Contracting with the U.S. Department of Defense

United States – Spain Industry Day 2015

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TALKING POINTS

• How DoD Procures Goods and Services

• What DoD Procures – A look at Fiscal Year 2014 Purchases

• How Industry Can Effectively Sell to DoD
The Defense Procurement System

• Centralized, uniform procurement policy and procedures
  o Laws, regulations, and guiding principles are the same for all defense procurement offices

• Decentralized procurement offices and execution
  o Army, Navy, Air Force, Defense Logistics Agency, and other Defense agencies have individual commodity and procurement offices in different locations around the world.
The Defense Procurement System Guiding Principles

- Conduct Market Research and Planning
- Provide all an opportunity to compete for government contracts
- Publicize opportunities and contract awards
- Select contractors fairly based on objective criteria with no outside influence
- Provide an opportunity to protest
- Advance Government social economic goals
- Award contracts only to responsible contractors
What DoD Procured from Industry in Fiscal Year 2014
(prime contract data only from both foreign and domestic contractors)

**Services**
($156.1B)

- Construction Services ($12.1B) 8%
- Facility Related Services ($26.1B) 17%
- Transportation Services ($8.1B) 5%
- Medical Services ($14.1B) 9%
- Electronic & Comm Services ($15.8B) 10%
- Equipment Related Services ($16.6B) 10%
- Logistics Mgmt Services ($4.5B) 3%
- Research and Development ($26.3B) 17%
- Knowledge Based Services ($32.5B) 21%

**Supplies & Equipment**
($127.3B)

- Aircraft, Ships, Subs & Land Vehicles ($41.9B) 33%
- Electronic & Comm Equipment ($18.6B) 15%
- Sustainment S&E ($34.8B) 27%
- Facilities S&E ($6.5B) 5%
- Clothing, Textiles & Subsistence S&E ($10.1B) 8%
- Miscellaneous S&E ($74.4M) 0%
- Weapons & Ammunition ($15.2B) 12%
- Supplies & Equipment ($127.3B) 45%

Source: Business Intelligence Tool data from 2 Jan 15
Numbers may not add due to rounding
Top 10 Procurements from Foreign Industry in Fiscal Year 2014

Note: The U.S. DoD procurement statistics presented ONLY include prime contracts. This data would not include sub-contracts with foreign companies or foreign owned or controlled companies registered and paying taxes in the U.S. as a U.S. company.

<table>
<thead>
<tr>
<th>Product or Service</th>
<th>Actions</th>
<th>Contract Obligations ($12.9B)</th>
<th>Percentage (96.9%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>PETROLEUM</td>
<td>4,155</td>
<td>$3,941,583,050</td>
<td>29.5%</td>
</tr>
<tr>
<td>SERVICES</td>
<td>28,264</td>
<td>$2,674,424,205</td>
<td>20.0%</td>
</tr>
<tr>
<td>CONSTRUCTION</td>
<td>9,789</td>
<td>$2,174,402,206</td>
<td>16.3%</td>
</tr>
<tr>
<td>SUBSISTENCE</td>
<td>40,169</td>
<td>$1,534,346,283</td>
<td>11.5%</td>
</tr>
<tr>
<td>ALL OTHERS NOT IDENTIFIABLE TO ANY OTHER PROCUREMENT PROGRAM</td>
<td>24,897</td>
<td>$1,324,965,115</td>
<td>9.9%</td>
</tr>
<tr>
<td>AIRFRAMES AND SPARES</td>
<td>1,340</td>
<td>$468,251,736</td>
<td>3.5%</td>
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<tr>
<td>SHIPS</td>
<td>5,546</td>
<td>$248,448,878</td>
<td>1.9%</td>
</tr>
<tr>
<td>OTHER AIRCRAFT EQUIPMENT</td>
<td>693</td>
<td>$248,298,594</td>
<td>1.9%</td>
</tr>
<tr>
<td>COMBAT VEHICLES</td>
<td>482</td>
<td>$205,062,840</td>
<td>1.5%</td>
</tr>
<tr>
<td>ELECTRONICS AND COMMUNICATION EQUIPMENT</td>
<td>705</td>
<td>$139,788,622</td>
<td>1.1%</td>
</tr>
</tbody>
</table>
Procurements from Spanish Industry in Fiscal Year 2014

Note: The U.S. DoD procurement statistics presented ONLY include prime contracts. This data would not include sub-contracts with foreign companies or foreign owned or controlled companies registered and paying taxes in the U.S. as a U.S. company.

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<th>Product or Service</th>
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<tr>
<td>PETROLEUM</td>
<td>112</td>
<td>$90,775,279</td>
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<tr>
<td>CONSTRUCTION</td>
<td>183</td>
<td>$37,236,153</td>
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<tr>
<td>ALL OTHERS NOT IDENTIFIABLE TO ANY OTHER PROCUREMENT PROGRAM</td>
<td>141</td>
<td>$26,039,217</td>
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<tr>
<td>SERVICES</td>
<td>595</td>
<td>$19,187,981</td>
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<tr>
<td>OTHER FUELS AND LUBRICANTS</td>
<td>25</td>
<td>$242,290</td>
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<tr>
<td>NON-COMBAT VEHICLES</td>
<td>1</td>
<td>$25,474</td>
</tr>
<tr>
<td>MEDICAL AND DENTAL SUPPLIES AND EQUIPMENT</td>
<td>7</td>
<td>$24,390</td>
</tr>
<tr>
<td>SHIPS</td>
<td>10</td>
<td>$24,127</td>
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<tr>
<td>SUBSISTENCE</td>
<td>4</td>
<td>$4,901</td>
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<tr>
<td>CONSTRUCTION EQUIPMENT</td>
<td>1</td>
<td>($4,292)</td>
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<tr>
<td><strong>Grand Total</strong></td>
<td>1,079</td>
<td><strong>$173,555,521</strong></td>
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</table>
Key Steps Industry Should Consider When Selling to DoD
Part 1

• Clearly identify your end product, service, component, or assembly

• Market your capabilities

• Identify contracting activities that are soliciting for the items/services you sell

• Understand how your potential customers do business

• Build relationships and partner with U.S. industry
  ○ Contact industry associations like AIA and NDIA to assist

• Register your company on the System for Award Management (SAM) (www.sam.gov)
Key Steps Industry Should Consider When Selling to DoD
Part 2

• Compete for contracts at Federal Business Opportunities (www.fbo.gov)

• Follow the proposal submission instructions

• Provide the best proposal based on Cost/Price, Technical, and/or other performance-based requirements

• Negotiate and communicate with US DoD Contracting Officers

• Build successful portfolio of past performance
BACK-UP
Procurement Laws

• U.S. Code: Most procurement laws are incorporated into the U.S. Code. Examples include:
  o Competition in Contracting Act
  o Small Business Act
  o Buy American Act

• Annual Defense Authorization and Appropriation Acts also contain provisions pertaining to procurement.
Procurement Regulations

• Federal Acquisition Regulations (FAR): Applies to virtually all Federal procurement

• Defense Federal Acquisition Regulation Supplement (DFARS): Applies only to DoD

• Military Department Supplements: Applies only to the Military Department (e.g., Army) that issues the Supplement
• Competition in Contracting Act (10 U.S.C. 2304) requires the head of the agency to obtain full and open competition with certain exceptions

• Approximately 60% of Defense contracts are awarded on a competitive basis
Competition Procedures

• Publish summaries (synopses) of requirements in the Federal Business Opportunities website

• Solicit a reasonably broad range of sources

• Treat competing offerors the same:
  • Solicitations should not favor one company over another
  • Provide the same information to all companies
  • Source selection based on ability to satisfy objective requirements (cost, technical, schedule)
Competition
Exceptions are Strictly Limited by Law

- Only one responsible source
- Urgent Requirement
- Mobilization Base/Industrial Preparedness
- International Agreement
- Required by law
- National Security
- Public Interest
Contract Types
Two Main Categories

• Fixed Price
  – Firm Fixed Price and Variations
  – Appropriate where the end item is well defined
  – Contractor assumes risk
  – Options

• Cost Reimbursement
  – Contractor reimbursed for costs incurred
  – Appropriate where there is high risk, i.e. R&D
  – May contain incentives to hold cost down
  – Government assumes risk
Contracting Process

Two Types of Solicitations

• Invitation for Bid (IFB)
  o Requirement is precisely defined
  o Public opening of sealed bids
  o Compete on Price

• Request for Proposals (RFP)
  o Negotiated
  o Compete on technical proposal as well as price and schedule
  o Detailed cost data may be required
Contracting Process
Contract Placement

• Publicize the procurement

• Issue the solicitation. Includes terms and conditions, specifications, closing date and basis for award

• Evaluate Responses. Technical merit, management approach, past performance, price reasonableness

• Establish that selected source is Responsible

• Award Contract
Protests & Disputes Resolution

• Any potential or actual offeror may protest a solicitation or award
• All protests must be given consideration
• After award, contract disputes settled in accordance with the Contract Disputes Act
  • Requires contracting officer to issue a final decision on a disputed matter
  • Contractor can appeal the final decision
• Disruption of the procurement process should be minimized
Contract Administration

• Usually delegated to the Defense Contract Management Agency (DCMA)
  o Monitor progress (cost and schedule)
  o Quality assurance
  o Authorize payments
  o Verify accuracy of reports
  o Monitor subcontracts