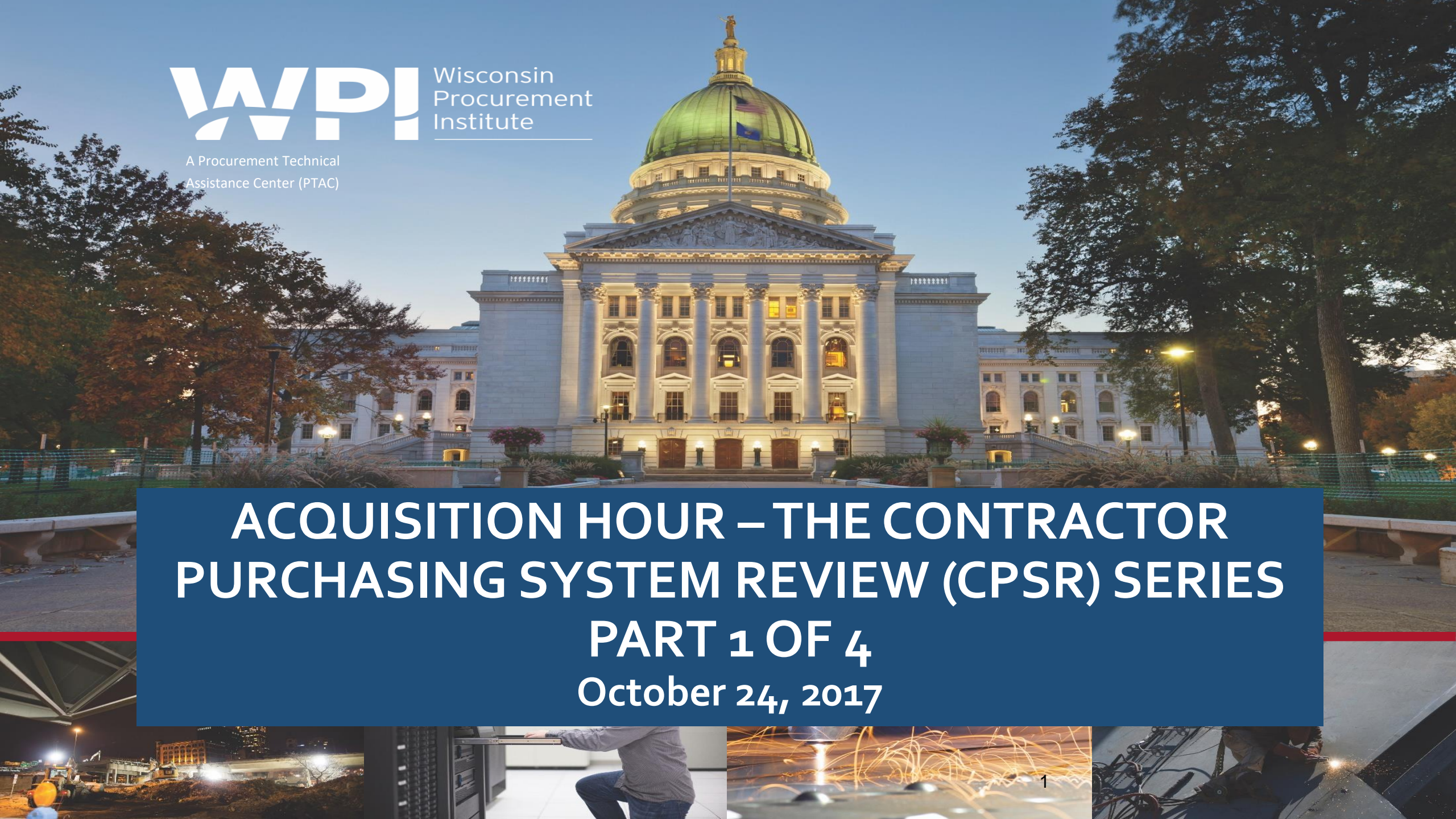




A Procurement Technical
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The background of the slide is a photograph of the Wisconsin State Capitol building at dusk. The building is illuminated with warm lights, and its green dome is a prominent feature. The sky is a deep blue, and trees with autumn foliage are visible in the foreground. A dark blue banner with white text is overlaid on the bottom half of the image.

ACQUISITION HOUR – THE CONTRACTOR PURCHASING SYSTEM REVIEW (CPSR) SERIES

PART 1 OF 4

October 24, 2017



WEBINAR ETIQUETTE

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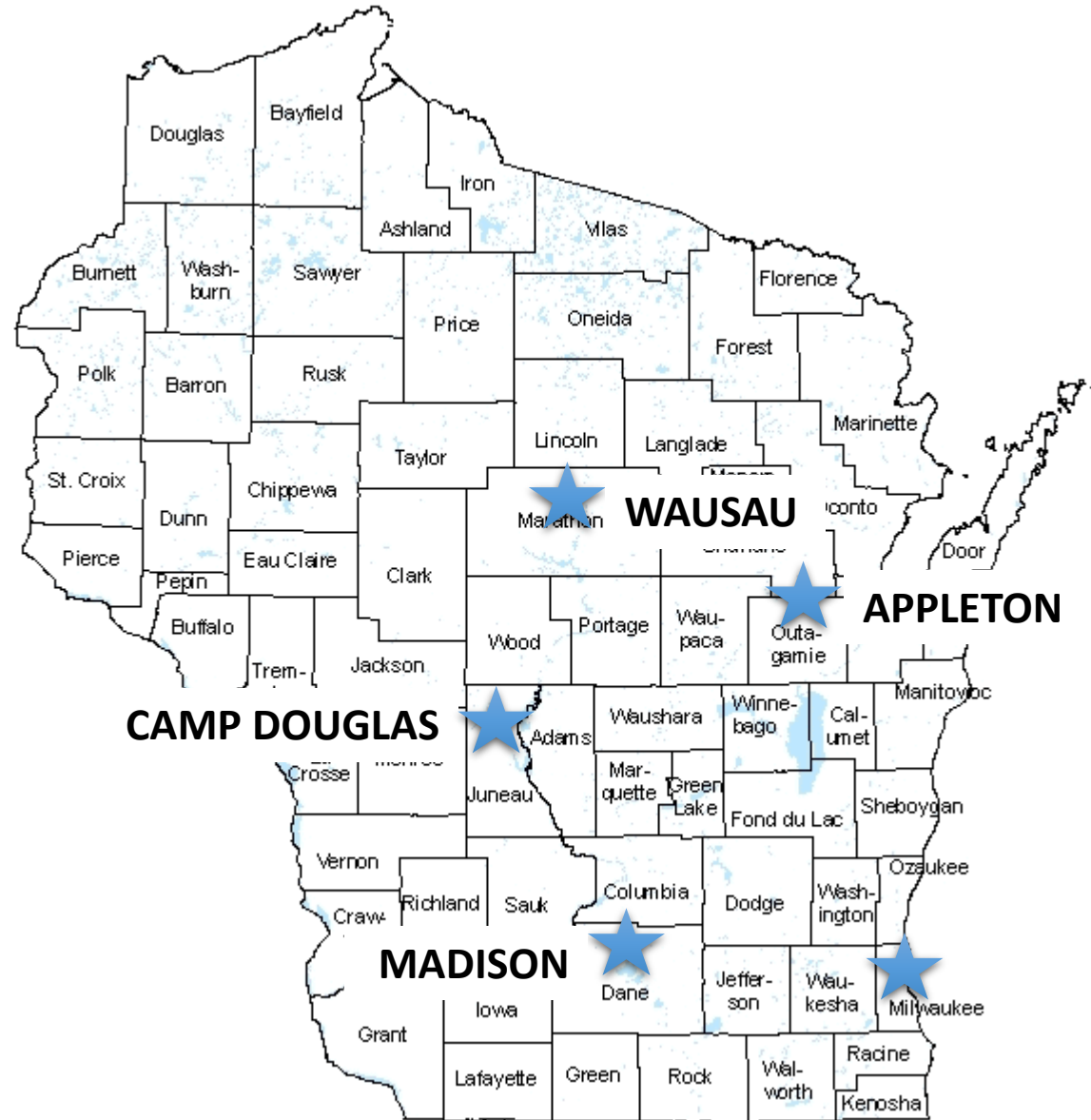
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revenue and jobs through Federal, state
and local government contracts.

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- Capabilities Statement and Related Government Marketing Material Development
- Assistance in Locating and Developing Teaming Partners and Subcontractors
- Updated Government Market Information

Successfully Passing a CPSR Audit can Increase Company Profit

October 24, 2017
WPI Webinar

Overview of the Sessions

- Week One - October 24, 2017 -Introduction to the major aspects of a CPSR including discussion about required policies and procedures. **Homework for Week Two:** Read DFARS 252.244-7001, Contractor Purchasing System Administration; and Contractor Purchasing System Review (CPSR) Guidebook dated May 9, 2017. Send in questions or concerns to phil@philbail.com for discussion in **Week Two**.
- Week Two – October 31, 2017 -Discussion of "homework" from Week One.
- Week Three – November 7 2017 - Source Selection and Price Reasonableness Determinations
- Week Four - November 14, 2017 - Required Clause Flow Down; Executive Order Compliance; and look at "findings" from a recent CPSR.

Week One

First Question – What are the major aspects of a CPSR?

Four Major Aspects of A Contractor Purchasing System Review (CPSR) Audit

1. Purchasing Policies and Procedures “Topics”
2. Training of buyers and intra-company audits of Supply Chain
3. Sole Source Rationale and Price Reasonableness Determinations
4. Flow Down of Mandatory Clauses and Compliance with applicable Public Laws

Purchasing Policies and Procedures

- Truthful Cost or Pricing Data (Truth-In-Negotiations Act (TINA))
- Cost Accounting Standards
- Prior Consent and Advance Notification
- Small Business Subcontracting Plans
- Protecting the Government's Interest when Subcontracting with Contractors Debarred, suspended, or Proposed for Debarment – **Week 4**
- Limitations on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions (Anti-Lobbying) – **Week 4**
- Defense Priorities and Allocation system (DPAS) System Rating
- Federal Funding Accountability and Transparency Act (FFATA) of 2006 – **Week 4**
- Counterfeit Parts Mitigation and Surveillance – **Week 4**

Purchasing Policies and Procedures - Continued

- Price Analysis – Week 3
- Competition in Subcontracting – Week 3
- Sole Source Selection Justification – Week 3
- Negotiations – Week 3
- Best Value – Week 3
- Make-or-Buy Program
- Limitations on Pass-through Charges – Week 4
- Internal Purchasing Organization
- Documentation
- Training
- Internal Review/Self Audit
- Mandatory FAR/DFARS Flow Down Requirements/Terms and Conditions – Week 4
- Purchase Requisition Process

Purchasing Policies and Procedures - Continued

- Commercial Item Determination
- Subcontract types
- Interdepartmental Relations
- Procurement Authority
- Vendor Rating System
- **Restrictions on the Acquisition of Specialty Metals/Articles containing Specialty Metals – Week 4**
- Supply Chain Management Process
- Subcontractor/Vendor Closeout Process
- Long Term Purchasing Arrangements
- Handling Change Orders and Modifications
- Intra/Inter-Company, Affiliate, or Subsidiary Transactions

Truthful Cost or Pricing Data (Truth-In-Negotiations Act (TINA))

- Regulatory References:
 - FAR 15.403-1 (b) – exceptions
 - FAR 15.403-4 – criteria for obtaining cost or pricing data
- Threshold:
 - \$750,000 for prime contracts awarded on or after October 1, 2015

Do your buyers know the exceptions to compliance?

Cost Accounting Standards

- Regulatory References:
 - FAR 52.230-2, Cost Accounting Standards
- Exemptions: See 9903.201-1 (part of 48 CFR, chapter 99)
 - Note: 52.230-2 requires a contractor to include the substance of the CAS clause in all negotiated subcontracts (at any tier) into which the contractor enters. This is often referred to as the “CAS flow down clause”. However, a subcontract is not subject to CAS if it meets one of the CAS exemptions.

Do your buyers understand if and when CAS compliance from a vendor is required?

Prior Consent and Advance Notification

- Regulatory References:
 - FAR 44.201
- Comments:
 - Advance Notification and Consent to Subcontract requirements differ if your purchasing system is Government-approved or isn't.

If your purchasing system is not Government-approved, have you requested consent to subcontract IAW FAR 44.201-1 (b)?

Small Business Subcontracting Plans

- Regulatory References:
 - FAR 19.701
- Exceptions:
 - Subcontract does not meet the \$700,000 threshold
 - Exempt if prime contract includes 52.212-5, or the subcontractor provides a commercial item subject to FAR 52.244-6

Has your Small Business Program been audited by DCMA or the SBA?

Has management officially appointed an SBLO?

Defense Priorities and Allocation system (DPAS) System Rating

- Regulatory References:
 - FAR 11.600, 52.211-15, Defense Priority and Allocation Requirements

Are you familiar with the two levels of priority?

Do you get written acceptance of a rated PO from your vendors within the timeframe prescribed?

Do you include required DPAS language in PO's containing a DO rating?

Price Reasonableness Determinations – To be discussed in more depth during **Week 3** Presentation (February 21, 2016)

- Adequate Competition is a basis for determining a price reasonable. Do buyers understand what “adequate” competition is?
- If a product/service is bought from a single/sole source, the reasonableness of the price must be determined using price or cost analysis. Do buyers understand this responsibility?
- **What is subpart of FAR that discusses price reasonableness?**
- **What is price analysis?**
- **What is cost analysis?**
- **When is Certified Cost or Pricing Data Required?**

Sole Source Rationale – to be discussed in more depth in **Week 3
(November 7, 2017)**

If a product or service is bought single/sole source, does the buyer explain “why” the single/sole source situation exists?

Does the buyer know the difference between a single source versus a sole source?

What is the role of the company engineer, project manager and Supply Chain buyer in determining and/or approving a single/sole source?

Make-or-Buy Program

- Regulatory Reference:
 - FAR15.407-2
 - DFARS 215.407-2

Does your company have a written Make-or-Buy Program plan that lays out when you “make” and when you “buy”?

How does “Contracts Department” inform the buyer when a Make-or-Buy Program is required by the prime contract?

Internal Purchasing Organization

Does your company have a group identified to buy ALL supplies and services?

If someone outside the Supply Chain buys supplies and services, does policy document explain why?

Is there oversight by the Purchasing Manager of purchases made outside the Supply Chain?

Is the organizational chain of command for the purchasing group clearly defined?

Documentation

- Regulation Reference:
 - FAR 15.406-3
 - DFARS 252.244-7001 (c)(4) 5) (7) (9) (10) (11) (12) (15) (16) (19) (23)

Does the PO file explain all actions of the buyer in making the award

- sole source justification,
- price justification,
- use or non-use of small business,
- applicability of TINA or CAS;
- written acceptance or certification from vendor related to required flow-down clauses?

Homework: Go to www.philbail.com, FIGURE 2 on pages 30–31) of article about CPSR's under "Resources"

Training

- Regulatory Reference:
 - DFARS 252.244-7001 (c) (17) and (18)

Does a buyer training file exist that shows the procurement-related training the buyer has received?

- **Does training include**
 - FAR and DFARS changes?
 - Conflict of Interest
 - Gifts and gratuities, including Kickback Act
 - Purchasing Manual updates
 - Internal audits

Internal Review/Self Audit

- Regulatory References:
 - DFARS 252.244-7001 (c) (18)
 - FAR 52.203-13
 - FAR 52.203-14
 - FAR 52.203-15
 - FAR 52.203-16
- **Internal audits** - a control process to monitor compliance with Government regulations and contract clauses and verify that company policies adhere to the requirements of the business system criteria.

Purchase Requisition Process

- Regulatory References:
 - DFARS 252.244-7001 (c) (4)

Are Purchase Requisitions (PRs) authorized in accordance with company policy?

Are PRs issued for bonafide needs?

Do PRs precede issuance of PO/subcontract?

Does data trail exist from prime contract to PR to PO?

Commercial Item Determination

- Regulatory References:
 - FAR 2.101
 - FAR 52.244-6
 - DFARS 252.244-7000
- Do buyers document commercial item determinations in the PO file?
- **Comment:** Commercial item determination can eliminate requirements such as certified cost or pricing data. Understanding what a commercial item is can be very helpful to buyers.

Subcontract types

- Regulatory References:
 - DFARS 252.244-7001 (c) (5) (23)
 - FAR 52.244-2
 - FAR Subpart 44.2
- Subcontract type is the principal method of allocating risk between the buyer and the supplier
- Does company purchasing manual explain how subcontract type should be determined?

Interdepartmental Relations

- **The Supply Chain cannot live in a vacuum**
- - A company must establish a formal chain-of-command between the Supply Chain, Contracts, Finance, Engineering; and, upper management.
 - The Purchasing Manual should explain when and how these organizations interface.
 - Contracts must have a way of inputting specific prime contract requirements into PRs so buyers know if any special requirements must be included in solicitations to vendors

Procurement Authority

- Regulatory References:
 - DFARS 252.244-7001 (c) (3)
- Employees making purchases for a company must be authorized to do so.
 - Authority should be limited by the experience level of each buyer.
 - The purchasing manual should explain the approval level of buyers and the management oversight of purchases.

Vendor Rating System

- “Responsibility” determination using FAR 9.104-4 –an be used as guide for prime contractors. Oftentimes, a contractor establishes a Vendor Rating System that incorporates quality, timeliness of delivery and pricing into a rating of each vendor. If such a system is established, buyers should use the vendor rating system in making best value procurements.
- If no Vendor Rating System exists, explain in the purchasing manual why your company doesn’t use such a system.

Supply Chain Management Process

- Regulatory References:
 - FAR 52.244-2
 - FAR 42.302 (a) (50)
 - DFARS 252.244-7000 (c) (14) (20) (21)
- Purchasing Manual should explain a contractors **process** regarding sourcing strategy, work transfer, vendor rating system, supplier risk management, purchasing, Government notification, internal audit and controls (metrics), surveillance & performance monitoring; and, supplier corrective action.

Subcontractor/Vendor Closeout Process

- Regulatory References

**Does the buyer handle a PO from issuance to closeout?
If not, who does?** The Purchasing manual should explain this process

Long Term Purchasing Arrangements

- Regulatory References:
 - FAR 9.601
 - FAR 16.5 and 16.7 and 17.2
- **Comments:** Have sole source justifications and price reasonableness determinations been made? When buyers purchase against a long-term agreement, does the PO file identify the long-term agreement so a data trail is established?
- **Potential Issues:** Maintaining adequate price competition in subcontracting "...to the maximum practical extent (FAR 52.244-5); and ensuring sufficient subcontract formation techniques.

Handling Change Orders and Modifications

- Regulatory References:
 - DFARS 244-7001 (c) (1) (4) and (15)
- **Comments:**
 - Each modification or change order must be treated as a stand-alone contract in terms of thresholds, price reasonableness and source selection.
 - The Purchasing Manual should explain how subcontract modifications are handled.

Intra/Inter-Company, Affiliate, or Subsidiary Transactions

- Regulatory References:
 - FAR 31.205-26 (e)
 - FAR 44-303 (e)
 - DFARS 252.244-7001 (c) (1) and (5)
- Allowance for all materials, supplies and services sold or transferred between any divisions, subdivisions, subsidiaries, or affiliates of the contractor under a common control shall be on the basis of cost incurred IAW 31.205-26 (e). This allowance may be on the basis of price when certain practices are established as explained in the Purchasing Manual.

Flow Down of Mandatory Clauses and Compliance with applicable Public Laws - **Week 4**

- Does your company flow mandatory clauses to prospective suppliers/subcontractors?
- Do your “standard” terms and conditions limit or in any way restrict the rights of the Government in regard to data, tooling, or designs it owns or has a right to use
- Do your “standard” terms and conditions improperly purport to give a subcontractor the right to pursue a claim directly against the Government (versus indirectly, as as appealing in the name of the prime contractor with the prime contractor’s permission?)
- How do your buyers know if a specific prime contract requires “additional” clauses to be flowed to prospective suppliers/subcontractors?

Week Two

- **Week Two** – October 31, 2017 – Discuss questions from attendees about
 - DFARS 252.244-7001, Contractor Purchasing System Administration - discussion of the 24 criteria essential to pass a CPSR audit; and
 - Contractor Purchasing system Review (CPSR) Guidebook, May 9, 2017

Questions? Comments?

**Phil Bail & Associates
A Veteran-Owned Small Business**

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