

PROCUREMENT PARTNERING

- **What is Procurement Partnering?**
 - Partnering is a commitment between the Government and industry to improve communications and avoid disputes.
 - The objective of Partnering is improved contract performance through enhanced communications.
 - Procurement Partnering is an effective way to establish better business relations with industry and our customers, resulting in improved customer support, better contract performance, and, ultimately, a reduction in DLA's cost of operations.
- **Benefits of Partnering**
 - Partnering encourages the parties to work together to attain the same desired result - contract completion - instead of engaging in fingerpointing whenever problems occur.
 - Partnering helps eliminate surprises through increased communications. Surprises can lead to delays and additional costs.
 - Partnering avoids disputes through the establishment of informal conflict management procedures. Parties are able to anticipate and resolve problems before they become formal "disputes."

- Partnering minimizes litigation by establishing informal conflict management procedures and using Alternative Dispute Resolution (ADR) procedures.
- **What does Procurement Partnering involve?**
 - Procurement Partnering can take many forms. In its most structured form, the parties participate in a formal, facilitated off-site session to identify mutual goals and draft a written Partnering agreement. The purpose of the agreement is to set forth the mutual goals of the Partnering arrangement and identify the procedures for handling problems that may arise during performance.
 - However, the parties can enter into a Partnering agreement without having a formal off-site meeting. In addition, the parties can elect to structure the Partnering arrangement without a written agreement. For example, Government and industry personnel can have periodic steering group meetings to foster cooperation and communication. The parties decide what Partnering procedures are best suited for the contract.
 - Partnering usually is tied to a particular contract or project. However, Partnering may also be used with specific suppliers/vendors who have a continuing relationship with the Government under various contracts.
- **Elements for a Successful Partnering Arrangement**
 - Preparation and Training
 - Some type of preparation or training is necessary. The participants must understand what Partnering is and recognize that the Partnering arrangement is designed to improve the contracting process.
 - Commitment

- Buy-in by upper management (for both Government and industry) is essential in order to empower the participants in the Partnering process. Participants must be given adequate support and flexibility from upper management to invest such time in the process in order for it to succeed.
- Senior management can show its support for Partnering in a variety of ways such as issuing written policy statements, providing adequate funding, providing training opportunities, and rewarding employees who initiate Partnering arrangements.
- From a Management perspective, Partnering is an investment with substantial short term and long term benefits such as the avoidance of protracted and costly contract litigation.
- Identification of Key Players
 - Partnering arrangements should include all parties who could impact successful performance. When initiating a Partnering arrangement, you should consider including the customer, subcontractors, and other Government entities, in addition to the prime contractor and the contracting agency.
- **Candidates for Partnering:**
 - Technically complex procurements
 - Contracts which involve several major players
 - Critical items of support
 - Requirements where prior contract performance has been poor
 - Contracts with a history of adversarial relationship between the Government and the contractor

- Multi-year contracts. Normally, a contract period which is less than two years is not long enough to justify the costs necessary to implement a formal Partnering arrangement. However, parties may choose a less structured arrangement for short-term contracts.

- **Partnering Workshop**
 - Workshops are sometimes useful when initiating a Partnering arrangement with a contractor. However, workshops are not necessary for all Partnering arrangements.

 - If the parties decide to hold a Partnering workshop, the length and complexity of the workshop will depend upon the type of contract involved and the formality of the Partnering arrangement.

 - If conducting a workshop, determine whether a facilitator will be used.
 - The facilitator is a neutral person who 1) helps develop and leads the Workshop for the parties; 2) helps draft the Partnering Charter; and, 3) often acts as a mediator between the Government and the contractor. If the parties decide to hire a facilitator, the parties typically split the cost.

 - Often, during the workshop participants identify and discuss potential problems and pitfalls of the contract. They then develop a plan for dealing with these types of problems before they actually occur.

 - Determine where the Partnering workshop will be held.
 - A neutral site eliminates any “home field advantage” and workplace distractions. However, the cost of renting a facility may be an expense that the parties do not want for a particular contract.

Likewise, the parties are responsible for their own travel related expenses.

- **Drafting the Partnering Charter**

- The Partnering Charter is an agreement between the parties which sets forth the mission statement and mutual goals and objectives of the Partnering arrangement. The mission statement should identify the parties' commitment to the Partnering process and include an agreement among the parties that they will communicate openly and share information. (See Attachment for a sample of a Partnering Charter used by the Defense Energy Support Center.)
 - The Partnering Charter should also define the manner in which the parties will communicate and interact together during contract performance.
 - The Partnering Charter is not a contractual document and does not alter the parties' rights under the contract. The parties must still work out problems within the confines of the contract. Solutions, which involve changes to the contract, must still be issued by the contracting officer.
- Some possible goals and objectives which could be included in the Charter:
 - delivering the product ahead of schedule
 - identifying problems at the first opportunity
 - establishing points of contact to assist the contracting officer in resolving problems at the lowest possible level
 - eliminating litigation through the use of ADR procedures

- **Conflict Escalation Procedures**

- Under most Partnering arrangements, the parties agree to try to resolve every issue at the lowest possible level. The partners agree not to elevate the issue to the next higher level prematurely or unilaterally.
- Clear, delineated procedures are established for handling problems and potential disputes. Specific individuals may be identified to ensure that the appropriate individuals for a particular problem are involved and empowered.

- **Agreement to use ADR for Disputes**

- In the Partnering Charter, the parties typically elect to use ADR in the event that a matter cannot be resolved using the Conflict Escalation Procedures. ADR reduces the cost of litigation, minimizes delays, and focuses on the business needs of the parties.
- The Partnering agreement may specify a particular type of ADR that will be used in the event of a dispute and it may even identify a third party neutral who the parties agree to use if a dispute arises during performance.

- **Summary**

- The key to any successful Partnering arrangement is mutual trust and commitment to the process coupled with the upfront work expended to implement the Partnering arrangement.
- The existence of a problem under a contract covered by a Partnering agreement is not a defeat. How the parties deal with the problem will determine the success of the Partnering arrangement.

- The DLA General Counsel is the Agency's ADR Specialist. The ADR Specialist for this Center is Kathleen Murphy. Contact your ADR focal point for additional information concerning procurement Partnering options for your programs.

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