk avoidance just to reach a comfort level. Any determination on the part of the PCO to hold discussions should be substantive. The PCO should strive to award consistent with the intent set forth in the RFP. Eventually the culture of "getting a second bite of the apple" will change and offerors will submit their best technical and price offers with initial proposals.

It is noted that PCOs cannot make award on initial offers unless the proposal is at least technically acceptable, the price is fair and reasonable, and the award represents the best value to the government or is the most advantageous offer from a technical and cost standpoint, and is consistent with the terms of the solicitation.

Implementation Plan

The Director, Defense Procurement, should staff a memo for the signature of the Under Secretary of Defense (A&T). The memo would include the essence of this recommendation, and others, that seek to endorse cultural changes required to move from risk avoidance to risk management. (A draft memo is provided with this report.)

Milestones

Month 1	Director, Defense Procurement should staff the memorandum for the signature of the Under Secretary of Defense (A&T).
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Metrics

- Measure customer satisfaction with (1) PALT, (2) price, and (3) technical results.

Recommendation - 20

Title 31 U.S. Code should be amended to require the Comptroller General, in the adjudication of bid protests, to issue rulings on timely filed dispositive motions prior to any final decision on the protest merits. The period available to GAO for deciding dispositive motions should not impact the time available for the preparation of the agency report or the GAO decision on the merits.

Discussion

The filing of a protest, by its very nature, disrupts the procurement process. Resolution of protests is costly both in terms of the time consumed and loss of efficiency in responding to the protest and the actual additional expense to the government resulting from the impact of the automatic stay. This is particularly frustrating and wasteful when the protest is not brought by an interested party, or on its face, does not state a proper basis, allege requisite prejudice, assert necessary supporting facts, is frivolous, or is otherwise dismissable under GAO rules. The GAO has proven to be reluctant to dismiss such protests *sua sponte*, and often will not rule on dispositive motions to dismiss until it issues its final report. Agencies are disinclined to file dispositive motions, apart from including such counts as part of their agency report, because of the perception that no time savings will result because GAO will not rule on a dispositive motion prior to the time that the agency is required to submit its report. The GAO's reluctance to dispose of such protests or rule on dispositive motions in a timely manner has the effect of forcing the agency to expend the effort of preparing an agency report, disrupt or delay contract performance, and incur expenses related to any suspension of performance resulting from the automatic stay, all of which is either avoidable or can be easily mitigated by the establishment of a formalized dispositive motion practice before the GAO.

The PAT envisions that a dispositive motion practice which would require mandatory decision by the GAO and not interfere with the time allowed for the other stages of the protest process. Such procedures should require that dispositive motions filed by an agency within 5 days of receipt of a protest would suspend the time periods for submission of the agency report and issuance of the GAO decision until such time as the GAO rules on the motion. The protester and interested parties should be permitted 5 days to respond to the motion and the GAO should be required to issue its decision on the motion within 10 days thereafter. If the GAO does not dismiss the protest, then the time periods for submission of the agency report and the issuance of a decision would be calculated from the date of the decision on the motion as if that was the date of initial filing of the protest.

The PAT recommends that 31 USC 3551 et seq. be revised to require the Comptroller General to rule on dispositive motions prior to any final decision on the protest itself.

Resulting Effect

Benefits:

- Will mitigate the disruptive effect of improper protests on lead times.
- Will reduce cycle time.
- Will eliminate the significant expenditure of resources required in preparing the report to GAO in cases where a dispositive motion is granted, i.e., the agency will not have to prepare the report unless the dispositive motion is denied. (Currently the agency must prepare the report while waiting for a ruling on the dispositive motion.)

Disadvantages/Risk Management

- May add to GAO's workload.

Response: This increase is more than offset by the decrease in agency resources required to prepare a report that would not be necessary if the dispositive motion is granted.

Implementation Plan

The Deputy Under Secretary of Defense (Acquisition Reform) should draft recommended statutory changes to 31 USC 3551 et seq. in accordance with this recommendation and process as appropriate.

The PAT recommends that the draft be as follows:

31 USC 3553(b)(2)(A) is revised as follows:

(A) within 35 days after **[the later of]** the date of the agency's receipt of that notice **[(i) the notice required by paragraph (b)(1) of this section, or (ii) notification that the Comptroller General has denied a motion to dismiss**

filed by the agency in accordance with the limitations of section 3554(a)(5)(A) of this title];

31 USC 3553(b)(2)(C) is revised as follows:

(C) in a case determined by the Comptroller General to be suitable for the express option under section 3554(a)(2) of this title, within 20 days after [the later of (i)] the date of the Federal Agency's receipt of that determination, or (ii) notification that the Comptroller General has denied a motion to dismiss filed by the agency pursuant to section 3554(a)(5)(A) of this title;

31 USC 3553(b)(3) is revised as follows:

(3) A Federal agency need not submit a report to the Comptroller General pursuant to paragraph (2) of this subsection if the agency is sooner notified by the Comptroller General that the protest concerned has been dismissed under section 3554(a)(4) [or (5)] of this title.

31 USC 3554(a)(1) is revised as follows:

(a)(1) To the maximum extent possible, the Comptroller General shall provide for the inexpensive and expeditious resolution of protests under this subchapter. Except as provided under paragraph (2) of this subsection, the Comptroller General shall issue a final decision concerning a protest 125 days after the [later of (i)] the date the protest is submitted to the Comptroller General [, or (ii) the date that the Comptroller General issues a ruling which denies a motion to dismiss filed by the agency in accordance with the limitations of section 3554(a)(5)(A) of this title] ;

31 USC 3554(a)(2) is revised as follows:

(2)The Comptroller General shall, by regulation prescribed pursuant to section 3555 of this title, establish an express option for deciding those protests which the Comptroller General determines suitable for resolution within 65 days after [the later of (i)] the date the protest is submitted to the Comptroller General [, or (ii) the date that the Comptroller General issues a ruling which denies a motion to dismiss filed by the agency in accordance with the limitations of section 3554(a)(5)(A) of this title];

The following new subparagraph is added after 31 USC 3554(a)(4):

[(5)(A) The Comptroller General shall, within 20 days of receipt, resolve motions made by a federal agency to dismiss the protest if:

(i) the motion is filed with the Comptroller General within 5 days after the Federal Agency receives notification of the protest pursuant to Section 3553(b)(1) of this chapter and the agency certifies that copies of the motion have been served on all interested parties by hand or electronically

(ii) the motion asserts one or more of the following:

- (I) the protest should be dismissed pursuant to paragraph (a)(4) of this subsection,**
- (II) the protester is not an interested party,**
- (III) the protest is not timely,**
- (IV) the protest does not allege requisite prejudice, or**
- (V) the protest is otherwise dismissable under Comptroller General rules.**

(B) The Comptroller General shall consider the comments of interested parties on motions filed by Federal Agencies pursuant to paragraph (a)(5)(A) of this subsection if the comments are received by the Comptroller General within 5 days after the date the Federal Agencies motion is filed with the Comptroller General.

(C) Motions of federal agencies asserting the grounds described in paragraph (a)(5)(A)(ii) which are not filed with the Comptroller General within 5 days after the Federal Agency receives notification of the protest pursuant to Section 3553(b)(1) of this chapter may be resolved by the Comptroller General in the final decision on the protest.]

After requisite statutory changes are made, it would be GAO's responsibility to promulgate implementing changes to 4 CFR 21.

Milestones

Month 1 - 12	The Deputy Under Secretary of Defense (Acquisition Reform) should draft recommended statutory changes to 31 USC 3551 et seq. in
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accordance with this recommendation and process as appropriate.

Month 13-18

GAO promulgates changes to 4 CFR 21.

Metrics

- GAO currently keeps statistics on the disposition of protests. This data can be used to measure value-added in terms of resources saved by the statutory change.

OTHER RECOMMENDATIONS

Recommendation - 21

The PAT recommends the formation of a separate DUSD(AR) PAT(s) to review/re-engineer the process for Department of Defense acquisition of Federal Information Processing (FIP) Resources (hardware, software, and services).

Discussion

The PAT recognized that the current acquisition of FIP Resources is an arcane, inflexible, bureaucratic process that delays the procurement and can result in the acquisition of obsolete, overpriced technology. The use of FIP resources has become deeply ingrained in many government business processes. In today's environment there seems to be limited rationale for all the controls imposed on the acquisition of FIP resources. Although the PAT did not undertake suggesting re-engineering of these processes it did begin to identify some candidates for reform. (The PAT does acknowledge that GSA recently delegated procurement authority of \$20M to the services). The following are some ideas:

- Review merits of having \$20M authority redelegated down to local buying activities.
- Review the Merit of Requesting a Blanket Delegation of Procurement Authority for Contractor Support Services for DoD. While some added oversight (GSA) might have merit in the acquisition of hardware and software to avoid redundancy and non-compatibility, this does not seem to be the case for contractor support services. The vast majority of white-collar contractor support contracts and engineering services now require some, or many, FIP personnel (analysts, programmers, etc.).
- Apply the Federal Supply Schedule Procedures at FAR 8.4 to Acquisition of FIP under GSA Schedules. Currently, an intended placement of an order against a FIP GSA Schedule requires synopsis over \$50,000 (possibly \$100,000 under SAT). No synopsis is required before placement of non-FIP orders against a GSA Schedule. In the FIP arena, the synopsis often results in 10/20 or more non-schedule holders or "third-party" vendors responding that they can offer the

items at "lower" prices. This usually drives the procurement into the competitive negotiated source selection process that can take months. A GSA schedule order can be processed under the procedures of FAR 8.4 in 1-3 days.

- Review Requirements by Individual Agencies for Agency Level FIP Approval. Currently some agencies require agency approval of the acquisition of FIP resources at any dollar value (as a part of Life Cycle Management or other policy). Recommend the PAT review the practices for potential for excluding acquisitions below the Simplified Acquisition Threshold (or higher).
- Review the Necessity and Applicability of the Brooks Act and the Warner Amendment. This review is necessary given today's environment in the procurement of federal information processing (FIP) resources.
- Consider the Report of the Defense Science Board Task Force on "Acquiring Defense Software Commercially" dated June 1994, concerning the acquisition/contracting recommendations to make necessary changes to acquisition regulations to accommodate the acquisition of commercial software under commercial practices while considering software life cycle guidelines, the use of software architecture, the software technology base, and the reuse of software.

APPENDIX A: DRAFT IMPLEMENTING CORRESPONDENCE

- Recommendation 2 - Letter from DDP to GSA
- Recommendation 7 - Letter from USD(A&T) to Services and Agencies
- Recommendations 6, 15, 16, and 19 - Letter from USD(A&T) to Services and Agencies

DRAFT

**OFFICE OF THE UNDER SECRETARY OF DEFENSE
Washington, DC 20101-3000**

LETTER TO THE ASSOCIATE ADMINISTRATOR FOR ACQUISITION POLICY, GENERAL
SERVICES ADMINISTRATION

SUBJECT: Expanded Data for Commercial Supplier-Profile Reports

The Department of Defense (DOD) is currently advising its buyers to rely more on commercial reporting services (such as Dun & Bradstreet (D&B) and similar firms), and less on Preaward Surveys (PASs), to obtain data on the responsibility and capabilities of potential suppliers. In many cases, commercial reports can provide defense buyers with all or most of the contractor information they need at lower costs than PASs and at significantly better lead times. Commercial supplier-profile reports are available to DoD buyers via Federal Supply Schedule.

Commercial supplier profiles, however, are limited in their usefulness to DoD buyers, because they do not sufficiently report the Government-specific data most pertinent to defense acquisition, including -

- past performance on Government contracts,
- the results of Government PASs, and
- socio-economic status under various statutes, including the results of size determinations by the Small Business Administration (SBA) and any Walsh-Healey determinations by the Department of Labor (DOL).

Buyers would order more commercial reports in lieu of PASs, and save the Department of Defense significant time and money, if the reporting concerns included more Government-specific data in their products. Accordingly, this office requests that GSA explore with the various reporting services and with other affected federal agencies the expansion of the commercial reports to include more Government data to make them more valuable to Government buyers.

Eleanor R. Spector
Director, Defense Procurement

Recommendation 2

**OFFICE OF THE UNDER SECRETARY OF DEFENSE
Washington, DC 20301-3000**

(Acquisition and
Technology)

**MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
DIRECTOR, DEFENSE LOGISTICS AGENCY**

SUBJECT: Formal Source Selection Process

In October 1994, I chartered two process action teams (PAT) to provide recommendations that would improve the procurement and administration processes. The team that reviewed the competitive source-selection process found that **formal** source selection was overused as an acquisition method and that agencies should reduce its incidence. The PAT recommended that I express a preference that formal source selection be reserved for "major systems" acquisitions. The recommendation was based on the recognition that formal source selections often add little value but significant administrative cost to the buying process.

Addressees shall move to restrict the use of formal source selection in "less than major" acquisitions.

Paul G. Kaminski

Recommendation 7

DRAFT
OFFICE OF THE UNDER SECRETARY OF DEFENSE
Washington, DC 20301-3000

(Acquisition and
Technology)

MEMORANDUM FOR _____

SUBJECT: Risk Management in the Acquisition Process

I recently chartered several process action teams (PATs) to re-engineer specific elements of the procurement process within DoD. These PATs were charged with developing ideas to make the process more efficient and effective, while balancing the nation's social and economic goals and ensuring the integrity of the procurement process. One of the objectives of the PATs was to emphasize risk management in their recommendations in lieu of risk avoidance.

The final recommendations from the PAT that reviewed the competitive procurement process identified several aspects of the process that could be improved solely by having DoD procurement officials exercise existing authority in a manner to manage rather than to avoid risk. Risk management requires the making of tough, defensible decisions, often early in the process. I believe the entire acquisition process can benefit from risk management and have included below some of the PAT's observations and recommendations related to this issue.

Limiting the number of evaluation factors in source selection to those that are truly meaningful or that genuinely discriminate among proposals has several proven benefits. It reduces the time required for the source selection process, the number of personnel required for the evaluation, and the cost to industry in terms of preparing proposals. The benefits can be substantial for acquisitions previously solicited using a proliferation of unnecessary factors. Acquisition policy should advocate limiting the number of technical evaluation factors.

Contracting officers should streamline the competitive evaluation process. When an unmanageable number of proposals is anticipated in response to an RFP, performing a complete technical evaluation on all the proposals adds significantly to the cycle time and increases the expenditure of government resources. For requests for proposals that may result in the receipt of a large number of proposals, contracting officers are encouraged to use a preliminary evaluation approach, using a limited number of evaluation factors, to down-select to a manageable number of proposals. A suggested process is described in more detail in an attachment.

Contracting officers should award contracts based on initial offers when it is in DoD's best interest. The PAT reported to me that there is a reluctance in the contracting community to award on initial offers without discussions. Contracting officers, the PAT reports, are inclined to open discussions simply in order to obtain lower prices, or to negotiate under the perception that awards against initial offers involve greater risk of protest, without regard to the inefficiency resulting from such decisions. This practice is risk avoidance and not risk management. Any determination by the contracting officer that discussions are necessary must be substantive. Contracting officers should be mindful that (1) the conduct of negotiations is itself an administrative expense to the Government, (2) the Government's pricing objective is to obtain a fair and reasonable price, and (3) unnecessary discussions discourage industry from submitting their best technical and price proposals with initial offers. Whenever prices offered can be determined to be fair and reasonable based on initial offers, contracting officers should not open discussions simply to obtain a lower price.

Paul G. Kaminski

Attachment:
As stated

Recommendations 6, 15, 16, and 19

**PROCESS ACTION TEAM RECOMMENDATION FOR A PRELIMINARY
DOWN-SELECT EVALUATION PROCESS**

There are some instances when a large and unmanageable number of proposals are received in response to an RFP. Performing a complete technical evaluation on all the proposals adds significantly to the cycle time and increase the expenditure of government resources. For RFPs that result in the receipt of a large number of proposals, Contracting Officers are encouraged to use a preliminary evaluation approach to down-select to a manageable number. This approach would consist of a preliminary evaluation of one or more of the evaluation factors in the RFP and would always include price.

For example, for RFPs to be awarded on a best-value basis, a preliminary evaluation of all proposals would be performed on one (or more) of the most important technical factor(s) and price/cost. For RFP's to be awarded on a low-priced technically acceptable basis, normally the only factor would be price.

Section M, Evaluation Factors for Award, of the RFP must clearly provide the government's intent to perform a preliminary down-select, if appropriate, and the criteria to be considered. Once proposals are received, then the contracting officer and the technical evaluation panel would evaluate proposals in accordance with the preliminary evaluation criteria of the RFP.

For best value solicitations, there would be no further evaluation of proposals for which a combination of technical deficiencies (or significant weaknesses in relation to other offerors) on the primary technical factor (or as stated in the RFP) and price do not warrant further consideration. These offerors would be determined to be outside the competitive range and so notified. A detailed evaluation of the other factors would then be performed on the remaining offerors. Once the entire evaluation had been completed, award would be made, or discussions would be held, as appropriate.

ATTACHMENT

APPENDIX B: REFERENCES

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APPENDIX C: GLOSSARY

A

ACO	Administrative Contracting Officer
AFAMS	Air Force Acquisition Model
ALT	Administrative Lead Time

B

BAFO	Best and Final Offer
BEST	Bid Evaluation Support Tool

C

CBD	Commerce Business Daily
CD	Compact Disk
CICA	Competition In Contracting Act
CO	Contracting Officer
COC	Certificate of Competency

D

DAR	Defense Acquisition Regulation
D & F	Determination and Finding
D & B	Dunn and Bradstreet
DCAA	Defense Contract Audit Agency
DCMC	Defense Contract Management Command
DFARS	Defense Federal Acquisition Regulation Supplement
DLA	Defense Logistics Agency
DoD	Department of Defense
DoDIG	Department of Defense Inspector General
DoE	Department of Energy
DoL	Department of Labor
DPA	Delegation of Procurement Authority
DPACS	DLA Pre-Award Contracting System

DUSD(AR)

**Deputy Under Secretary of Defense
(Acquisition Reform)**

E

EC/EDI

**Electronic Commerce/Electronic Data
Interchange**

ECP

Engineering Change Proposal

EEO

Equal Employment Opportunity

EMD

**Engineering and Manufacturing
Development**

F

FAT

First Article Testing

FACNET

Federal Acquisition Computer Network

FAR

Federal Acquisition Regulation

FASTA

Federal Acquisition Streamlining Act

FIP

Federal Information Processing

FIRMR

**Federal Information Resources Management
Regulations**

FSC

Federal Supply Class

G

GAO

General Accounting Office

GFE/I/M

**Government Furnished Equipment/
Information/Material**

GFE

Government Furnished Equipment

GSA

General Services Administration

GSBCA

**General Services Board of Contract
Appeals**

H

HCA

Head of Contracting Activity

J

J & A

Justification and Approval

JAST

Joint Advanced Strike Technology

L

LAT Lot Acceptance Test

M

MADES Menu Assisted Data Entry System

N

NASA National Aeronautics and Space
Administration

NC Numerical Code/Control
NORs Notice of Revisions

O

OFCCP Office of Federal Contracts Compliance
Programs

OLA Office of Legislative Affairs
OPR Office of Principal Responsibility
OSD Office of the Secretary of Defense
OMB Office of Management and Budget

P

PALT Procurement Administrative Lead Time
PAS Pre-Award Survey
PAT Process Action Team
PCO Procuring Contracting Officer
PLA Procurement Liaison Auditor
PM Program Manager
PR Purchase Request

Q

QML Qualified Manufacturers List
QPL Qualified Products List
QSL Qualified Suppliers List

R

RFD	Request for Deviation
RFW	Request for Waivers
R & D	Research and Development
RFP	Request for Proposal
RQT	Reliability Qualification Test

S

SAE	Service Acquisition Executive
SAT	Simplified Acquisition Threshold
SB	Small Business
SBA	Small Business Administration/Act
SDB	Small Disadvantaged Business
SIC	Standard Industrial Classification
SCN	Specification Change Notices
SLAM	Standoff Land Attack Missile
SOW	Statement of Work
SPAWAR	Space and Naval Warfare Systems Command
SSA	Source Selection Authority

T

TDP	Technical Data/Drawing/Documentation Package
TINA	Truth in Negotiation Act

U

USC	United States Code
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ACQUISITION AND
TECHNOLOGY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000



November 4, 1994

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
COMPTROLLER OF THE DEPARTMENT OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE PROCUREMENT
PRESIDENT, DEFENSE ACQUISITION UNIVERSITY

SUBJECT: Process Action Teams on the Procurement Process and Contract Administration

As part of the effort to reform the acquisition process within the Department of Defense, I am creating process action teams on the Procurement Process and Contract Administration. A Board of Directors, composed of key acquisition personnel from the Services, DLA, DCAA and the Office of the Director, Defense Procurement, has been established to oversee these process action teams. I am appointing COL Blair Peterson, Commander, Defense Contract Management Area Office (DCMAO) Detroit, to lead the process action team on Contract Administration and Mr. Robert Rumberger, Associate Director, Aircraft Support Contracts, Naval Air Systems Command Headquarters, to lead the process action team on the Procurement Process. I have also approved the attached charters for the teams identifying the task objectives and establishing a reporting schedule.

Please immediately identify your representatives to the team in accordance with section IV of the charters. Your representatives should be people with experience in these processes who can take a "clean sheet of paper" approach with a DoD-wide perspective. Provide the names of your representatives to your member on the Board of Directors, or to COL Charles Adams of Mrs. Preston's staff at (703) 697-6398 (DSN 227-6398).

The establishment of these process action teams is another major step in addressing changes in the Defense acquisition process that will improve the way we buy equipment while protecting the public trust. I am dedicated to the success of this effort and request your personal support.

Paul G. Kaminski
Paul G. Kaminski

Attachments:
As stated



CHARTER FOR THE PROCESS ACTION TEAM ON THE PROCUREMENT PROCESS

I. Background

DoD's acquisition system is governed by a complex web of laws, regulations, and policies, adopted for laudable reasons over many years. While each rule individually has (or had) a purpose for its adoption, it may add little or no value to the product itself. The collection of rules, especially if applied narrowly without consideration of the specific circumstances, can prevent the system from operating efficiently.

Thus the task involves assessment not only of the individual rules, regulations and policies, but also of their application and the process in which they are applied. Our objective is not to unnecessarily hinder the contracting officer but to help him or her do the job in the most effective and efficient manner by assessing and managing risk.

DoD must advocate a balancing of the risk associated with reducing oversight and the cost to both industry and the Government of ensuring compliance. The costs to ensure compliance must be balanced against the overall benefits achieved. The acquisition system must ensure that the Government does not incur undue business risk and that sufficient controls are in place so that the public confidence in the system is high while at the same time the system is not overly complex and burdensome and is responsive to the needs of its users.

II. Authority

The Under Secretary of Defense (Acquisition & Technology) directed that a crossfunctional Process Action Team (PAT) be formed including representatives from OSD, the Military Departments and Defense Agencies. The team will be comprised of appropriate representatives to ensure a broad acquisition perspective. A significant number of the team members will be from buying activities. Members should have had recent procurement experience. Additional functional and technical support and coordination will be provided from appropriate offices as needed.

III. Purpose

The team(s) will develop, within a maximum period of 90 days from being tasked, a comprehensive plan to re-engineer specific elements of the procurement process within DoD to make it more efficient and effective, while balancing the nation's social and economic goals and ensuring the integrity of the procurement process. The team shall be guided in their reengineering efforts by the following general goals:

- Streamline the procurement process, address tailoring to provide appropriate flexibility, focus on establishing the practice of continuous process improvement, and ensure that the process is responsive to customer needs in a timely fashion.
- Balance the need for a particular policy or procedure to protect or further a Government interest with the need for efficiency and cost savings. Consider incentives to encourage innovation as needed, and to manage risk rather than avoid it. Encourage risk management rather than blind risk avoidance, while ensuring that the Government does not incur undue risk.
- Eliminate non-value added activities. Ensure that oversight (both internal and external), when necessary to ensure compliance with enunciated policies or requirements, is performed in the least intrusive manner, consistent with the protection of the public trust.

IV. Roles and Responsibilities

The Board of Directors of the PAT(s) will be made up of senior representatives of the procurement/contract administration community in the OSD, the Services and Defense Agencies. The Deputy Under Secretary of Defense (Acquisition Reform) has appointed Mr. Robert Rumberger as the Team Leader. The Team Leader will be responsible for task accomplishment, management of team activities, and reporting. The Military Departments, The Defense Acquisition University (DAU), The Defense Finance and Accounting Service (DFAS), The Inspector General (IG) and other Defense Agencies will provide to the team or teams fulltime on-site representatives familiar with the procurement process in one or more of the following functional areas:

- Contracting Officer
- Cost and Price Analysis
- Contract Auditing
- Small Business
- Competition Advocate
- Quality Assurance
- Program Management
- Production
- Acquisition Planning
- Engineering
- Logistics
- Government Property
- Contractor Payment/Comptroller
- Counsel
- Other Functional Areas, as needed

Representatives from industry, academia and OSD will be consulted as necessary and ideas and comments will be sought from other interested parties.

V. Task Objectives

a. The team(s) will be responsible for recommending ways to reengineer the procurement process, with a focus on a "clean sheet of paper" approach to the particular aspect of the procurement process being reviewed, establishing mechanisms to foster continuous process improvement after the process is reengineered, and enhanced customer support. The Team shall pursue the general goals outlined in Part III while seeking to:

- Eliminate unnecessary bureaucratic procedures and layers of review and approval;
- Eliminate duplication in procurement efforts;
- Alter the way in which the government performs oversight on contractors;
- Decentralize decision-making to the lowest practical level and empower people to be innovative in continually seeking to improve the procurement process.

b. As a general practice, the PAT(s) will have responsibility for:

- Identifying methods to encourage early customer involvement in the Procurement Process;
- Making recommendations regarding the reduction or elimination of non-value-added activities;
- Identifying methods/approaches to optimize the effectiveness of the procurement process at a system, vice a sub-system, level;
- Identifying equivalent commercial procurement practices in the areas being studied;
- Making recommendations regarding roles and missions changes, or clarifications on roles and missions as may be required by the team's findings and recommendations;
- Addressing the potential impact of the team's recommendations on the infrastructure of involved acquisition organizations;
- Identifying a mechanism and organizational framework for implementation of the PATs plan; and
- Establishing specific milestones for actions implementing the Team's recommendations.

c. Initially, the team will investigate the following specific areas/issues and make recommendations for re-engineering the process.

- Determine how to identify and disseminate best procurement practices throughout DoD. One objective is to disseminate and adopt service and other initiatives that have successfully addressed specific issues/situations. Another is to provide a greater menu of possible approaches from which to choose and to encourage tailoring of the approach chosen.
- Improve the sole source proposal preparation, evaluation and negotiation process. Improving and shortening the sole source proposal cycle are mutually compatible objectives. Utilization of a team approach together with the execution of required tasks concurrently (sometimes jointly) rather than sequentially can produce better contract awards as well as reduced cycle time.
- Streamline the competitive source selection process. Reducing the cycle time on a repeatable basis is essential if DoD is to maximize the efficient use of scarce resources. An objective in this area is to provide assistance/guidance regarding the source selection process which will enable the users of this process to obtain its benefits in a more timely manner.

d. Subsequent to accomplishment of the foregoing actions, the following areas will be examined (by the initial team or a follow-on team).

- Examine buying activity post contract award roles and responsibilities. This is not intended to address contract administration activities but rather to focus on the necessary management and teamwork required during contract performance to identify, anticipate, communicate and solve problems which surface during contract performance.
- Explore and make recommendations regarding how to better use past performance as a source selection evaluation criterion.
- Examine and make recommendations regarding service-unique rules, regulations, policies and formats with an aim toward selecting best-available practices for use by all.
- Continue pursuit of areas identified during the team's (or teams') efforts in paragraph c. as barriers to overcome or requiring further study.

e. The Team shall apply the following methodology in its approach to investigating reform of the procurement process:

- Analyze current practices that are determined by the Team to be candidates for reform.
- Identify costs (money, time, performance, personnel) associated with the practices.
- Identify "interested or affected parties" and consult with them about the practices, alternative approaches, preferred solutions, etc.
- Identify alternative approaches that are consistent with the current laws and supportive of the goals, as outlined in Part III of this Charter.
- Recommend the best option for implementing the proposed practice, after identifying the ease or difficulty of adoption of that preferred option.
- Outline any new legislative, regulatory, policy, or administrative changes required to implement proposed options.
- Develop measures of the efficacy of the changes, so DoD can track progress.
- Develop specific implementation plans, taskings, and milestone schedules relevant to each proposed reform initiative/practice.
- Develop a process for follow-up to ensure the changes have been institutionalized. In particular, identify incentives and other mechanisms to ensure changes to, and compliance with, the new processes and procedures are working and an organizational structure to monitor and facilitate implementation.

VI. Resources

The team(s) will include functional experts and advisors from OSD, the Military Departments, and Defense Agencies. The teams will also seek ideas and comments from other Federal Agencies, Congressional offices, and industry as appropriate.

While the DUSD(AR) and this PAT examine ways to reengineer DoD's business processes, other DoD components will continue to pursue changes in policies, practices, and regulations to make the existing system function more effectively. The efforts of the team(s) will be coordinated with the DUSD(AR), either directly by the team(s) or through the Board of Directors, to ensure its efforts are consistent with the approaches being pursued by the DUSD(AR).

OSD, the Military Departments and the Defense Agencies will provide the funds to support all costs (e.g., travel, personnel, administrative) of their respective members to the team(s). DUSD(AR) will provide funds to support team travel (other than TDY). The proponent for this team(s), will be the Navy and it will be responsible for providing administrative and logistical support to the team(s).

VII. Schedule

The initial team will start this effort October 17, 1994.

The team(s) will complete their analysis and provide an interim report to the Acquisition Reform Senior Steering Group (ARSSG) and to the DUSD(AR) within 30 days after their effort begins. A draft final report will be coordinated through the ARSSG within 60 days after effort begins.

Recommendations will be coordinated within the Military Departments, Defense Agencies, and OSD. A final report and recommendations, with implementing documentation, will be provided to the DUSD(AR) no later than 90 days after the team begins its work. The final report will be given to USD(A&T) for approval.

APPENDIX A-2

FOLLOW-ON ACTIVITY

In accordance with the Charter for the Process Action Team on the Procurement Process section V d. dated 14 November 1994, the PAT has identified three areas it recommends follow-on process action teams be established.

The first follow-on PAT is associated with the Competitive Procurement Process Recommendation 3 which states "The Government should practice the prequalification of sources, in accordance with FAR Subpart 9.2, to the widest possible extent, whenever it makes good business sense, particularly in industries where prequalification conforms to commercial practice. For commercial items, the approval level for justifying a qualification requirement, at FAR 9.202, should be lowered from "head of Agency" to the Chief of the Contracting Office" Further details are available beginning on page 3-26 of this report.

The second follow-on PAT is associated with the Competitive Procurement Process Recommendation 13 which states "Expand the definition and use of "clarification" provided for in the FAR to encompass (without being considered discussions) the correction of minor deficiencies in a proposal that otherwise would be in line for award on initial offers or following best and final offers. Currently, resolution of any form of deficiency can only be resolved through discussions with all the offerors within the competitive range." The specific task of this PAT would be to further review and provide a crisper definition of terms, particularly to better define "minor deficiency." Further details are available beginning on page 3-60 of this report.

The third follow-on PAT is associated with the acquisition of Federal Information Processing (FIP) Resources. Further details can be obtained from Recommendation 21 of the report beginning on page 3-91.