



## Contracting



Lessons 16 to 20 focus on the government perspective of Earned Value including how and why it is applied. Lesson 16 looks at the contracting process used by the government, and presents some key information about EVM supporting the overall Program Management process. It is important to know the overview of the contracting process, selected definitions and key steps.

EVM plays a role in each of them.

Systems Acquisition Management within DOD is the process used to acquire quality products. The primary objective of this process is to satisfy the needs of operational users, provide measurable improvements in mission capabilities and acquire products in a timely manner at a fair and reasonable cost.

**At the conclusion of this lesson, you will be able to recall major contracting processes as they relate to EVM.**



## Risk Factors

Program Managers must assess and manage **risk factors** to ensure that DOD is acquiring optimum systems that meet all requirements. Successful acquisition management is more likely when cost, schedule, and performance risk factors are assessed and addressed.

**Technical Risks** that could impact technical performance include use of new or exotic materials or processes, use of unproven technology and use of new applications to meet demanding user requirements.

**Schedule Risks** that could impact program schedule include late deliveries, political pressure and changing requirements (user needs the system sooner or user adds requirements).

**Cost Risks** that could impact program costs include, increases in material prices, higher-than-anticipated labor rates and other factors that can change current program cost estimates.



## Acquisition Strategies

After assessing risk, Program Managers determine the best Acquisition Strategy to handle the risks. Four strategies for handling risk are **Controlling Risk, Avoiding Risk, Assuming Risk, and Transferring Risk**. These strategies can be used alone or in combination.

**Controlling Risk** means lowering the chance that the event will occur by using multiple contractors, conducting multiple tests and using technology and processes proven to control the risk. **Avoiding Risk** means changing the source (element or constraint) that is subjecting the program to risk. Risk may be avoided by reducing the scope of performance objectives, using more expensive materials or processes with proven track records and extending the schedule to increase the probability of success.

**Assuming Risk** means planning for the potential consequences by accepting the risk, putting a monitoring process in place and taking future action (e.g., reserving funds, modifying schedules) if necessary. All unknown or unidentified risks are assumed. **Transferring Risk** means having someone else take accountability for the risk. Using firm-fixed price contracts can transfer risk and warranties to transfer cost risk to the contractor. Responsibility is assigned to the organization that is best suited to minimize the probability of a negative consequence.

This overview of system acquisition management leads us to contracting processes since a contract is the vehicle used to communicate and handle risk. Remember, EVMS is a management concept that when applied is a tool for managing the cost, schedule and technical risks in a program.



## **Planning for Solicitation**

A contract establishes a legal relationship between two parties, defines the rights and responsibilities of each party, allows for changes within the terms and conditions of the legal relationship and requires five essential elements to be binding:

- Offer - Have complete terms (price, quantity, quality, and delivery)
- Acceptance - A mirror image of the offer
- Consideration - Sufficiency and adequacy
- Legal and binding - Objective or purpose needs to be legal to be enforced in court
- Competent parties - Both parties must be legally competent for a contract to be binding.

The Federal Acquisition Regulations System establishes the policies and procedures for acquisition by all executive agencies. It consists of the Federal Acquisition Regulations (FAR), the DOD FAR Supplement (DFARS) Agency supplements and acquisition regulations.

The Contracting Officer uses the FAR to carry out the contracting process. He/she has the authority to enter into, administer, and/or terminate contracts, and make related determinations and findings.



**Figure 16-1: PM and CO Role Comparisons**

	<b>Program Manager</b>	<b>Contracting Officer</b>
Authority	Charter (Army & Navy) Program Management Directive (AF)	Warrant
Responsibility	Entire Program	Contract
Background/Training	Technical	Business
Guiding Directives	DOD 5000 series	FAR
Organization	Program Office (IPT)	Matrix (IPT)



**Figure 16-1**, The Program Manager (PM) has the overall responsibility for bringing the program in on time and within budget. The CO is the business advisor to the PM and is responsible for ensuring that all acquisition laws and regulations are followed.



## The Requirements Package

For a requirement to initiate the contracting process a need must be identified, a non-materiel solution must not be available, and approval must be given to pursue a materiel solution. **The Requirements Package** is put together by the Program Manager's Integrated Product Team (IPT) and delivered to the Contracting Officer.

The **Acquisition Plan** is a key document in the pre-contract phase. It details the process whereby the required hardware, software and/or services will be procured consistent with the previously approved Acquisition Strategy.

The Program Office should explain in the management section of this document the requirements for cost, schedule and technical performance management. To what type of contract is EVMS applied?

## The Requirements Package

Areas of the package where EVM plays a role are indicated in **bold**:

- **Management reviews and approvals**
- Certification of funds availability
- Description of the requirements
- Specifications (performance or detail)
  - **Statement of Work (SOW)/Statement of Objective (SOO)\***
  - Purchase descriptions
  - **Contract data requirements**
- Any special packaging and marking requirements
- Inspection and acceptance requirements
- Delivery or performance requirements
- Any special contract administration requirements
- **Any special provisions or clauses**
- **Recommended evaluation factors for contract award**
- **Evaluation criteria for the evaluation factors**
- Recommended potential sources and results of market research
- Input for approval of other than full and open competition, if needed
- **Acquisition Plan (AP)**, if required

\*The **Statement of Objective (SOO)** establishes a broad description of the Governments required performance objectives.



**Figure 16-2: Contract Categories**

Criteria	Fixed-Price	Cost-Reimbursement
What is promised?	Acceptable goods and services	Best efforts
When is payment?	After delivery (progress payment possible)	As costs are incurred
Cost risk to Contractor	High	Low
Cost risk to Government	Low	High



**Figure 16-2**, illustrates the general contract types used in government contracting. Within the two general categories are variations, like FPIF, CPAF, CPIF, etc, that are discussed briefly by Dr EV.



## Solicitation and Award of Contracts

The first step in solicitation and award is the notification to industry that a contracting need exists and the identification of the parameters of that need. Prior to this formal solicitation, the needs identified in the requirements package are synopsised in the Federal Business Opportunities or other electronic means. The solicitation communicates the requirement to industry.

It is important that EVMS considerations are thorough and complete in the [RFP](#). The Procuring Agency must insure the proper solicitation clauses are included requiring the application of an EVMS compliant integrated management system. Also, sufficient [SOW](#)/[SOO](#) statements with requirement to use EVMS concepts in the daily management of the program are critical. The evaluation criteria should allow the government to assess contractor's EVMS status. Proper [Data Items](#) such as the [WBS](#), [CPR](#)/[CFSR](#), [WBS](#) dictionary must be included in the [CDRL](#) (use [these links](#) to see examples).

- Contract clauses - <http://edocket.access.gpo.gov/2008/E8-8706.htm>
- CPR/CFSR - <http://www.acq.osd.mil/pm/currentpolicy/currentpolicy.html#dids>
- WBS - [http://www.acq.osd.mil/pm/currentpolicy/wbs/MIL\\_HDBK-881A/MILHDBK881A/WebHelp3/MILHDBK881A.htm](http://www.acq.osd.mil/pm/currentpolicy/wbs/MIL_HDBK-881A/MILHDBK881A/WebHelp3/MILHDBK881A.htm)

## **RFP**

RFP = Request For Proposal

## **SOW**

SOW = Statement of Work

## **SOO**

SOO = Statement of Objectives

## **Data Items**

Note that the data items should be tailored to ensure that the proper information is obtained to effectively manage the contract. For example, the level of detail provided in the WBS may vary based upon the risk associated with the contract and or the specific WBS element.

Caution must be taken to ensure that the level of data provided supports the Program Manager and his staff, but that it is not intrusive to the contractor. Also, consider the various formats that are included in each report. Only request formats that will be used.

Finally, consider the frequency of reporting. Most programs require performance data on a monthly basis; however, some programs are receiving weekly data to manage risk effectively. Other less risky programs only receive data on a quarterly basis.

## **WBS**

WBS = Work Breakdown Structure

## **CPR**

CPR = Contract Performance Report

## **CSSR**

CSSR = Cost/Schedule Status Report

**CFSR**

CFSR = Contract Funds Status Report

**CDRL**

CDRL = Contract Data Requirements List



## **Reporting Thresholds**

EVM Policy as of 7 Mar 2005 states: Cost or incentive contracts, subcontracts, intra-government work agreements, and other agreements valued at or great than \$20M (then year) shall implement the ANSI EIA-748 (EVMS Standard Guidelines). Likewise, efforts valued at \$50M (then year) or greater shall have an EVM system that has been formally validated and accepted by the cognizant contracting officer.

All efforts implementing EVMS will require a Contract Performance Report (Data Item Description DID-MGMT 81466), and an Integrated Master Schedule (DID DI-MGMT 81650) based on the common Work Breakdown Structure (per MIL-HDBK 881). Contract efforts of less than \$50M will be allowed to tailor the reporting requirements. Tailoring guidance is available in the 2005 Earned Value Management Implementation Guide. The guide will be posted in the course library as revisions are released.

Integrated Baseline Reviews (IBR's) shall be required whenever EVM compliance with ANSI/EIA-748 is required, that is, for cost or incentive contracts, subcontracts, intra-government work agreements, and other agreements valued at or greater than \$20M (then year).



## **Reporting Thresholds - Lower Risk Programs**

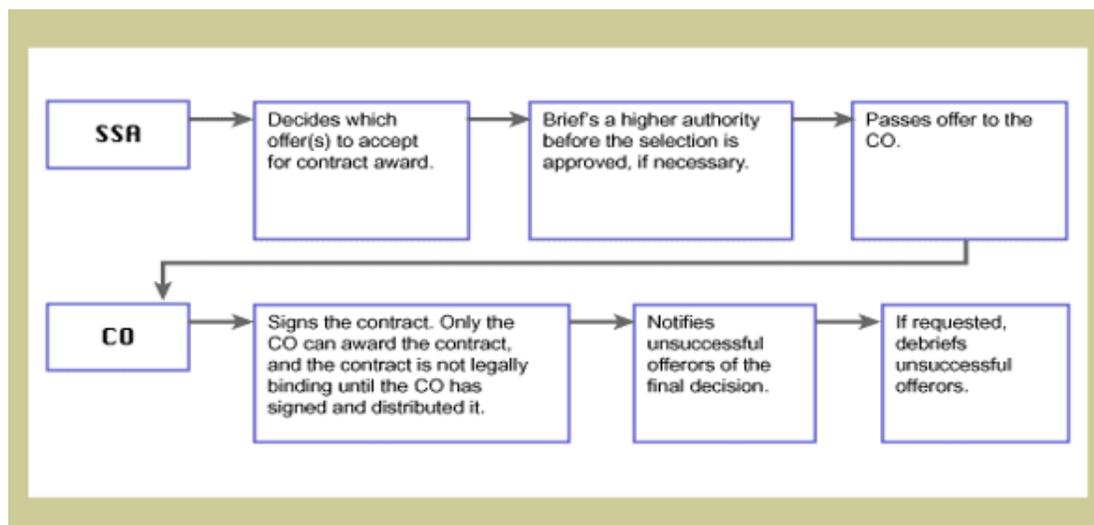
The application of EVM on cost or incentive efforts, including contracts, subcontracts, intra-government work agreements, and other agreements valued at less than \$20M, is optional and is a risk based decision that is at the discretion of the Program Manager. A cost-benefit analysis shall be conducted before deciding to implement EVM in these situations.

EVM is discouraged on Firm Fixed Price, Level of Effort, and Time and Materials efforts, including contracts, subcontracts, intra-government work agreements, and other agreements regardless of dollar value. Policy suggests that if based on assessment of program risk that the parties feel that EVMS is required, they should first re-examine whether the contract type is appropriate.

In extraordinary cases where cost and schedule visibility is required and cannot otherwise be obtained, the Program Manager will obtain a waiver for the individual contract action from his Milestone Decision Authority (MDA). In these cases, the Program Manager will conduct a business case that includes rationale for why a cost or fixed price incentive contract was not an appropriate contracting vehicle.



Figure 16-3: Decision Flowchart



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In the formal source selection process, a contract moves from the Contracting Officer (CO) to the Source Selection Evaluation Board (SSEB). Then it goes from the Source Selection Advisory Council (SSAC) to the Source Selection Authority (SSA) and back to the CO as illustrated in **Figure 16-3**, Decision Flowchart.

### Long Description

Figure 16-3: Decision Flowchart shows the steps in the formal source selection process. A contract moves from the Contracting Officer (CO) to the Source Selection Evaluation Board (SSEB). Then it goes to the Source Selection Advisory Council (SSAC) to the Source Selection Authority (SSA) and back to the CO.



## **Proposal Evaluation and Source Selection**

The steps for evaluation and selection of a source for contract award are:

1. Compare each proposal to the RFP
2. Compare the proposals to each other
3. Select the source for contract award
4. Determine if the price is fair and reasonable

The CO determines if an offeror's price is fair and reasonable by using price analysis, cost analysis (i.e. using CPR data), technical analysis, and field pricing support. Cost analysis can be more time-consuming than price analysis, and may increase the contract price.

When cost or pricing data are required, the CO generally requests the technical analysis of proposals by the appropriate technical personnel. The purpose of this analysis is to review the validity of the technical information provided by the offeror. You will see in a later lesson the importance of understanding the technical aspects of the contract in preparing for an Integrated Baseline Review (IBR).



### Contract Administration

..Agency	Responsibilities
Defense Contract Audit Agency (DCAA)	The DCAA is a DOD organization that has the responsibility of performing contract audit services for the Department. The DCAA provides accounting and financial advisory services (before and after award) in connection with negotiating, administering, and closing out contracts and subcontracts.
Defense Finance and Accounting Service (DFAS)	The DFAS is responsible for the payment on all DOD contracts, with 5 payment centers and 20 smaller operating locations (OPLOCs) throughout the United States. The DFAS must make timely payments to contracts authorized by the contractors and the Contracting Officer.
Defense Contract Management Agency (DCMA) Supervisor of Shipbuilding (SUPSHIP)	The purpose of the DCMA is to provide worldwide contract administrative services in support of DOD components and other designated Federal and international organizations.

These three DOD agencies perform critical contract administration functions in systems contracting.

**(SUPSHIP)**

SUPSHIP = Supervisor of Shipbuilding: Performs similar functions as the DCMA at the major ship yards.



## **Defense Contract Management Agency (DCMA)**

The DCMA does not wait until after contract award to become involved in a program it will administer. The contracting office should invite the DCMA to participate in the solicitation, evaluation, and award phase as part of the Integrated Product Team (IPT). By getting involved early in the process, some contract administrative problems that a [PCO](#) may not be aware of can be avoided.

The PCO handles the procurement from the pre-solicitation phase through contract award, to include signing the contract on behalf of the Government. After contract award, the contract is normally assigned to an [ACO](#) for contract administration. However, the PCO still has the overall responsibility for the contract until it is completed and closed out.

The post-award phase begins with contract administration. Contract administration can be accomplished by the contracting office at the camp, post, or station, or by a Contract Management Office. For DOD, most of the [CMOs](#) are within the DCMA.

The purposes of contract administration are to protect the Government's interests, avoid or eliminate overlapping and duplication of Government contract administration effort and provide consistent treatment of contractors in the administration of Government contracts.

The role of contract administration typically includes managing Government interest, monitoring contractor's processes, ensuring contractor is paid, and providing program support.

**PCO**

PCO = Procuring Contracting Officer

**ACO**

ACO = Administrative Contracting Officer

**CMOs**

CMOs = Contract Management Offices



## **Contract Administration**

Contract administration functions are accomplished in or near a contractor's plant for the benefit of the Government. A wide variety of administration functions are performed to ensure performance of a contract or in support of the buying organization.

The FAR lists 69 functions typically performed by the CMO if they apply, and another 11 functions to be performed if specifically authorized by the buying office. Examples of CMO functions include administration of normal matters related to such things as certificates, name changes, transportation, packaging, billings, and payments.

One of the post award activities you can expect is the government planning and preparation to conduct an Integrated Baseline Review (IBR). In the next lesson you will explore the objectives and benefits of an IBR.



### Contracting Processes Knowledge Review

Given a risky, high dollar value, non-FFP contract, what should be in the RFP?

- No EVMS provision required
- The EVMS Solicitation Provision
- The System Specifications
- The EVMIG Specifications

**Correct.** Given a risky, high dollar value, non-FFP contract, the EVMS Solicitation Provision should be in the RFP.



### **End of Lesson**

You must click the **Next** button in order to receive credit for this lesson.