

Updates in Contract Admin

2017 and Forward

(Jan 2018)



By Jason Rathsack
Federal Contractor Updated 1/17/18

DISCLAIMER: The views expressed are not necessarily representative of DCMA. We are here to present on behalf of NCMA, Wisconsin Chapter. Although much of the information contained within is public knowledge, any opinions expressed are those of the presenter alone. If you have any questions, feel free to contact Jason Rath sack at visn12jr@gmail.com

Agenda

A. DoD Regulatory Landscape

B. FAR/DFARS Changes

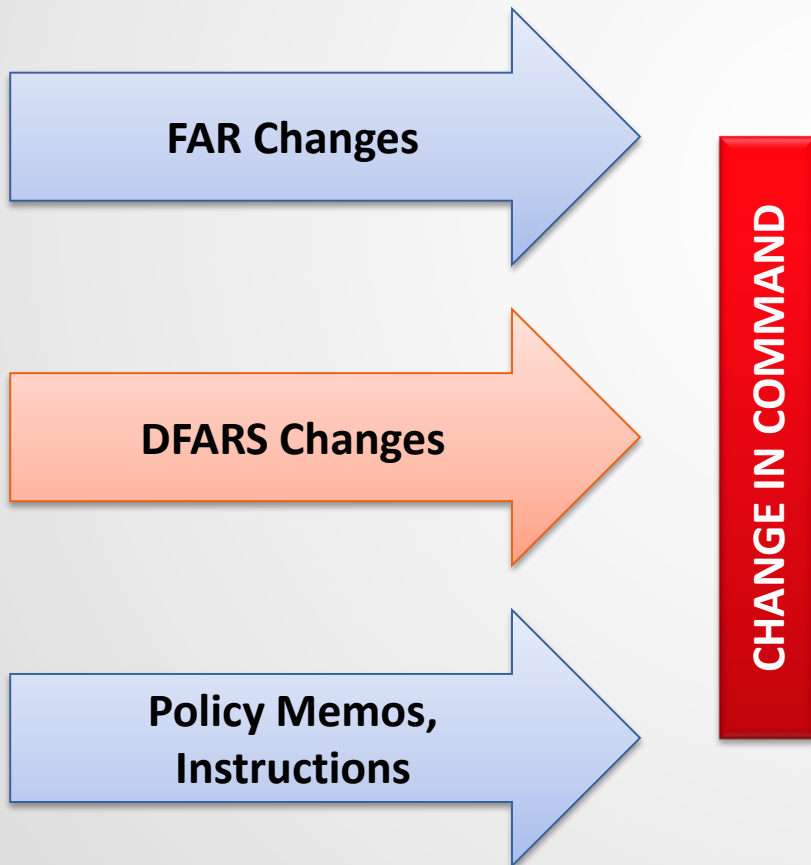
C. Updates on Contractor Business Systems

- Findings, Regs, and Agency Guidance

D. Crystal Ball – OTAs, LVLR and D2P

2017 Regulatory Environment

Anything happen in 2017?

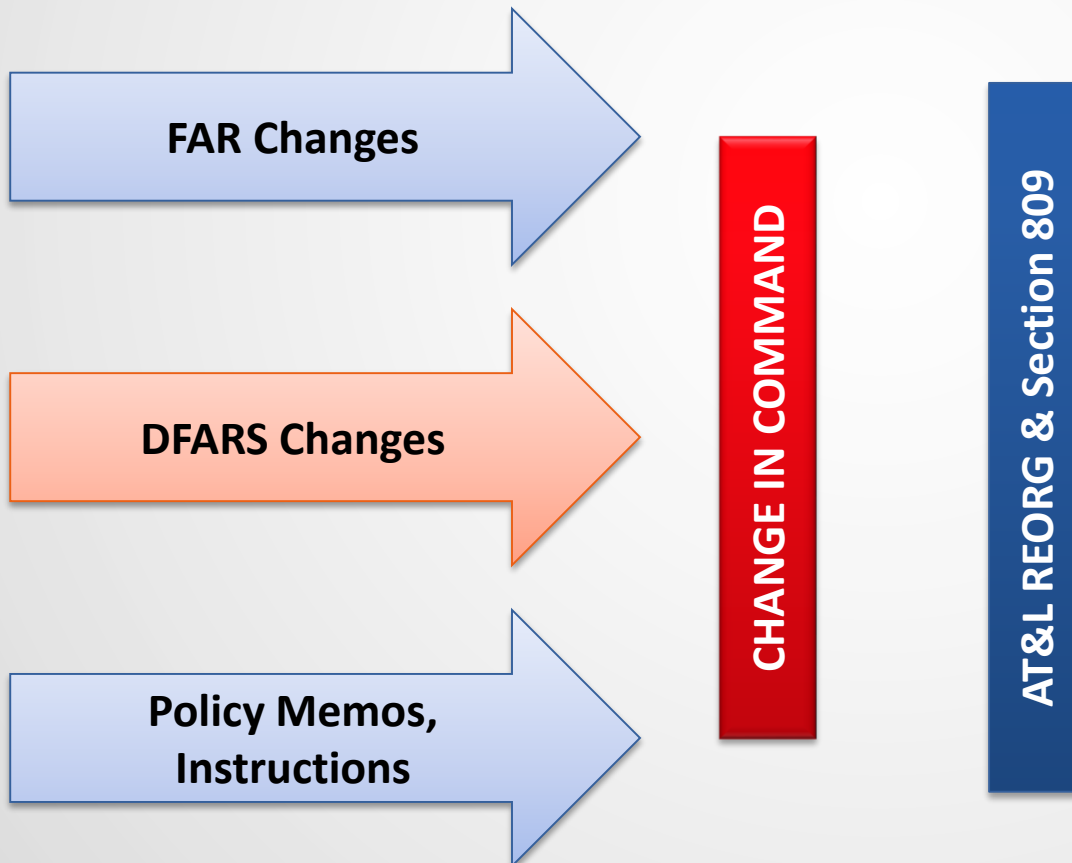


Change in Command

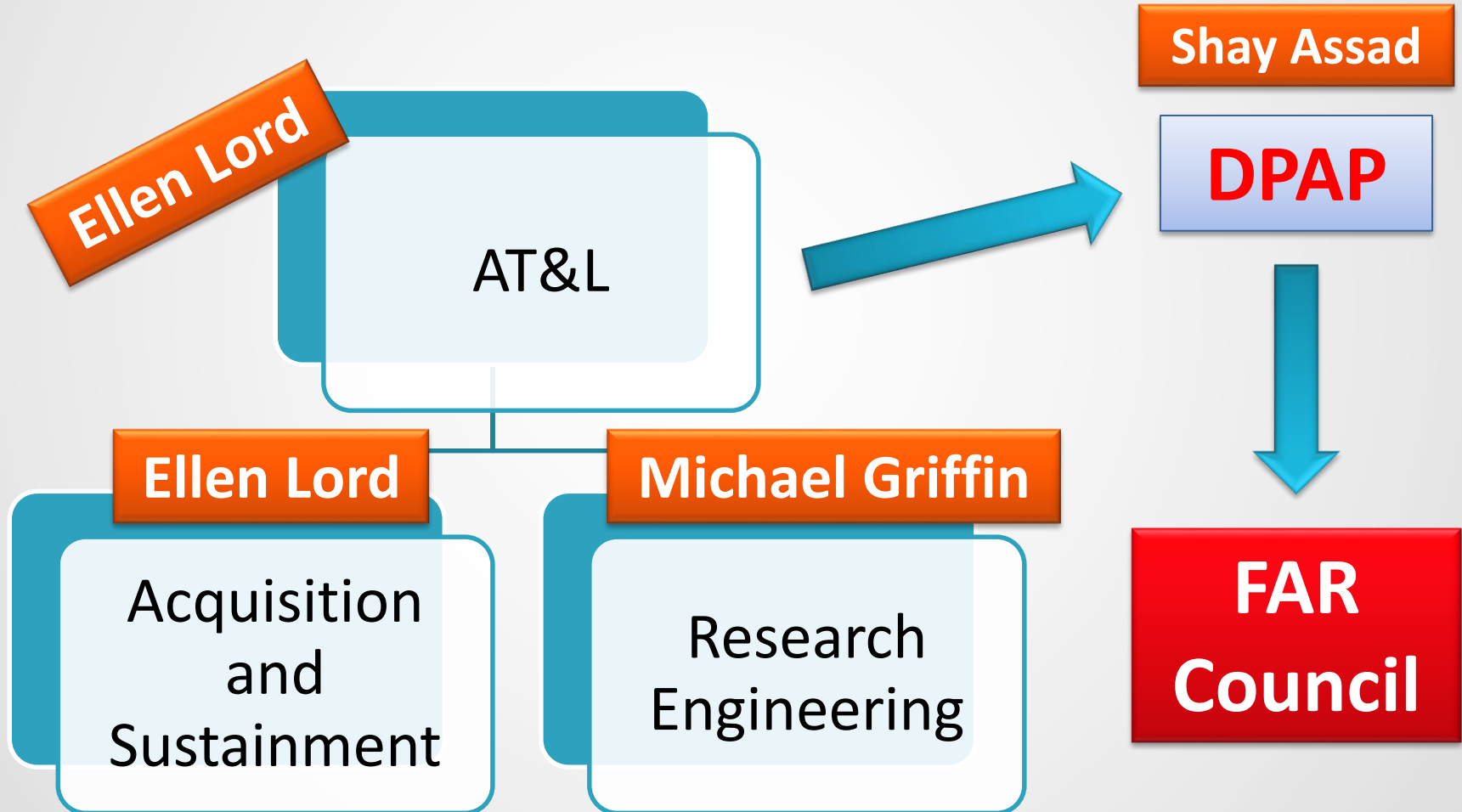
- **20 Jan 2017**: President Donald J. Trump is sworn in as the 45th President of the United States
- **23 Jan 2017**: Federal Hiring Freeze (lifted April 2017)
- **30 Jan 2017**: E.O. 13771 "Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs"
- **13 Mar 2017**: E.O. 13781 "Comprehensive Plan for Reorganizing the Executive Branch"
- **Nov 2017**: Of the 1200 jobs that require Senate confirmation, more than 250 remain unfilled and most of the temporary acting assignment are expiring (300 days)

2017 Regulator Environment

What else is happening in DoD?

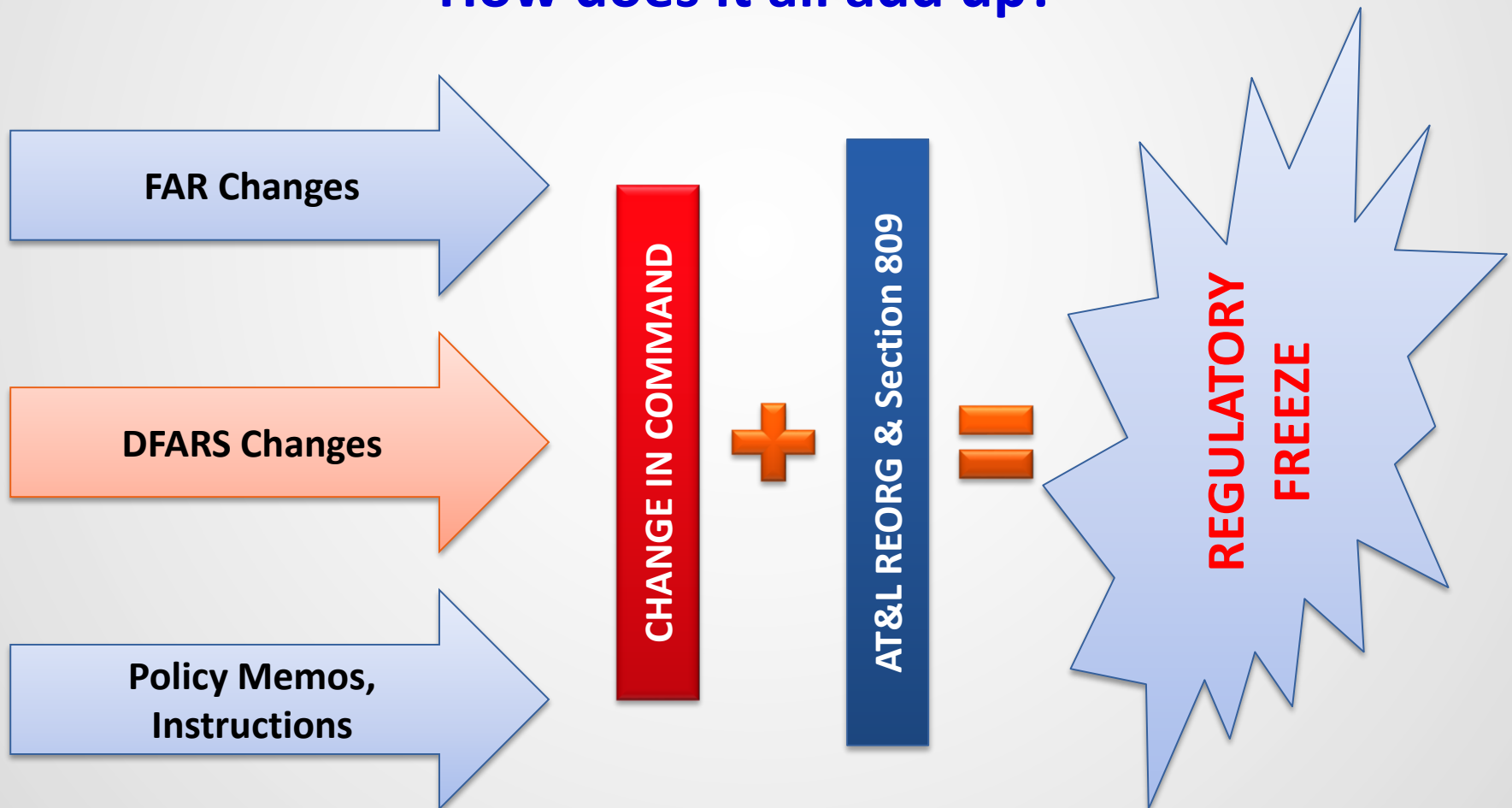


AT&L Reorg and Section 809



2017 Regulator Environment

How does it all add up?



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Regulatory Freeze

- **FAR:** (3) Federal Acquisition Circulars or Amendments in CY 2017 versus (18) in 2016
- **DFARS:** (0) DPNs in CY 2017 versus (11) in CY 2016, (11) Class Deviations
- **Executive Orders:** (5) EO – Cutting Regulations and erasing prior Executive Orders
- **DPAP Policy Letters:** (2) Policy Letters versus (14) less than 2016
- **2018 NDAA:** H.R.2810 became Public Law 115-91 on 12/12/2017

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42 Open FAR Cases, +10 from 2016

https://www.acq.osd.mil/dpap/dars/far_case_status.html

Case No.	Title
2018-004	(S) Increased Micro-Purchase and Simplified Acquisition Thresholds
2018-003	Credit for Lower-Tier Small Business Subcontracting
2017-006	(S) Exception from Certified Cost or Pricing Data Requirements-- Adequate Price Competition
2015-039	Audit of Settlement Proposals
2015-028	Performance-Based Payments

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59 Open DFARS Cases, +20 from 2016

<https://www.acq.osd.mil/dpap/dars/index.html>

Case No	Title
2018-D023	(S) Applicability of Inflation Adjustments of Acquisition - Related Thresholds
2018-D012	(S) Contract Closeout Authority
2017-D042	Expediting Contract Closeout
2017-D038	Contractor Purchasing System Review Threshold
2017-D021	(S) Contractor Business Systems

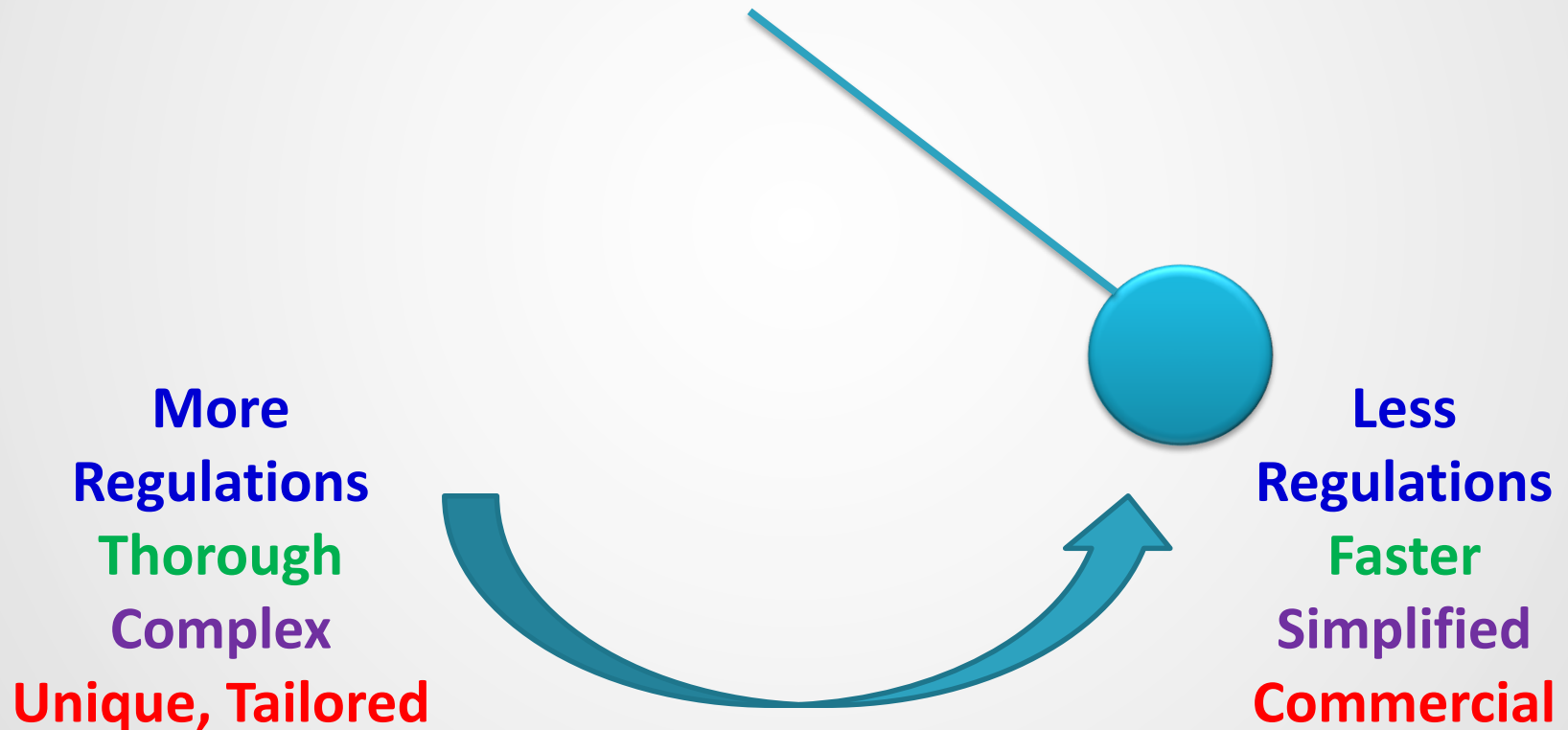
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59 Open DFARS Cases, +20 from 2016

<https://www.acq.osd.mil/dpap/dars/index.html>

Case No	Title
2017-D019	(S) Performance-Based Payments
2017-D014	(S) Use of Commercial or Non-Government Standards
2015-D038	Earned Value Management Applicability
2015-D035	Use of the Government Property Clause
2015-D030	Promoting Voluntary Post- Award Disclosure of Defective Pricing

The Regulatory Pendulum

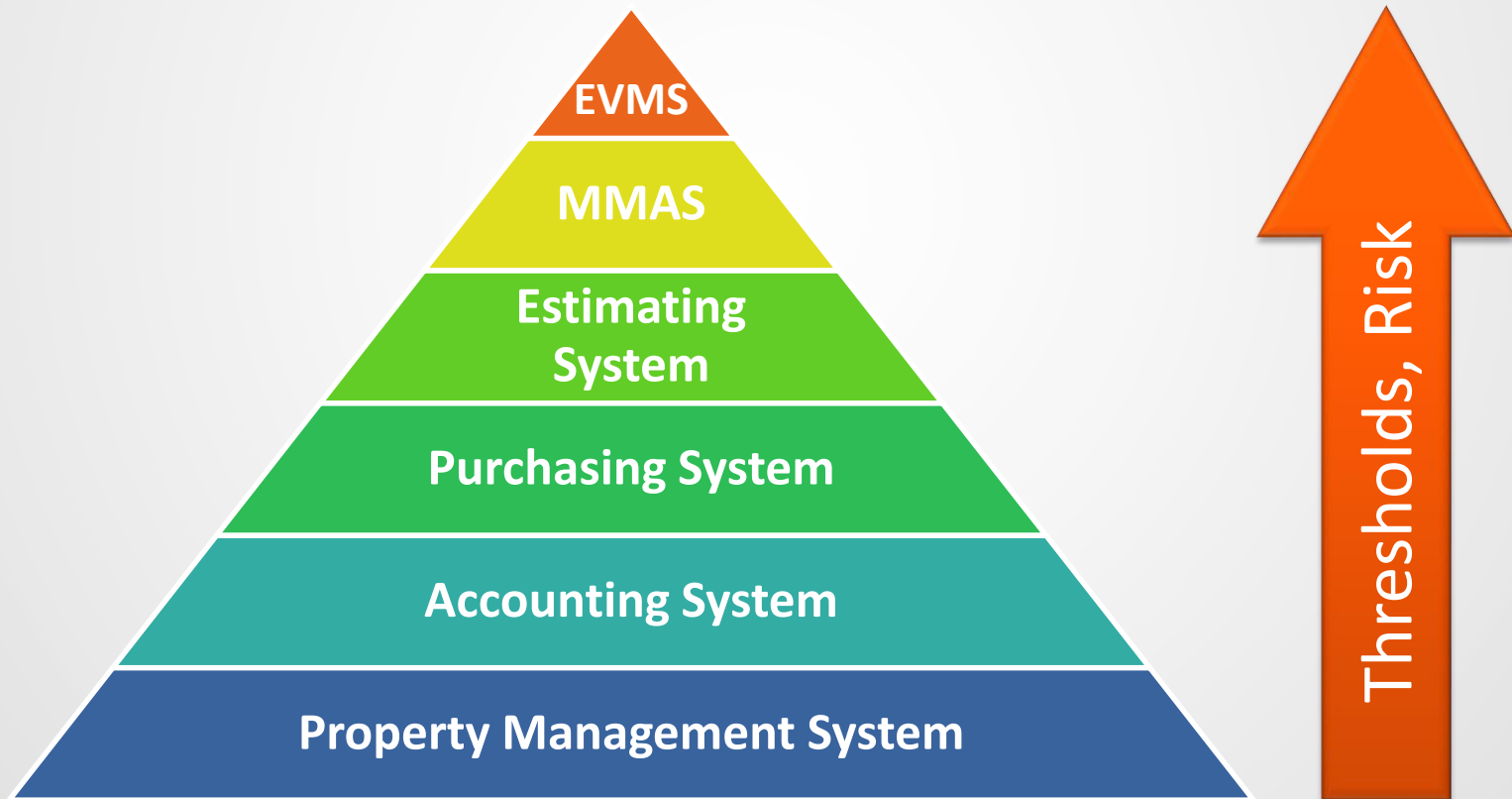


The FAR-side of the Planet



Contractor Business System Updates

DFARS 252.242-7005



Contractor Property Management System

“Property Management System” means the Contractor’s system or systems for managing and controlling Government property.

Requirement: Contracts with Govt Furnished Property and/or are flexibly priced

System Criteria: 52.245-1 -- Government Property

Contractor Property Management System

What's Hot?

- No recent updates to the FAR
- DCMA Property Group in the process of updating all internal procedures. Potential, albeit minimal, impact to contractors.
- Pending: DFARS Case No. 2015-D035; Use of the Government Property Clause

Contractor Property Management System

2017 Most Common Deficiencies?

- 1) **IUID Registry Requirements** – overall lack of understanding of the requirement
- 2) **Authorized Use and Transfers of Gov't Property**
- 3) **Excess Property and Contract Closeout.**

Accounting System

“**Accounting System**” means the Contractor’s system or systems for accounting methods, procedures, and controls established to gather, record, classify, analyze, summarize, interpret, and present accurate and timely financial data for reporting in compliance with applicable laws, regulations, and management decisions...

Requirement: Flexibly priced contracts or financing

System Criteria: DFARS 252.242-7006, *Accounting System Administration*

Accounting System

What's Hot?

- No recent updates to the FAR
- DCMA Milwaukee is looking at contractors who's system hasn't been reviewed in > 3 years
- More attention on Post-award accounting system reviews

Accounting System

2017 Most Common Deficiencies?

- 1) **Failure to Segregate Direct and Indirect Costs –**
especially with small R&D Firms
- 2) **Improper Timekeeping Policies and Documentation**
- 3) **Subcontractor Payments**

Contractor Purchasing System

“**Purchasing System**” means the Contractor’s system or systems for purchasing and subcontracting, including make-or-buy decisions, the selection of vendors, analysis of quoted prices, negotiation of prices with vendors, placing and administering of orders, and expediting delivery of materials.

Requirement: Updated – Next slide

System Criteria: DFARS 242.244-7001 – Contractor Purchasing System Administration (New Rules)

Contractor Purchasing System

What's Hot?

- The current \$25 Million FAR Threshold found at 44.302(a) has been in effect since 1996
- DCMA issued a Class Deviation Memo on October 7, 2016, raising the CPSR Threshold to \$50 Million
- \$50 Million threshold based on inflation and acceptable risk
- Goal is to be consistent with Better Buying Power (BBP) 3.0, should reduce burden on smaller contractors
- A FAR Case has been opened to raise the threshold to \$50 Million. (2017-D038)

Contractor Purchasing System

2017 Most Common Deficiencies?

- 1) Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (65/126)
- 2) Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions (Anti-Lobbying) (48/126)
- 3) Price Analysis (43/126)
- 4) Defense Priorities and Allocation System (DPAS) Rating (34/126)

Estimating System

“**Estimating system**” means the Contractor's policies, procedures, and practices for budgeting and planning controls, and generating estimates of costs and other data included in proposals submitted to customers in the expectation of receiving contract awards.

Requirement: \$50 Million in Contracts awarded based on TINA in preceding year

System Criteria: 252.215-7002 Cost Estimating System Requirements

Estimating System

What's Hot?

- N/A

2017 Most Common Deficiencies?

- Not following contractor's own policies
- Inadequate support for subcontract costs
- Lack of reasonableness justification and SubK TINA requirements

DCMA Updates

- Other Transaction Authority agreements (OTAs)
- New ACO in Milwaukee
- Low Value Low Risk (LVLR)
- Detection to Prevention (D2P)

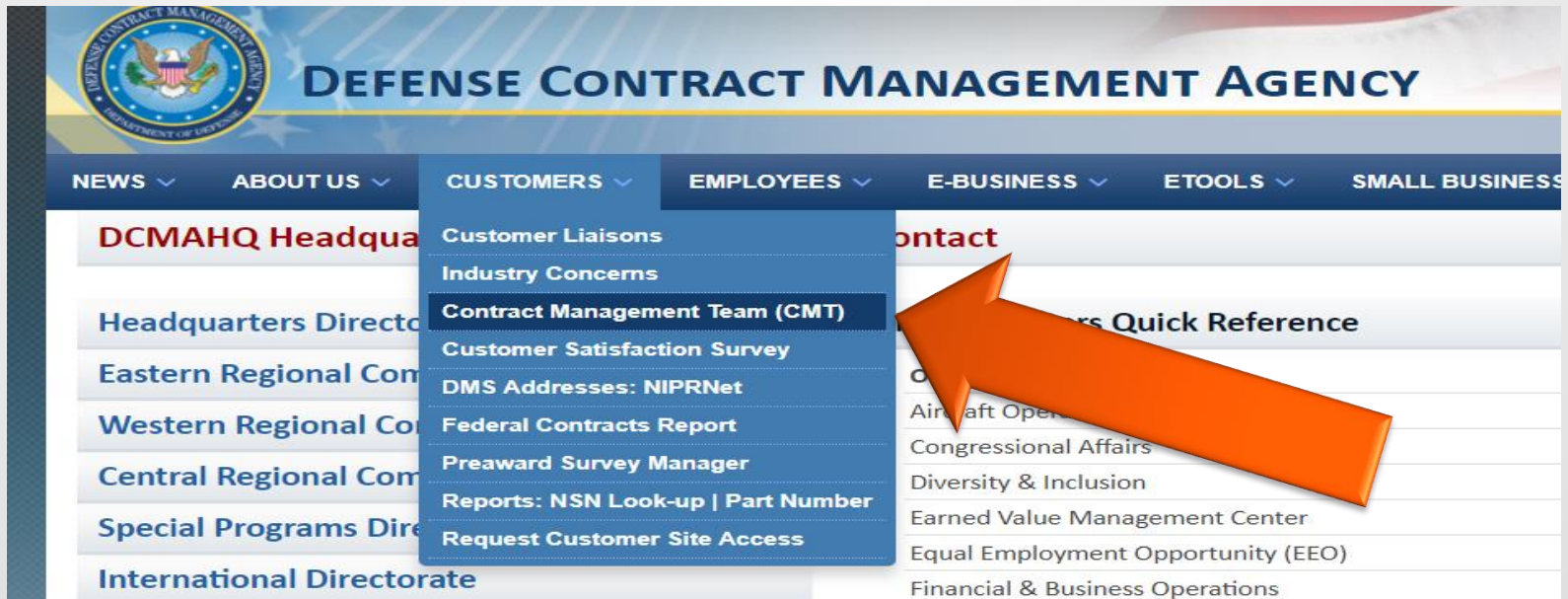
Other Transaction Authority (OTA)

- NASA pioneered first use in 1958, DoD allows DARPA to use in 1989
- 2018 NDAA establishes preference for transaction type for science and technology with emphasis on prototypes – doubles funding authorized
- Non traditional and/or small businesses are eligible or traditional contractors via cost sharing
- **Not subject to FAR, DFARS, TINA, CDA**...however appeals may be heard at agency level and/or CFC
- May require an “approved accounting system”

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DCMA Updates

- **New ACO in Milwaukee** - Larry Kolb has returned to DCMA Milwaukee after completing a rotation in tropical Ottawa, Canada



DCMA Updates

- **Low Value Low Risk (LVLR)**
 - Contracts < \$300K
 - Exceptions: FAT, Higher Level Quality, Critical Safety, Safety of Flight, FMS
 - Check block 6 of your contracts
- **Detection to Prevention (D2P)**
 - Shifting focus to major program support
 - More process reviews, contractor business system, post-award accounting system, post payment reviews, contract financing

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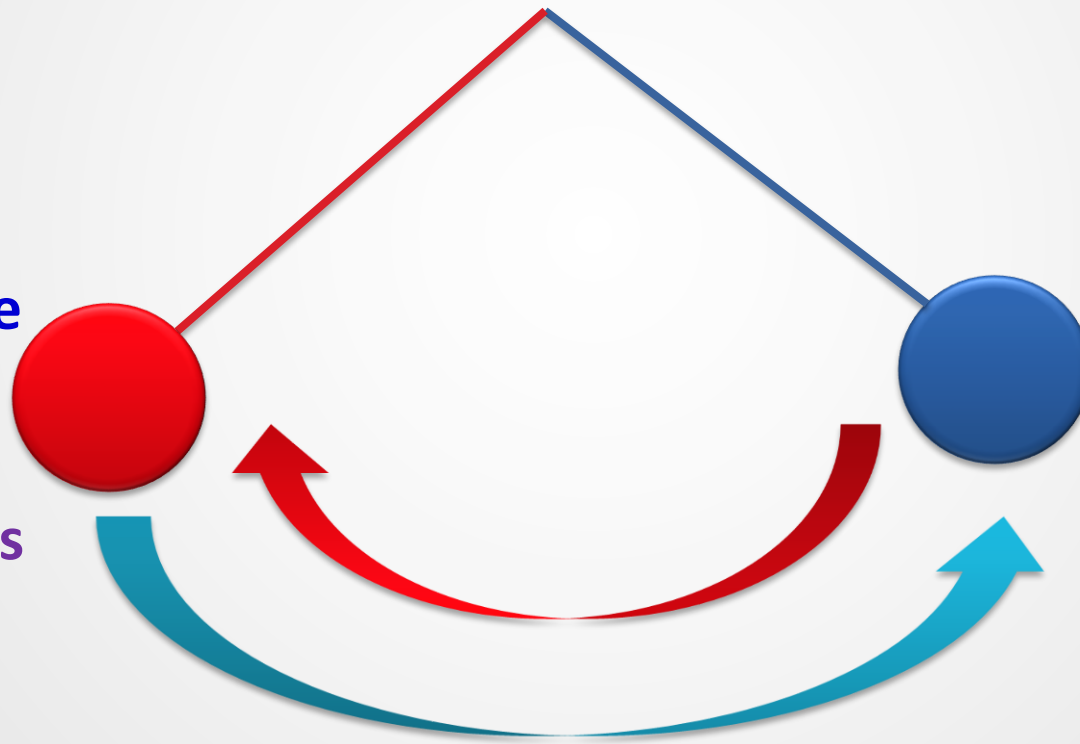
Takeaway

Regulations, Procurement Strategy, Government Oversight

Enhanced
Surveillance
Business
Systems
Post-awards
Customer
Support

Less
Regulations
Faster
Simplified
Commercial

2017 - 2018



Available Resources

- DCAA CAM: <http://www.dcaa.mil/>
- DCMA Pricing Guide:
 - <http://www.dcmamilitary.com/policy/>
- Contract Pricing and Reference Guides
 - <https://acc.dau.mil/cprg>
- Defense Procurement & Acquisition Policy
 - <http://www.acq.osd.mil/dpap/cpf/>
- WIFCON
 - <http://www.wifcon.com/>

Questions?

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- **BACKUP SLIDES**

When is CCPD required? FAR 15.403-4

- **Negotiated contract > \$750K**
- Prime Contract
- The award of a subcontract at any tier (if the contractor and each higher-tier subcontractor were required to furnish data)
- The modification of any negotiated contract or subcontracts

Exceptions: competition, prices set by law or regs, commercial item, etc. If none apply, waiver can be requested under the exception at 15.403-1(b)(4)

Material Management and Accounting System (MMAS)

“Material management and accounting system (MMAS)” means the Contractor's system or systems for planning, controlling, and accounting for the acquisition, use, issuing, and disposition of material.

Threshold: \$40 M in sales in preceding year that are subject to CCoP or Flexibly Priced

System Criteria: 252.242-7004 Material Management and Accounting System

Material Management and Accounting System (MMAS)

What's Hot?

- No DCMA Policy updates since 2013
- Will revisit Contractor's prior year workload to determine applicability in 2018

2017 Most Common Deficiencies?

- N/A