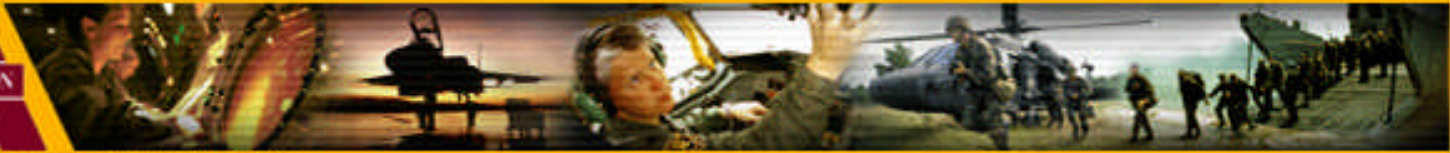




STRENGTH THROUGH INDUSTRY & TECHNOLOGY



Program Management Systems Committee (PMSC)

Contract / Subcontract Issues Working Group

04 May 2011

Mike Martin

Joint Team Members

Mike Martin – Pratt & Whitney / UTC (Lead)

Peter Schwarz – MDA

Jeff Poulson – Raytheon

Adam Duncan - Raytheon

Mike Pelkey – OSD DPAP

Randy Steeno – Boeing

TBD – DCMA EV Center

TDD – OSD PARCA

Brian Frasco – Lockheed Martin

Kathryn Flannigan – General Dynamics

Tom Tasker – General Atomics

Mike Pauly – ITT

Barbara Kjorstad – ATK

Gil Kjorstad – ATK

Mike Nosbisch – SM&A

Overview

- The actions contained herein have or will be executed through a collaborative industry / government effort
- The PMSC Board has directed the initiation of a “Clearing House Working Group”
- The Contract Issues WG must have additional key government participants.
- The following issues remain unresolved:
 - Contract vs. EVM system order of precedence
 - Subcontractor Validation
 - Subcontractor Surveillance compliance and surveillance
 - EVM Implementation Challenges
 - Use of a supplier’s previously-validated process at a new supplier site
 - DCMA EV Standard Surveillance Instruction (SSI): Closed 3rd quarter 2011
 - Ownership and Control of Management Reserve
 - Undefinitized Contractual Actions (UCAs) / Unpriced Change Orders (UCOs)
 - Treatment of existing CAR’s when Business Systems DFARS is implemented.
- Proposed path to closure:
 1. Segregate Clearing House vs. Contracts Issues
 2. Review high value Contracts WG issues with Mr. Gary Bliss for selected inclusion into the PARCA EVMS Stakeholders Initiatives.

Clearing House Working Group Charter

Serve as the Clearinghouse for Industry's EVMS and other integrated program management-related issues. Discuss issues raised by PMSC members, identify common issues, gather facts and supporting data, and formulate industry positions; develop recommendations for issue resolution, utilizing the agreed-upon Ombudsman process. Present recommendations to the PMSC Board and support the process, as required, to implement board-approved recommendations.

Contracts WG Issues transfer to Clearing House WG

- Ownership and use of management reserve
- Customer PM-required approval of PMB changes
- Customer prevention of OTB implementation/use when performance data based on original PMB no longer meaningful for management purposes
- Customer-required reporting at levels below those contractually-required
- Issuance of CARs to primes for failure to conduct subcontractor surveillance, even though subcontractor already undergoing annual DCMA surveillance per SSOM/SSP

Summary – Path Forward

- Develop CONNOPS between Contracts and Clearing House WG's.
- Establish Clearing House WG Membership.
- Agree on what current issues reside in each WG.
- Obtain additional government participation on Contract Issues WG (PARCA / DCMA EVM Center)
- Review high value Contracts WG issues with Mr. Gary Bliss for selected inclusion into the PARCA EVMS Stakeholders Initiatives.

Back Up Charts

Order of Precedence

Issue

- In addition to including FAR or DFARS EVMS clauses on contracts, contracting officers frequently include other provisions that often require suppliers to modify or depart from their standard, validated EVM Systems to manage their contracts and meet the requirements of their contracts. These provisions may be found in sections of the contract that take precedence over Section I, where the EVMS clauses are contained, e.g.,
 - Section H – Special Provisions
 - Section C – Statement of Work requirements
- Previously DCMA's stated policy is to issue Corrective Action Request (s) against the contractor for following contract direction.

Team Position

- Contractors are obligated to follow the contracts.
- In the spirit of cooperation the Contractor and the cognizant CMO should notify the PCO of any conflicting requirements.
- The DCMA, CMO and the PCO should reach a solution with the government PM which precludes noncompliance with either the ANSI or the contractor's validated EVMS.
- Previous DCMA Director concurred and verbally instructed the EVM Center to use 1716 process rather than issuing CARs to suppliers for findings of non-compliance arising from contractual provisions.

Actions Pending

- Suggest readdressing this issue with PARCA and DCMA EVM Center.
- Document the process in the EVMIG.

Subcontractor EVMS Validation

Issue

- Previously a subcontractor had the ability to request one of three options when required to have a validated EVMS; the EVMIG and other guidance documents vested primary responsibility in the prime contractor.
 - 1) Prime Contractor Review Only
 - 2) DCMA Review Only (at sub's request)
 - 3) DCMA and Prime Contractor Review
- October 2006, DCMA revised the EVMIG to assign DCMA sole responsibility for subcontractor validation.
 - DCMA has no privity of contract with subcontractor
 - Prime retains responsibility for subcontractor's performance but has no authority or control over validation review
 - EVMIG change also precludes recognition of acceptance by other agencies or primes (reciprocity).

Industry Position

- EVMIG change/inconsistencies will likely result in need for dual industry processes for subcontractor validation (for DOD and non-DOD contracts).
- Prime contractors should be required participants in subcontractor validation reviews since they retain responsibility for
 - Subcontractor performance
 - Accuracy and fidelity of CPRs, including reported subcontractor data
 - Prime contractors are being held responsible for subcontractor EVMS (some primes received CARs for subcontractor failure of validation and/or compliance reviews).

Actions Pending

- Include this issue with current Subcontracting Teaming Issue under consideration by PARCA. Clarify DOD policy / guidance with PARCA and the EVM Center.
- Industry/Government collaboratively update the EVMIG and Compliance Review Instruction (CRI) to clarify roles and responsibilities.

Subcontractor Compliance and Surveillance

Issue

- Previously a subcontractor had two options for surveillance of subcontractor EVMS
 - 1) Prime Contractor Review Only
 - 2) Assist audit by cognizant local DCMA CMO
- EVMIG revised to assign responsibility for subcontractor EVMS surveillance to DCMA
- However, some primes receiving CARs for failing to perform subcontractor EVMS surveillance as part of their subcontract management responsibilities

Industry Position

Industry proposed solution:

- Ensure Prime CMO delegates EVM Surveillance responsibility via “Letter of Delegation” to ensure annual surveillance is conducted. Prime may attend if there is no competitively-sensitive data.
- Local DCMA CMO assigned to perform the assist audit should
 - Notify the prime and invite the prime’s participation in the surveillance review, where possible, i.e., limited to review of non-sensitive data)
 - Report surveillance findings and corrective action plans to the prime contractor
- Include the following as an option within the EVMIG if the initial actions do not succeed: Delegate the responsibility for subcontractor surveillance to prime contractors since primes retain responsibility for
 - Subcontractor performance
 - Accuracy and fidelity of CPRs, including reported subcontractor data
- Include this issue with current Subcontracting Teaming Issue under consideration by PARCA. Clarify DOD policy / guidance with PARCA and the EVM Center.

EVM Implementation Challenges

Issue

- Evidence that EVM and Contracting experts are not collaborating, via IPTs, on the contractual application and use of EVMS during acquisition planning.
- Evidence of this is as follows:
 - Incorrect flow down and/or omission of EVM contractual requirements.
 - Improper contract direction forcing the contractor or subcontractor to violate their approved system.
 - Over / Under application of EVM requirements
 - Improper application of requirements for follow on options
 - Improper use of Management Reserve (MR)
 - Integrated Baseline Review (IBR) timing
 - Inappropriate application to Contract Type and/or Work Content
- *Root Cause needs to be identified and worked to closure.*

Team Position

- NDIA PMSC should establish an Industry / Government team to generate a training package which can be delivered to all federal agencies and contractor organizations.

Actions Complete

- D. Tomsic developed/delivered training on 7/29/08 through NCMA audio seminar.
- OSD issued correspondence including “EVM Contract Requirements Checklist” to all commands.
- DPAP correspondence “EVM Requirements and Reporting” issued 8/27/08 Memo addresses this item and references checklist with link to web site to obtain current version.

Actions Pending

- DoD DST sub team has completed their assignment. Request Debrief from OSD.
- There are still an issues within our community.
- Help is needed from Government team members to alleviate these escapes.

EVM Implementation Challenges

- No flow down of EVM requirements to contractor for contracts \$20M - \$50M. No waiver obtained.
- PCO giving the contractor specific direction concerning the EV type to be used (I.e. Discrete vs. LOE).
- PM / PCO not allowing the creation and management of Management Reserve by a contractor with an accepted system.
- Contractor required to use Management Reserve to cover new contract work scope.
- PM requiring the approval of all baseline changes made by a contractor with an accepted system.
- Contract Mod for program @ > 80% complete and government issues EVM requirements requiring an IBR.
- Engineering and Logistics Services cost type contract with full EVMS requirements.
- Changing Contract Type (Cost Type to Fixed Price) after long lead commitments have been ordered.
- PCO issuing contract modification for baseline increase and EAC recognition vs. EAC funding increase only.
- Issuing CAR's against Prime Contractors for not conducting full EVMS Surveillance even though the subject contract was on the subcontractors DCMA JSR Annual Schedule.
- Requiring the contractor to report at the control account level in excess of contract requirements.
- Government not allowing the prime to implement an OTB when contract cost has been exceeded for ~ 5 Years.

Standard Surveillance Instruction (SSI)

Issue

- DCMA EV Standard Surveillance Plan (SSP) implemented throughout the agency without being distributed to industry for comment.
- Issues include but are not limited to:
 - Review and adjudication of all CARs by the EV Center; lack of defined dispute process.
 - Risk Based Surveillance approach not adequately tied in with surveillance planning and execution.
 - Lack of coordination of surveillance findings among supplier sites using same EVMS.
 - Increased level of detail and amount of data requests to support surveillance.
 - Relationship of NDIA Intent Guide to the surveillance.
 - Need for surveillance process cycle time improvements (esp. response times).
 - Existing AA provisions that require ACO notification rather than DCMA EVMC approval prior to implementation.

Team Position

- NDIA PMSC working with DCMA to achieve a timely review and closure on any areas of concern
- DCMA agreed to break out separate small group of Industry and Government participants to review the process and make recommendations for improvement
- Industry Representatives
 - Boeing : Randy Steeno
 - Lockheed Martin: Pete Wynne
 - Northrop Grumman: Gay Infanti
 - Raytheon: Jeff Poulson
 - Pratt & Whitney: Mike Martin
 - DCMA EV Center: Donna Holden, Kelli Coon
- Schedule
 - 01/09: Industry Comments to DCMA
 - Jan – August 2009: Joint Team Meetings
 - September '09: Draft approved through EVMC
 - April '10: Industry Face to Face with EVMC
 - May – August '10: Update and reformat document in accordance with new agency instructions. Includes all accepted industry comments and agency changes due to reorganization and other considerations.
 - September – October '10: DCMA Management Review
 - November – December '10: Document Release

Application of Existing Validation to Another Company Site

Issue

- Many suppliers utilize accepted EVM systems, e.g., corporate, sector or division-level EVM Systems, at multiple sites.
- Can a previously accepted EVMS be applied to a new site without the need for re-validation by DCMA?

Team Position

- Verify compliance at the new site through annual surveillance.
- Accumulation of Cage Codes by DCMA is now in process.
- EVMIG does not address site specific acceptance.
- Industry/Government collaboratively update the EVMIG and Compliance Review Instruction (CRI) to clarify roles and responsibilities.
- Clarify DOD policy / guidance with PARCA and the EVM Center.

Ownership and Control of Management Reserve

Issue

- Contractors have been directed by government program managers and contracting officers and by prime contractor program managers to use Management Reserve (MR) for purposes other than the intent expressed in Guideline 14 of the ANSI/EIA-748 Guidelines, the NDIA ANSI/EIA-748 Intent Guide, validated EVM system descriptions and long accepted best practices. Examples of this questionable direction are coverage of out-of-scope work and to cover overruns.

Team Position

- Draft position paper has been established.
- Review position paper with PMSC Board to obtain approval and guidance on the proper communication vehicle.

Unfinalized Contractual Actions (UCA's) & Unpriced Change Orders (UCOs)

Issue

- Unfinalized Contractual Actions (UCA's) and Unpriced Change Orders (UCO's) have been creating unnecessary program administrative cost and/or preventing the initiation of contractual effort.
 - The negotiation process is too lengthy causing PMB instability due to the incremental work release and associated replanning and budgeting effort.

Team Position

- Team to review new DFARS Clause prior to draft of position paper.
- Team to establish position paper for communication with senior DOD Officials.
- Review position paper with PMSC Board to obtain approval and guidance on the proper communication vehicle.

Treatment of existing CAR's when Business Systems DFARS is implemented

Issue

- Currently there are hundreds of open CARs within the DCMA system.
- How is DCMA and DCAA going to treat the existing CARs which were written prior to Business Systems DFARS clause enactment?

Team Position

- Industry suggests that DCMA provide the list of all CAR's to each company EVMS focal point for analysis and to ensure any further actions needed to ensure timely closure are taken.
- With the advent of the Business Systems DFARS Clause accuracy of CAR and Corrective Action Plan Status is critical.
- Assign DCMA and Industry focal points in each contractor location to ensure accuracy of CAR and CAP status.
- Team suggests Senior DOD and Industry Leadership meeting be held when Business Systems DFARS is Implemented. Purpose is to communicate the process for system withdrawal and withholds.