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To what extent are DoD activities capitalizing on commercial item designation statutory and regulatory provisions under FASA, FARA, and SARA: getting the most from limited resources

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RESEARCH SYMPOSIUM

**TO WHAT EXTENT ARE DOD ACTIVITIES CAPITALIZING ON
COMMERCIAL ITEM DESIGNATION STATUTORY AND
REGULATORY PROVISIONS UNDER FASA, FARA, AND SARA—
GETTING THE MOST FROM LIMITED RESOURCES**

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by

E. Cory Yoder

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Proceedings of the Annual Acquisition Research Program

The following article is taken as an excerpt from the proceedings of the annual Acquisition Research Program. This annual event showcases the research projects funded through the Acquisition Research Program at the Graduate School of Business and Public Policy at the Naval Postgraduate School. Featuring keynote speakers, plenary panels, multiple panel sessions, a student research poster show and social events, the Annual Acquisition Research Symposium offers a candid environment where high-ranking Department of Defense (DoD) officials, industry officials, accomplished faculty and military students are encouraged to collaborate on finding applicable solutions to the challenges facing acquisition policies and processes within the DoD today. By jointly and publicly questioning the norms of industry and academia, the resulting research benefits from myriad perspectives and collaborations which can identify better solutions and practices in acquisition, contract, financial, logistics and program management.

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To What Extent are DoD Activities Capitalizing on Commercial Item Designation Statutory and Regulatory Provisions under FASA, FARA, and SARA—Getting the Most from Limited Resources

Presenter: E. Cory Yoder, Naval Postgraduate School – CDR (Ret) Cory Yoder is a faculty member of the Naval Postgraduate School's Graduate School of Business and Public Policy (GSBPP). Assigned to NPS in July 2000, he accepted an appointment as Academic Associate (Program Manager) for the 815 (MBA) and 835 (MSCM) programs in December 2002. CDR (Ret) Yoder was recruited, accepted and is serving at NPS/GSBPP as Lecturer and Academic Associate (Program Manager); a position he has held since May 2004. CDR (Ret) Yoder has strong acquisition and contracting experience, combined with several challenging acquisition, logistics, industrial, headquarter, and combat support operations assignments.

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Abstract

Premise, objectives, significance, and relevance to NPS, DoN and DoD, and other pertinent information:

Premise: The past decade has seen a significant change in business practices within the Federal contracting arena. The changes have created a more business-to-business like contracting methodology, via commercial item designation streamlined procedures, for the conduct of Federal procurements meeting specific criteria defined in statutory authority provided under the Federal Acquisition Streamlining Act (FASA), the Federal Acquisition Reform Act (FARA), and the Services Acquisition Reform Act (SARA). The aforementioned legislation allows for the utilization of Simplified Acquisition Procedures for all commercial item designated goods and services up to and including \$5 million. The legislation was passed in order to improve the efficiency and effectiveness of Federal contracting processes. However, based on informal review of the business decision protocol at many acquisition and contracting centers, and as a result of similar research conducted in the Fall of 2004, contracting activities may not be effectively utilizing the legislative authority to garner efficiencies and effective service provision that may be possible under the new legislation.

Objective: The objective is to determine the extent to which DoD activities are capitalizing on the legislative provisions of FARA, FASA, and SARA, and to make specific recommendations for improving the full utilization of the commercial item designation provisions. This objective is critical to contracting and acquisition commands (as well as those they support) to achieve reduced acquisition lead times, reduce transactional costs, and generally, garner efficiencies and effectiveness not possible without the legislative provisions. The research would: 1) provide an overview of the legislation; 2) investigate current business practices within DoD related to the legislative provisions; 3) analyze and determine the extent to which DoD is



capitalizing on the provisions, and; 4) make specific recommendations for better utilizing the legislation to the benefit of DoD.

Methodology: A thorough review of literature and legislative and implementing guidance will be conducted. Interviews with key acquisition and contracting leaders, along with key supported customers will be conducted to determine command structures, protocols and ability to capitalize on the legislation. There is a high potential for other instructors and students to participate in this project. As of the date of this proposal, I am working to identify other participants, although other participant identification should not preclude acquisition of funding.

Research Outline

I. Introduction:

- Research questions
- Intent and Utilization of Findings
- Selection of Research Locations
- Introductory Conclusion

II. Background:

- Basic premises
- Legislative and Regulatory history
- Section 800 Panel
- FARA
- FASA
- Clinger-Cohen
- ASIA
- FAR 13.5
- Extension of FAR 13.5
- Commercial Item Definition
- Background conclusions

III. Implementation Program Guidance & Reporting:

- Legislation
- Specific Language (flow down)
- Advocates (tier flow down)
- Federal and Agency Regulations
- Specific Language (flow down)
- Advocates (tier flow down)
- Implementation Program Conclusions

IV. DD350 Data Review:

- Explanation of DD350 Reporting
- Isolating FAR 13.5 Transactions
- Actions \leq \$5 million but \geq \$100 K
- Actions \leq \$100 K but \geq \$ 2500
- Identify those under GWACs



Identify other types of streamlined actions
NAVSUP Data Call (2003 and 2004)
FISC San Diego DD350 Data
FISC Jacksonville DD350 Data
DD350 Data Conclusions

V. FISC Contracting Office Design and Staffing:

Organization
Delineation (Micro, SAP, Large)
Training and Warranting (Micro, SAP, Large)
Workload Levels (Specific to FISC manning)

VI. Procedures and Protocol at Field Activities:

Published Protocol
Requisition Processing (SAP)
Requisition Processing (Large)
Determining Commercial Item Status and FAR 13.5 Eligibility
Compare and Contrast SAP v Large
Inputs
Decision Criteria for Assignment
SPS “built in” Protocol utilizing monetary breakdown indicated above
Examine Specific FAR 13.5 Eligible Transactions
Actions ≤ \$5 million but ≥ \$100 K
Actions ≤ \$100 K but ≥ \$ 2500
Identify those under GWACs
Identify other types of streamlined actions

VII. Conclusions and Recommendations:

Eligible Universe v Action Employment
Structure and Protocol
Manning
FAR 13.5 Implementation
Way Ahead

VIII. Bibliography and Footnotes



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2003 - 2006 Sponsored Acquisition Research Topics

Acquisition Management

- Software Requirements for OA
- Managing Services Supply Chain
- Acquiring Combat Capability via Public-Private Partnerships (PPPs)
- Knowledge Value Added (KVA) + Real Options (RO) Applied to Shipyard Planning Processes
- Portfolio Optimization via KVA + RO
- MOSA Contracting Implications
- Strategy for Defense Acquisition Research
- Spiral Development
- BCA: Contractor vs. Organic Growth

Contract Management

- USAF IT Commodity Council
- Contractors in 21st Century Combat Zone
- Joint Contingency Contracting
- Navy Contract Writing Guide
- Commodity Sourcing Strategies
- Past Performance in Source Selection
- USMC Contingency Contracting
- Transforming DoD Contract Closeout
- Model for Optimizing Contingency Contracting Planning and Execution

Financial Management

- PPPs and Government Financing
- Energy Saving Contracts/DoD Mobile Assets
- Capital Budgeting for DoD
- Financing DoD Budget via PPPs
- ROI of Information Warfare Systems
- Acquisitions via leasing: MPS case
- Special Termination Liability in MDAPs

Logistics Management

- R-TOC Aegis Microwave Power Tubes



- Privatization-NOSL/NAWCI
- Army LOG MOD
- PBL (4)
- Contractors Supporting Military Operations
- RFID (4)
- Strategic Sourcing
- ASDS Product Support Analysis
- Analysis of LAV Depot Maintenance
- Diffusion/Variability on Vendor Performance Evaluation
- Optimizing CIWS Life Cycle Support (LCS)

Program Management

- Building Collaborative Capacity
- Knowledge, Responsibilities and Decision Rights in MDAPs
- KVA Applied to Aegis and SSDS
- Business Process Reengineering (BPR) for LCS Mission Module Acquisition
- Terminating Your Own Program
- Collaborative IT Tools Leveraging Competence

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