

Acquisition Support Team Newsletter



ACQUISITION SUPPORT TEAM (AST), OMAHA DISTRICT, USACE

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The Acquisition Support Team (AST)

The AST was established in April of 2015 as a cross functional Project Delivery Team (PDT) tasked with supporting and improving District acquisition processes and awarding Indefinite Delivery Contracts.

The PDT consists of representatives from Contracting, PPPMD, Construction, Engineering, and Operations, with liaisons from Office of Counsel and Small Business. The current workload consists of fifteen contract actions worth approximately \$1.5B for Operations, PM (Special Projects and Environmental), and Engineering.

AST initiatives include administering the District Acquisition Strategy Board (DASB), inventorying Districts IDIQs, development of the EDW inventory system and interface, identification of projected contract gaps, development of specific Quality Management Systems, and other actions which support District acquisition processes.

This newsletter will primarily be used to communicate AST activities, lessons-learned, metrics, and scheduled events. It will also include acquisitions news specific to the District as well as items of interest at the regional, divisional, and national lev-



AST Group Photo. (From left to right) Top row: Chris Wiehl [OD], Tyler Hegge [CT], Ty Sabin [ED], Andrew Anderson [PM], Hubert Carter [SB]; Center row: Doug Hadley [CT], Carolyn Jacobson [CD], Stacy Birkel [OC], Rosemary Hargrave [PM], Bob Lingerfelt [PM]; Bottom row: Kim Jones [SB], Jessica Jackson [CT], Melissa Harlon [OD].

els that may impact District execution. Readers will also find a variety of educational articles, charts, calendars, and photographs.

Suggestions for future articles or other content are welcome, as are corrections. Please submit them to Bob Lingerfelt (bobby.w.lingerfelt@usace.army.mil).

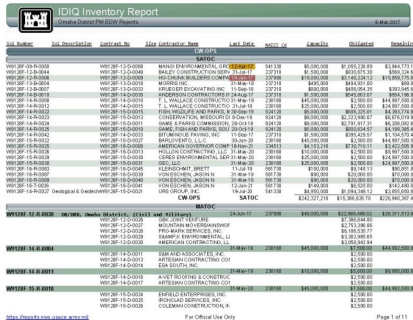
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New EDW Tools Available

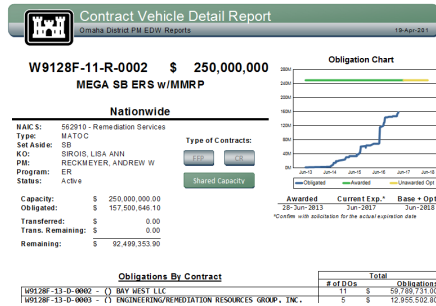
The AST has been preparing two new EDW reports that will assist the District personnel in assessing Contract Vehicles.



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The first report is the Contract Vehicle Inventory Report, which lists all vehicles currently active within the District, a short description of the vehicle, the named of the contractor(s), and the contract's current capacity. The report is linked to CEFMS and totals the obligations and delivery orders on the vehicle automatically.

The second report is the Contract Vehicle Detail Report. This report pulls the detailed information on a given vehicle and provides a report that contains an obligation chart, transferred capacity, awarded task orders, and CEFMS amendments. This report will reflect all obligations, regardless of which District has obligated the funds.



Running the Reports

The reports are easily pulled from the Omaha District's PM Reports site:

- Select PM Reports from the District's Water Cooler
- Click on Reports by Category
- Expand Acquisitions
- Expand Contract Vehicle Reports
- Click on Launch Report for the corresponding report

The website will take you directly to the report in EDW. Note that you may use any valid CAC certificate (Email or other) when logging into EDW.



First Time EDW Users

Users must obtain access to EDW through an ACE-IT ServiceTrak ticket before the user can run the report. The ServiceTrak ticket will need to be approved by the user's supervisor. For more information on getting access, go to <https://edw.usace.army.mil> and click "Request Access."

Though these EDW tools draw data from CEFMS, preliminary contract information is loaded into the system by the AST. Please notify the AST of any incorrect entries using the following DLL: dll-cenwo-AST_Submit@usace.army.mil

AE Services IDCs: Task Order Award Process Discussed

On March 28, 2017, members of the AST met with representatives from ED, OC, PM, and CT to discuss the application of FAR 36.6 criteria for task order selection when multiple Architect-Engineer (AE) services Indefinite Delivery Contracts (IDCs) of similar scope are available.

The purpose of the meeting was to identify potential ambiguities or conflicts in the District's methodologies in such

situations, and to reach a consensus on how best to capture those methodologies in a QMS document.

The meeting was successful and the AST is currently drafting a QMS document which will be circulated among the attendees and other affected parties for review.

When finalized, the QMS will ensure that AE task order selections continue to be performed in accordance with the Brooks Architect-Engineer Act, Federal Acquisition Regulation (FAR), and Engineering Pamphlet (EP) 715-1-7, Architect-Engineer Contracting in USACE, and will promote fair, efficient and consistent AE task order selection practices in NWO.

The QMS document will further explain how to expedite the AE task order selection process for repetitive (previously evaluated) scopes while adhering to the appropriate requirements.

Contractor Safety Evaluation in Source Selection

The AST and Omaha District Safety Office are working together to address how best to assess “safety” as a selection criteria in Source Selections. Though USACE diligently enforces its safety requirements post-award, the probability that a project will be performed safely can be significantly increased if safety is addressed in the selection criteria for awards. This can be achieved in a variety of ways, the most common of which is a review of an Offeror’s Past Performance records. This typically include (as in the case of CPARS) assessments of a contractor’s safety practices on past projects.

The disadvantage of using only Past Performance records to evaluate safety risk is that the evaluations submitted by offerors may not accurately or adequately capture the Offeror’s overall safety record. Fortunately, other metrics are available, to include EMR (Experience Modification Rate) and DART (Days Away/

Restricted or Transferred).

EMR is a rating used to determine insurance premiums for a company by comparing its workers’ compensation history against the claims history of similar companies (in terms of size and business type) over the most recent 3-5 year period.

The baseline rating is “1,” which is the number assigned to new companies. Anything lower is better and anything higher is worse, in terms of risk. A company with an EMR rating of 1.1, for example, may pay 20% more in workers compensation premiums than a company with a rating of .90 because insurers view the former as riskier in terms of potential workers compensation claims.

In a sense, EMR is a safety credit score, and has been successfully used by the Government to assess an offeror’s safety performance during source selec-

tions.

DART differs from EMR in that it is calculated by multiplying the number of injuries (as defined by the process) recorded on the OSHA 300 log by 200,000, and then dividing that number by the total number of man-hours worked in a calendar year. The resulting rating can be compared to the ratings of other companies in the same NAICS.

Thus, while the EMR determines safety risk based on workers compensation claims, DART describes a company’s safety performance using a simple calculation based on OSHA 300 reportable injuries.

An example of the successful use of EMR/DART in source selection can be found at <http://www.gao.gov/products/D09562#mt=e-report>.

Discussions on how best to

implement EMR and/or DART are ongoing. Among the topics the AST and Safety Office are discussing: 1) Which rating is best-suited for source selection (if not both)? 2) Against what metrics would EMR or DART ratings be evaluated? 3) What factor should include the rating(s), i.e., a technical factor, such as Management Approach, or a non-technical factor, such as Past Performance?

A positive development of the ongoing discussions has been the mutual decision to appoint a representative from the Safety Office as a “technical advisor” for future AST selection boards. This greater involvement by the Safety Office in the selection process will enhance the District’s ability to ensure safety risk is adequately addressed during source selection, which should result in safer projects after award.

DASB Process Changes

Updates to the Omaha District’s DASB (District Acquisition Strategy Board) submission and review procedures have been drafted by the AST and are currently under review. The objective is to develop a QMS that clearly identifies the responsibilities of those parties who play a role in the DASB process, and the process that will be used to submit, review, and track requests for new acquisitions.

In addition to the QMS, the team is developing standard-

ized submission forms for use by requestors, a dedicated Outlook DLL to submit requests, a revised DASB approval form, and an easy-to-understand flowchart that graphically illustrates the DASB request and approval process.

The team is also discussing the best approach to manage out-of-cycle DASB requests; changes to acquisition requests already approved; and resubmission of requests that

were disapproved during a previous board.

The DASB currently meets on a quarterly basis. The AST Lead, who serves as the DASB Chair, schedules the boards after coordination with DASB members, then publishes the board date and solicits new acquisition requests from PMs or other authorized requestors. Those requests are assembled by the AST Lead, who

provides a summary of each to the DASB for reference during the meeting.

The individual requesting the acquisition, or an appointed representative, is required to be present during the DASB to explain the need and answer questions. At the conclusion of the board, voting members may concur or non-concur with the acquisition request, or withhold a decision until additional information is provided. The DPM is the approval authority.

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WOSB and EDWOSB Sole Source Contracts

“WOSBS will now be eligible for contract participation in 92 NAICS industry groups.”

Because it is a relatively new change, some Project Managers may not realize that as of October 2015, sole-source awards may be issued to Women-Owned Small Businesses (WOSBs) and Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs), for specific NAICS codes.

NAICS

Per the SBA website, www.sba.gov, “SBA has authorized the use of 113 new NAICS Industry groups for WOSB and EDWOSB set asides. WOSBs will now be eligible for contract participation in 92 NAICS industry groups. EDWOSBs will now be eligible for contract participation in 21 designated NAICS industry groups, along

with the 92 NAICS industry groups identified for WOSBs. The effective date per the notice for use of these new NAICS is 3 March 2016.” <https://www.sba.gov/contracting/government-contracting-programs/women-owned-small-businesses>

The long list includes two NAICS codes frequently used by the Omaha District: 236220 (Commercial and Institutional Building Construction) and 541330 (Engineering Services).

Award Limits

Per FAR 19.1506, the anticipated award price of these contracts, including options, will not exceed —

(i) \$6.5 million for a requirement within the NAICS codes

for manufacturing; or

(ii) \$4 million for a requirement within any other NAICS codes.

Additional provisions are that the EDWOSB or WOSB must be determined to be a “responsible” contractor with respect to performance and that the award can be made at a fair and reasonable price.

Unlike 8(a) acquisitions, a J&A for sole source will need to be completed and approved by the appropriate authority prior to entering into sole source negotiation with a WOSB or EDWOSB.

Consolidation vs Bundling

What is the difference between “consolidation” and “bundling”? It’s a question that appears frequently on the Defense Acquisition University (DAU) website—often enough that one DAU professor acknowledges, “Yes, the issue can be confusing”.

The easiest way to approach this topic is to first identify whether consolidation has occurred. At the most basic level, consolidation occurs when you roll two or more existing contract requirements into a single contract (there are plenty of caveats, so reference the FAR if you want the long version).

If there is no consolidation, then there is no bundling, because bundling is effectively a subset of consolidation.

If there is consolidation, the next question to ask is, “As a result of this consolidation, is it now unlikely that a Small Business could compete for this contract?”

If the answer is yes, the contract may also be considered “bundled.”

In a nutshell, bundling can be viewed as a type of consolidation that specifically focuses on the impacts of the consolidation on small businesses.

In those instances that a proposed contract is likely to consolidate or bundle requirements currently being performed by two or more contractors, the acquisition has to be justified, because of the Government’s desire to avoid anti-competitive procurement practices or procurements that would limit participation by small businesses.

For more information on this topic, reference FAR 7.107, For more discussion simply do a web search for “consolidation vs bundling.” There’s no shortage of material on the topic.

The Impact of Protests on Acquisition Schedules

Per the GAO's most recent Annual Report to Congress on bid protests (<http://www.gao.gov/products/GAO-17-314SPQ>):

"During the 2016 fiscal year, we received 2,789 cases: 2,621 protests, 80 cost claims, and 88 requests for reconsideration. We closed 2,734 cases during the fiscal year: 2,586 protests, 61 cost claims, and 87 requests for reconsideration. Of the 2,734 cases closed, 375 were attributable to GAO's bid protest jurisdiction over task orders. With this letter we have included a chart comparing bid protest activity for fiscal years 2012-2016...

"Of the protests resolved on the merits during fiscal year 2016, our Office sustained over 22 percent of those protests. Our review shows that the most prevalent reasons for sustaining protests during the 2016 fiscal year were: (1) unreasonable technical evaluation; (2) unreasonable past performance evaluation; (3) unreasonable cost or price evaluation; and (4) flawed selec-

tion decision."

It is notable that more than 20% of the protests filed by Offerors were ultimately sustained by GAO. But that percentage does not account for protests filed with GAO that did not require a decision because the affected agency opted to voluntarily take corrective actions in lieu of defending their selection decisions.

Protests are hugely detrimental to acquisition schedules because the schedules rarely, if ever, include the "float" necessary to address them. This is understandable—no acquisition professional "plans" on protests, at least not to the degree that a schedule would show a protest activity or milestone. Protests consume substantial government resources, in terms of both labor and time, and often occur so late in the acquisition process that the Government may take corrective action simply to get a much-needed contract awarded, even when the protest has dubious merit.

How can protests be avoided? The intuitive answer is that acquisition professionals need to ensure source selection personnel, to include SSEB and SSAC members, are more than just technical experts. They need to understand the myriad restrictions, processes, and requirements involved in source selection, and, more specifically, they need to fully comprehend and adhere to the source selection plan.

Less intuitively, but perhaps of even greater importance, acquisitions need to be started in a timely manner. Hastily written acquisition plans, poorly written scopes, and ambiguous or self-contradictory evaluation criteria significantly increase the likelihood of protests on the very acquisitions which can ill-afford the time required to address them.

In short, "winning" a protest is, at best, a consolation prize. The real prize is avoiding protests altogether. The best way to do that is to initiate acquisitions in a timely manner.

Calendar

MAY

- 8-10. SAME Industry Day, DoubleTree Hilton
<http://www.same.org/Omaha>

- Quarterly DASB (date to be announced)

JUNE

-

JULY

- 26. Omaha District Change of Command

In the News:

"Agencies should consider government-wide contracts for common goods and services to save money, avoid wasteful and redundant contracting actions, and free-up acquisition staff to accelerate procurements for high-priority mission work for use by multiple agencies, including 'Best in Class'..." -

Mr. Mick Mulvaney, Director of OMB,
"Memorandum for Heads of Executive Departments and Agencies," April 12, 2017 (<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-22.pdf>)