Rapid Acquisition Methods

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Introduction

Agenda:
• Problem Statement
• Provide Rapid Acquisition Methods
  • FAR-Based Strategies
  • Non FAR-Based Strategies
What's the Problem?

• Aging Legacy Systems
  – Interoperability issues
  – Ineffective Systems Architecture

• Emerging Threats
  – Cybersecurity constantly evolving
  – Near-Peer & Non-traditional Adversaries
“Without sustained and predictable investment to restore readiness and modernize our military to make it fit for our time, we will rapidly lose our military advantage, resulting in a Joint Force that has legacy systems irrelevant to the defense of our people.”
Where Do I Start?

- https://aida.mitre.org/accelerate/contracting/
## Know your Tools!

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<th>FAR-Based</th>
<th>Non FAR-Based</th>
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<td><strong>Procurement Contracts</strong></td>
<td><strong>Non-FAR Contracts</strong></td>
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<td>NASA Space Act</td>
<td>Unique authority at 9 civilian agencies</td>
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<td><strong>PART 15</strong></td>
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FAR-Based Contracting Methods

• Utilize **existing** Contracting Vehicles
  – GWACs, IDIQs, FSSs, DLA, etc.

• Encourage the use of FAR 16
  – “The contracting officer may exercise broad discretion in developing appropriate order placement procedures. The contracting officer should keep submission requirements to a minimum” – FAR 16.505(b)(1)(ii)
  – Minimizes Protests (No Protests under $25M)

• Encourage the use of FAR 13
  – Simplified Acquisition Procedures ($7M for Commercial items)
FAR-Based Contracting Methods (Cont.)

- Utilize Broad Agency Announcements
  - Small Business Innovative Research
  - Commercial Solutions Opening
  - Locally developed BAAs
  - DoD Rapid Innovation Fund

<table>
<thead>
<tr>
<th>Army</th>
<th>Navy</th>
<th>Air Force</th>
<th>Unified Commands/DoD/OSD</th>
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<tr>
<td></td>
<td>White papers submitted: 436</td>
<td>White papers submitted: 543</td>
<td>White papers submitted: 692</td>
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<td>Total cost: $870,506,100.00;</td>
<td>Total cost: $1,157,164,000.00;</td>
<td>Total cost: $1,154,065,900.00;</td>
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<td>Evaluations started: 423</td>
<td>Evaluations started: 543</td>
<td>Evaluations started: 684</td>
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<tr>
<td></td>
<td>Evaluations complete: 423</td>
<td>Evaluations complete: 543</td>
<td>Evaluations complete: 683</td>
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Total White Papers submitted: 2212 || Total cost: $4,639,861,000.00 || 2019 RIF budget: $250,000,000.00
294 of the total 303 requirements received White Papers.
FAR-Based Contracting Methods (Cont.)

• Commercial Solutions Opening
  – Sec 879 of the FY17 NDAA Pilot Program to Acquire Innovative Commercial Items OUSD(A&S) Class Deviation 2018-O0016
  – Authority to enter into a contract under the Pilot Program expires September 30, 2022

• CSOs are intended to help:
  – Remove barriers to entry
  – Gain access to emerging technology
  – Speed delivery of capability to the warfighter
  – Help restore agility to the acquisition process
A CSO is a general solicitation modeled after BAAs (FAR 35.016)

- Nearly identical to BAAs except CSOs cover all innovative supplies, services and R&D
  - **Innovative** means any technology, process, or method, including research and development, that is new as of the date of proposal submission; or any new application of an existing technology, process or method as of the proposal date

- All funding types, including O&M, would be appropriate

- All products/services procured using a CSO are considered commercial notwithstanding the definition under FAR Subpart 2.101
• CSOs can result in the award of a contract or an other transaction as long as specified in the solicitation

• Does not require the use of FAR 15 or DoD Source Selection Procedures

• Use FAR Part 12 procedures in conjunction with FAR Part 35 when procuring R&D
Non FAR-Based Acquisitions
Other Transaction Authority
OTs for Prototypes - 10 U.S.C. § 2371b

• OT authority for prototypes provides a flexible tool to promote DoD access to innovative and non-traditional/commercial technologies
  – Some restrictions eliminated (e.g. CICA, FAR, DFARS)
  – Flexibility in agreement terms and conditions

• This acquisition authority, when used appropriately, is a vital tool that will help the Department to remove barriers to entry to attract non-traditional defense contractors (e.g. CAS, clause flow-down, data rights, etc.) and increase access to commercial solutions for defense requirements

Bottom-line: OTs are designed to “Get to the tech”
• In order to enter into an agreement under 10 U.S.C. § 2371b, the effort must be a prototype project that is directly relevant to:
  – Enhancing mission effectiveness of military personnel and supporting platforms, systems, components or materials proposed to be acquired or develop by DoD; or
  – Improvement of in-use platforms, systems, components or materials

• Authority appropriate when one of the following conditions are met:
  – At least one nontraditional defense contractor or nonprofit research institution participating to a significant extent in the prototype project;
  – All significant participants in the transaction other than the Federal Government are small businesses or nontraditional defense contractors;
  – At least one third of the total cost of the prototype project is to be paid out of funds provided by sources other than other than the Federal Government;
Acquisition Authorities and OTs

• **What doesn’t apply to OTs?**
  - Competition in Contracting Act (CICA)
  - Truth in Negotiations Act (now Truthful Cost and Pricing)
  - Cost Accounting Standards (CAS)
  - Contracts Dispute Act (CDA)
  - Procurement Protest Process*
  - Cost plus a percentage of cost prohibition
  - Buy American Act (in part)
  - Bayh-Dole Act (patents)
  - FAR/DFARS/Agency specific acquisition regulations
Acquisition Authorities and OTs (Cont.)

• Some laws still apply -
  – Procurement Ethics Requirements
  – Criminal Laws (false claims/statements)
  – Fiscal Law
  – Laws of general applicability (Civil Rights Act)
  – Laws that would apply to anyone doing business in the U.S.
    – For example, security requirements, environmental laws, patent and copyright laws, and import/export control laws
Conclusion

• Discussed the need for speed
• Provided Rapid Acquisition Methods
  • FAR-Based Strategies
    – CSOs
  • Non FAR-Based Strategies
    – OTs for Prototypes