



## Season 6: Episode 2 – Preparing to Solicit

**Part 205 - Publicizing Contract  
Actions Part 206 - Competition  
Requirements Part 207 -  
Acquisition Planning  
Part 208 - Required Sources Of Supplies And  
Services Part 209 - Contractor Qualifications  
Part 210 - Market Research  
Part 211 - Describing Agency Needs**

# Co-Host – Dave Drabkin

- Independent consultant with 41-plus years of federal government contracting experience in both the public and private sector.
- Chairman of The Advisory Panel on Streamlining and Codifying Acquisition Regulations (Section 809 Panel),  
<https://discover.dtic.mil/section-809-panel/>
- The President of the United States appointed Dave to the Service Acquisition Reform Act (SARA) and the Multiple Award Schedule (MAS) Panels
- Dave has worked for the DoD, the General Services Administration (GSA) and the Homeland Security and Government Affairs Committee (HSGAC) of the U.S. Senate. He has also worked for Northrop Grumman Corporation and Dixon Hughes Goodman, LLP.



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# Co-Host – Bill Walter

- Managing Director of Forvis' Government Contracting Advisory practice
- More than three decades of experience in government contracting
- Former DCAA auditor and Executive with one of the largest DoD service contractors
- Bill's work includes helping clients understand the requirements associated with developing and implementing pricing strategies, indirect cost allocation solutions, developing accounting, estimating, procurement, project management and integrated system requirements for clients in various industries including aerospace and defense, contingency contracting, logistics, oil and gas, energy, manufacturing, healthcare, construction and professional services.



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# **Today's Topics:**

## **Preparing to Solicit**

Part 205 - Publicizing Contract Actions

Part 206 - Competition Requirements

Part 207 - Acquisition Planning

Part 208 - Required Sources Of Supplies And Services

Part 209 - Contractor Qualifications

Part 210 - Market Research

Part 211 - Describing Agency Needs

# Welcome Back, and Our Rules of Engagement

- Class will begin promptly at 2:00 pm ET.
- Class will end at 3:30 pm ET.
- Please use the Q&A panel to ask your questions
  - And if we are unable to answer the questions today, we'll get back to you.

# How to Receive Credits

- To get credit for the class you must collect the passwords provided during the class.
- You must respond to the email from PCI with the passwords to get credit.

# What's in the Documents Folder Today?

- Slides for today's DFUN with the DFARS episode
- DoD Directive 5000.01 – The Defense Acquisition System
- Three OMB Memos on Brand Name or Equal
- DoD's Market Research Report Guide for Improving the Tradecraft in Services Acquisition

# Polling Question #1

- How much experience do you have in the pre-solicitation phase of defense contracting?
  - A. It is my job
  - B. I've participated in this phase several times
  - C. I know about some pre-solicitation issues
  - D. You mean solicitations don't appear out of thin air?!





# 205 - Publicizing contract actions

- Allow 45 days for qualifying or designated country source
- Notification of Bundling
- Only one responsible source
- Rules for Berry Amendment synopses
- Public announcements of awards >\$7.5M (FAR is awards >\$4.5M)

# Polling Question #2

- If a contract action is subject to a publication requirements, how many times does it need to be publicized?
  - A. Once to each of the major civilian agencies, e.g., GSA
  - B. Three times
  - C. Two times
  - D. Only one time



# 206 - Competition Requirements

- Exceptions to full and open competition
  - Follow on production contracts to OTAs (DFARS 206.001-70)
  - Competitive selection for R&D contracts resulting from BAAs
  - Establishing and maintain alternative sources
  - Only one responsible source and no other suppliers or services
  - Unusual and compelling urgency
  - Domestic source restrictions
  - PX sourcing
  - Police, fire, airfield operations & community services – base closure
  - College/University R&D
  - Public Interest – Defense Agencies - SECDEF

# Polling Question #3

- Which of the following is NOT a good reason to use “other than full and open competition?”
  - Full and open competition is slow
  - Unusual and compelling urgency
  - Only one responsible source
  - Statutory authorization to use “other than full and open competition”



# Polling Question #4

- What law enacted additional competition requirements for DoD major system acquisitions?
  - Pub. L. 107-296
  - Pub. L. 72-428
  - Pub. L. 111-23
  - No such law exists



# 206.303 - Justifications

- Sole source 8(a) >\$100M (FAR>\$25M)
- Not required for acquisition of products & services in support of operations in Afghanistan
- Check DFARS 206.304 for approval levels

# 207 - Acquisition Plans

- PM responsible
- Generally, one plan per program
- Written plan required
  - Development >\$10M
  - Production or services >\$50M total contract or >\$25M single FY
  - Any other acquisition considered appropriate
- Not required for “final buy out” and “one time buy”
- Purchases of conventional ammunition have different rules
- Peer review requirements
- Contents of plan defined in PGI 207.105

# 207.106 – Major Systems

- No competitive use of privately owned IP unless
  - OEM can't meet schedule or delivery
  - OEM can't satisfy mobilization needs
  - Gov't has unlimited rights
- S-70
  - Address long-term sustainment technical data and software needs over life-cycle
  - Technical data and software needs shall be developed before issuance of solicitation
- S-72 Competition at prime and subcontractor tiers
- S-73 Special tooling and production hardware



# 207-172 Human Research

- Protection Official
- Management Plan
- IAW 32 CFR Part 219, Protection of Human Subjects

# 207.4 – Equipment Lease or Purchase

- Required analysis if leased >60 days
- Prohibition on leases for vessels, aircraft or combat vehicles over 18 months
- May lease commercial vehicles and associated equipment

# 207.70 – Buy to Budget

- DoD can buy more end items than specific in the law where
  - Quality is same
  - Does not increase the funding available
- For non-competitive buys quantities can not exceed 10% J&A quantity

# 208.4 – Federal Supply Schedules

- Class Deviation - Fair and Reasonable Determinations by DoD COs
- One offer received over SAT
- Approval to use schedules
- Follow DFARS 225 where schedule holder who sells foreign items
- DFARS 252.215-7007 – Notice of Intent
- DFARS 252.215-7008 – Only One Offer
- Ordering procedures
  - Evaluate Supply Chain risk for IT
  - LPTA limitations & prohibitions
  - Prohibition on reverse auctions on PPE and aviation critical safety items
- Limitations on using BPAs >SAT for follow-on for the same supply or service

# 208-6 & 7 Various Socio-Economic

- Federal Prison Industries
- Nonprofit Agencies Employing Blind or Severely Disabled (Ability One)

# 208.70 – Coordinated Acquisition

- Check this to see who has gov't-wide purchasing responsibility.
- See PGI 208.7006 for a listing of coordinated acquisition assignments by agency

# 208.74 – Enterprise Software Agreements

- DoD **shall** use DoD Enterprise software initiative for commercial software and related services
- Required to use an evaluation factor concerning supply chain risk
- PGI 208.7403 provides CO with procedures for acquiring commercial software and related services

# 209 – Contractor Qualifications

- Entities controlled by foreign governments
- Use Canadian Commercial Corporation (CCC)
- Consent to subcontracting with a firm opened or controlled by a government of a country sponsoring state terrorism must submit written justification to SECDEF
- Use of Administrative Agreements in lieu of debarment
- 15 Year Prohibition on contracting with any company that unlawfully manufactures or sales the Congressional Medal of Honor.



# Polling Question #5

- Can the Government do business with a suspended or debarred contractor?
  - Yes
  - No
  - In emergency situations only



# 209.5 – Organizational Conflicts

- Proprietary Information violations
- Major Defense Acquisition Programs
  - Lead System Integrator Limitations
  - Organizational Conflicts of Interest
  - System Engineering and Technical Assistance (SETA)

# 210 – Market Research

- Document small business availability to meet requirements
- Inform price reasonableness
- Use to improve tradecraft services, see PGI 210.070, “Market Research Report Guide for Improving the Tradecraft in Services Acquisition”

# 211 – Describing Agency Needs

- Follow DoDDI 5000.01, The Defense Acquisition System
- Brand Name or Equal
  - Both sealed bidding & negotiated
  - SAPs for Commercial Goods and Services under FAR Part 13
- Service contracts – provide clear distinction between work done by Government and work done by contractor employees
- Proprietary specifications or standards – J&A
- Item Unique Identification and Valuation
- RFID DoD requirements for tags on shipped goods
- Liquidated damages for subcontracting plans & construction contracts >\$750K

# Polling Question #6

- Which items must be recorded in the DoD Item Unique Identification Registry?
  - A. Intellectual property
  - B. Contractor-acquired property
  - C. Real property
  - D. All of the above



**See you on March 15<sup>th</sup> . . .**

**Same Bat Time . . .**

**Same Bat Channel . . .**

**THANKS!!!!!!**