

EPA Federal Procurement Update

*“What are they doing to my contracts
now?!”*

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Contracts Update

- OIG/GAO Report Update
- Interagency Acquisitions
- EPA Acquisition System
- SES³
- Multiple Awards & Protests
- New Protest Thresholds
- Procurement Integrity Refresher
- Suspension and Debarment
- Use of Brand Name Specifications

OIG/GAO Report Update

- GAO (11/08) Cost Reimbursement Contracts
- OIG (03/07) IAs Need Additional Oversight
- OIG (09/07) Use of Federal Supply Schedules
- OIG (02/08) Limit use of CPAF Contracts
- OIG (04/08) Noncompetitive Contracts
- OIG (10/08) Counter Terrorism/Emergency Response...
- OIG Audit/Validation of ICMS
- OIG Preliminary Reviews
- OMB (annual) IV&V of Procurement Data, FPDS-NG

Interagency Acquisitions

- New Policy as of 10/01/08
- \$100K+ in formal acquisition planning efforts
- Economy Act and non-Economy Act coverage
- Economy Act: Best Interest Justification and D&F by contracting officer
- Non-Economy Act: Best Interest Justification >\$200K
- Disputes for actions >\$500 decided by the Head of the Contracting Activity

EPA Acquisition System (EAS)

- *Compusearch PRISM*
- System used by 300+ government procurement offices and 75+ federal agencies
- Replaces 2 outdated EPA systems: SPEDI and ICMS
- Integrates with internal and external systems
- Typical benefits
- Integrated Project Team
- Deployment Upcoming
- Intranet site: <http://easinfo.epa.gov/>

Software Engineering and Specialized Scientific Support (SES³)

- New set of development vehicles available:
 - 5 BPAs – benefits/differences
 - Vendors – who are the companies?
 - Services offered
 - Where can I learn more?
 - <http://v26265ncay001.aa.ad.epa.gov/opencms/opencms/ordatwork/resources/infomgmttech/ses3/index.html>

Multiple Awards & Protests

- New requirements as of May, 2008
 - 2008 Defense Authorization Act
 - Protests
 - \$10,000,000 threshold
 - Multiple-Award Contracts
 - What it Means to You

Procurement Integrity Refresher

- **FAR 3.104 – Primary Prohibitions**
 - Persons involved in contract placement must not knowingly disclose proposal or source selection information to any person other than a person authorized by the contracting officer.
 - Individuals who are unsure if particular information is source selection sensitive should consult with the contracting officer as necessary.

Related PIA Prohibitions

<u>Prohibition</u>	<u>Statute</u>
- Acceptance of Bribes / Gratuities	10 USC 201
- Seeking Employment During Acquisition Process	18 USC 208
- Post-employment Restrictions	18 USC 207
- Using SSI to further private interests	5 CFR 263

Related PIA Prohibitions

- | <u>Prohibition</u> | <u>Statute</u> |
|---|--|
| - Financial Conflict of Interest | 18 USC 208 |
| - Seeking Opportunities that would not otherwise exist | 18 USC 208 |
| - Supplementation of Government Salary | 18 USC 209 |
| - Release of SSI before Award | Privacy Act &
Trade Secrets Act |
| - | |

Suspension and Debarment

- Suspension – A decision by an agency Suspension & Debarment Official (SDO) to *temporarily* render an entity or individual unable to receive or participate in Federal contracts, subcontracts, assistance, or other benefits *pending* the completion of an investigation.
- Debarment – A *final* decision by an SDO.

Suspension and Debarment

- FAR 9.401 – Applicability
 - Suspension and Debarment decision may only be used to protect Federal procurement interests, and is not to be used for the purpose of punishment.
- Government Wide System – a suspension or debarment imposed by one agency applies to all departments and agencies.
- Excluded Parties List System (EPLS) available to the entire Federal sector, www.epls.gov

Suspension and Debarment

- New FAR Rule, effective 12/12/08, requires all contractors to disclose violations of procurement integrity and to fully cooperate with Federal investigative agencies.
- Rule expands requirements for contractor's Code of Business Ethics and Conduct.
- Requires contractors to establish and maintain an internal control system that detects and prevents improper conduct associated with violations involving fraud, conflict of interest, bribery, improper gratuities, or violations of the False Claims Act.

Use of Brand Name Specs.

- FAR 11.105 – Agency requirements shall not be written so as to require a particular brand name or product peculiar to one manufacturer.
- OMB has criticized the use of brand name specifications because:
 - Limits competition;
 - Limits opportunities to the small business sector; and
 - 3. it usually results in increased pricing.

Use of Brand Name Specs.

- As opposed to a brand name, Agency specifications should:
 - describe performance requirements;
 - list applications and interoperability requirements;
 - emphasize the necessary physical and functional characteristics; and
 - articulate a benchmark for performance
- Where a brand name justification is warranted, justification must be publicized in FedBizOpps.

Contact Information

Questions?

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