

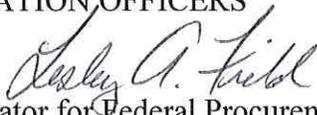


EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

April 30, 2019

MEMORANDUM FOR: CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES
CHIEF INFORMATION OFFICERS

FROM: Lesley A. Field 
Deputy Administrator for Federal Procurement Policy

SUBJECT: “Myth-Busting #4” – Strengthening Engagement with Industry
Partners through Innovative Business Practices

The purpose of this memorandum is to improve awareness of vendor engagement strategies that Federal procurement thought leaders are using to create a more responsive buying process, modernize the acquisition culture, and deliver greater value to the taxpayer. The memorandum also asks each Chief Financial Officers Act (CFO Act) agency to ensure it has designated an industry liaison to work with the agency’s Acquisition Innovation Advocate (AIA), the Office of Small Disadvantaged Business Utilization (OSDBU), and other key acquisition personnel to promote modern vendor communication practices and counter misconceptions that drive today’s risk aversion culture.

The President’s Management Agenda challenges agencies to deliver 21st century services by modernizing information technology, increasing transparency and accountability, and building a modern workforce.¹ To keep up with the rapidly accelerating pace of technological change, a number of agencies have sought better ways to communicate with industry so they can better understand the commercial marketplace, attract new contractors, and encourage current partners to use new processes and develop, test, and offer more modern solutions. Despite this progress, the pace of adoption has been limited relative to the total volume of activity that potentially could benefit from these efforts; only a fraction of our transactions are using these new ways of doing business. For this reason, the Office of Federal Procurement Policy (OFPP) is taking two steps to improve awareness of these modern communication practices.

First, OFPP is using its long-standing “myth-busting” campaign to spotlight how front line acquisition officials and managers have been challenging entrenched ideas about engagement between the public and private sectors. Attachment 1 highlights ten misconceptions related to innovative practices and showcases successful agency efforts. As additional myths are identified and new practices evolve, new examples will be posted on the Innovation Hub² of the Acquisition Gateway to foster dynamic conversations among the acquisition workforce.

¹ [The President’s Management Agenda \(https://www.whitehouse.gov/omb/management/pma/\)](https://www.whitehouse.gov/omb/management/pma/).

² <https://hallways.cap.gsa.gov/app/#/gateway/acquisition-innovation-0>.

Second, OFPP is asking each CFO Act agency to ensure an industry liaison has been publicly designated to serve as a conduit among acquisition stakeholders and promote strong agency vendor communication practices. At a minimum, the liaison should:

- i. promote timely responses to general vendor requests where appropriate, including from new entrants and small businesses;
- ii. help program and acquisition personnel develop strategies for engaging potential vendors that can provide capabilities necessary to achieve agency missions;
- iii. review and update, as appropriate, the vendor communication plan that the agency developed in 2011 to improve interaction throughout the acquisition lifecycle;³
- iv. work with the agency's AIA and OSDBU to drive practices, such as those in Attachment 1 – as well as those highlighted in prior myth-busting memoranda (summarized in the Attachments 2 and 3 desk guides) – that improve communication with vendors;⁴
- v. encourage vendor feedback on agency acquisitions, such as through use of Acquisition 360⁵ and, to the extent possible, monitor marketplace interest in agency requirements; and
- vi. share stories on the Innovation Hub to promote adoption of good communication practices.

The name and contact information for the industry liaison should be sent to OFPP within 30 days of the date of publication of this memorandum to Iulia Manolache at imanolache@omb.eop.gov (see further for details). This designation sends an important and encouraging message to industry that the agency values a contractor's time and understands the value of communication. Equally important, a liaison can be a key resource for the members of the agency's integrated product team as they study the market and develop requirements.

³ OFPP's 2011 guidance included details on the required elements of the vendor communication plan. "[*Myth-Busting: Addressing Misconceptions to Improve Communication with Industry during the Acquisition Process*](#)", p. 2 (February 2011). Agency plans should be updated with information on how to contact the liaison and the agency's AIA, with debriefing best practices in the third Myth-Busters guidance, and with guidance on using innovative technique and resources contained in this memorandum.

⁴ The first two myth-busting memos continue to provide relevant and essential guidance for improving engagements with industry, and have each been summarized as one-page Quick Reference Desk Guides in Attachments 2 and 3 respectively. OSDBUs, Small Businesses Specialists, AIAs, industry liaisons, and contracting officers are encouraged to share the second guide and underlying memorandum with vendors who may need guidance on the best and most productive ways to engage with the acquisition team.

⁵ Through vendor surveys and debriefings, acquisition personnel can gauge specific industry feedback on a particular procurement and improve the acquisition processes of future procurements. Two government-wide iterations of the OFPP Acquisition 360 survey initiative were completed in 2015-2016 and 2016-2017, reaching thousands of vendors. The surveys helped agencies identify specific areas where the agency excelled and needed to improve throughout the acquisition lifecycle. Efforts to institutionalize and increase the use of the Acquisition 360 survey are currently underway. <https://d2d.gsa.gov/report/acquisition-360>; <https://www.federalregister.gov/documents/2018/07/23/2018-15355/federal-acquisition-regulations-use-of-acquisition-360-to-encourage-vendor-feedback>.

Agencies that have publicly identified an industry liaison and promote collaboration opportunities with industry partnerships are able to maximize return on resource investment. For example, the Department of Homeland Security (DHS) which has dedicated headquarters and component industry liaisons,⁶ routinely hosts industry day events and small business vendor outreach sessions and posts such events on an industry-government activity calendar.⁷ In awarding the Alliant 2 and Alliant 2 Small Business contracts, the General Services Administration (GSA) created an industry representatives working group to hold outreach events with trade organizations and public-private partnerships to increase vendor input. In addition, GSA has designated a full-time Procurement Ombudsman⁸ who provides an informal and neutral forum for industry and vendor associations to voice feedback on agency acquisition processes and promotes innovative contracting practices. Industry has acknowledged such agencies for being responsive to inquiries and flexible in their interactions with potential vendors.

Please provide your agency's industry liaison contact within 30 days of the date of publication of this memorandum to Iulia Manolache in OMB OFPP at imanolache@omb.eop.gov and contact OFPP at (202) 395 7579 for additional information.

cc:

Agency General Counsels
Office of Small Disadvantaged Business Utilization
Acquisition Innovation Advocates

⁶ Publicly available list of DHS industry liaisons: <https://www.dhs.gov/department-homeland-security-industry-liaisons>.

⁷ <https://www.dhs.gov/small-business-vendor-outreach-sessions>.

⁸ <https://www.gsa.gov/policy-regulations/policy/acquisition-policy/gsa-ombudsman>.

ATTACHMENT 1: ADDRESSING MISCONCEPTIONS AND FACTS ON INNOVATIVE PRACTICES DURING THE ACQUISITION

This attachment addresses ten myths to help improve interactions between the government and industry. The first three misconceptions address key issues in acquisition innovation. The remaining misconceptions address communicating with industry, from agency strategic planning to market research and source selection. Each misconception is followed by facts and actual agency steps that have been successfully implemented by various Federal agencies.⁹

Misconception #1: “Using innovative business strategies to the Federal contracting process is not a core program management or contracting office responsibility in meeting mission needs.”

Fact: Applying new and innovative ways of conducting the Government’s business is a critical, core responsibility of contracting staff, integrated project teams, and the agency’s senior leadership. In fact, the Federal Acquisition Regulation (FAR) 1.102-4(e) specifically charges acquisition officials with encouraging business process innovations and promotes the use of a wide variety of strategies and practices to ensure that mission requirements are met.

Agency Innovation in Action

- All CFO Act agencies have designated Acquisition Innovation Advocates who lead acquisition innovations and share best practices and procurement developments.¹⁰
- DHS’s Procurement Innovation Lab (PIL) provides guidance, coaching, and support to the Department’s acquisition workforce to test unique acquisition approaches and to further refine and share innovative practices. Successful PIL strategies are compiled in the annual PIL report¹¹ and can be implemented throughout other agencies.
- GSA maintains the Procurement Innovation Resource Center, an internal resource space, which provides guidance and tools to assist acquisition teams incorporate innovative strategies into procurements.¹²
- The Innovation Hub¹³ on the Acquisition Gateway promotes interaction and provides agency use cases and strategies that maximize vendor collaboration.
- The acquisition workforce can use the Acquisition Open Opportunities skill-building platform to collaborate on innovative buying practices.¹⁴

⁹ OFPP plans to maintain the myth-busting series as “living documents” that will be continually updated with agency examples and best practices. The memorandums will be posted on the Innovation Hub and will feature the myths and facts in a sortable format as applied to the procurement lifecycle. The acquisition workforce will be able to upload stories and best practices from their agency and share operational tips on how to implement innovative approaches to promote effective interactions with the private sector.

¹⁰ <https://hallways.cap.gsa.gov/app/#/gateway/acquisition-innovation-0/7822/acquisition-innovation-advocates-aia-directory>.

¹¹ <https://www.dhs.gov/sites/default/files/publications/PIL%20ANNUAL%20REPORT.pdf>.

¹² <https://www.gsa.gov/policy-regulations/policy/acquisition-policy/procurement-innovation-resource-center-pirc>.

¹³ <https://hallways.cap.gsa.gov/app/#/gateway/acquisition-innovation-0>.

¹⁴ <https://openops.usajobs.gov/tasks?career=Acquisition>.

Misconception #2: “Complying with the FAR’s complex requirements drives long procurement lead times that cannot be shortened in any material way.”

Fact: The FAR provides flexibility to meet mission needs, including large, mission-critical requirements, in a timely and even expedited manner. Over the last several years, an increasing number of agencies, supported by their AIAs, have shortened the time from requirements identification to solution delivery – sometimes by 50% or more – by making a concerted effort to consider all available options under the FAR, and not just resorting to past practice. These efforts have resulted in consideration and use of long-recognized, but underutilized, strategies described in the FAR, such as oral presentations and multi-phase advisory down-selects. Efforts have also led to approaches not expressly envisioned but not prohibited by the FAR, such as confidence ratings and on-the-spot consensus evaluations with minimal or no individual evaluation write-ups.

Pursuit of procedures and practices not addressed specifically in the FAR is encouraged by the FAR itself at FAR 1.102-4(e), which states *“If a policy or procedure, or a particular strategy or practice, is in the best interest of the Government and is not specifically addressed in the FAR, nor prohibited by law (statute or case law), Executive order or other regulation, Government members of the [Acquisition] Team should not assume it is prohibited. Rather, absence of direction should be interpreted as permitting the Team to innovate and use sound business judgment that is otherwise consistent with law and within the limits of their authority. Contracting officers should take the lead in encouraging business process innovations and ensuring that business decisions are sound.”*

The figure below lists more than 20 strategies and tools, sanctioned either directly or indirectly by the FAR, that are used with increasing frequency across the arc of acquisitions over the last 2-3 years. These tools help reduce costly paperwork and unnecessarily lengthy evaluation processes while simultaneously increasing customer satisfaction with contractor performance. The Innovation Hub currently features more than 50 stories from 10 agencies demonstrating currently available acquisition authorities to achieve results on or ahead of time.

How Agencies are Using the FAR to Drive Innovation

Acquisition Planning

- Industry Liaisons, Reverse Industry Days, and Strategic Conversation Days
- AIAs and Digital Services Trained Contracting Officers
- Agile Methodology
- TechFAR & Professional Services Hubs
- Facilitated Requirements, Development Workshop & Structured Peer Reviews
- Challenge-based & share-in-savings contracts

Purchase Request & Solicitation

- Leverage Best In Class (BIC) Contracts
- Scenarios in Solicitations
- Include Government Estimated Price
- Multi-phase Down Selections
- Proposal Page Limits
- Simplified Procedures for Commercial Item Buys
- 8(a) Digital Initiative

Proposal Evaluation & Award

- Oral Proposals & Presentations
- Product or Technical Demonstrations
- Confidence Ratings
- Same Day Challenges & Evaluations
- Non-monetary Incentives (ex: award term)
- Simplified Best Value Analysis
- Human Centered Design Evaluations & Prototypes
- Oral / Group Debriefings

Agency Innovation in Action

- The National Security Agency (NSA) and Department of Homeland Security (DHS) use multi-phased evaluations to narrow the number of offerors at each step in order to minimize time spent completing evaluations and reduce costs to vendors who would likely not be successful.
- The Small Business Administration (SBA) 8(a) digital service initiative, developed in collaboration with the U.S. Digital Service, resulted in a new tool¹⁵ for contracting officers to quickly procure digital services. This is helping agencies implement the Digital Service Playbook¹⁶ and TechFAR¹⁷ strategies with lowered risk and begin iterative development with little procurement lead time.
- Veterans Affairs (VA) Technical Acquisition Center buys “micro-consulting services” on an open source platform (GitHub) to rapidly upgrade software supporting veteran website applications using

¹⁵ <https://techfarhub.cio.gov/initiatives/8a/>.

¹⁶ <https://playbook.cio.gov/>.

¹⁷ <https://playbook.cio.gov/techfar/>.

recently expanded micro-purchase authority provided by Congress in 2017.¹⁸ The Center's Transformation Twenty-One Total Technology - Next Generation (T4NG)¹⁹ suite of contracts uses streamlined acquisition procedures under FAR 16.5, with an average procurement acquisition lead time of 45 days, to procure total Information Technology solutions; and uses FAR 13 to procure digital services under \$7 million in less than 30 days from release of solicitation.

- DHS used simpler and faster source selection processes to award a multi-million dollar contract to upgrade e-Verify²⁰ and migrate a legacy data system to the cloud in less than half the time typically required, while exceeding customer expectations. DHS used a standard solicitation format, employed a two step down-select process, inviting only the most highly rated offerors to proceed to phase two technical demonstrations, and released the independent government estimate price range to help set the scope of the work.
- Department of Energy Advanced Research Projects Agency (ARPA-E) regularly uses FAR 39.103, which promotes the use of smaller acquisition increments to reduce risk, in order to execute modular contracting in discrete phases prior to the delivery of a minimally viable product.
- The National Aeronautics and Space Administration (NASA) contracting officers use Price Performance Trade-Off (PPTO), or another streamlined approach to evaluate mission suitability, to help procure products and services in a more efficient manner. When mission suitability is the primary consideration, NASA only focuses on the most important features of the procurement, and offerors provide targeted information in their proposal to demonstrate technical ability. As a result, technical proposals are about one third as long – sometimes as few as 10 pages for complex subject matter.
- General Services Administration (GSA) converted from short-term to long-term building and real estate leases allowing for more financing predictability which in turn provides the government with better rental rates.

Misconception #3: “Non FAR-based acquisition authorities (i.e., authorities that cannot be exercised under the FAR) are never available for general use by agencies and are designed to be considered only on a limited basis for unique needs and circumstances.”

Fact: While agencies must have authority to use acquisition tools that would otherwise not be allowed under the FAR, agencies may also leverage a number of non-FAR based authorities by working with other agencies that do maintain such authorities. These include joint-venture authority vested in the Department of Commerce (DOC) and “Commercial Solutions Opening” authority given to GSA, which may offer benefits to address a wide range of agency needs across the government – including requirements for emerging technologies to fight cyber threats or in support of IT Modernization, such as for cutting edge IT applications for improved data management. These authorities are not meant to replace the FAR, but rather to provide additional alternatives beyond what the FAR currently allows, so that agencies have increased options in situations where the FAR and its flexibilities (as described in the prior fact) may not provide an optimal solution. DOC and GSA have established guardrails to work with agencies in using their authorities.

¹⁸ <https://fcw.com/blogs/lectern/2018/03/kelman-contracting-innovators.aspx>.

¹⁹ <https://www.va.gov/opal/tac/t4ng.asp>.

²⁰ https://www.performance.gov/PMA/Presidents_Management_Agenda.pdf.

Other non-FAR based authorities have been made generally available to agencies, such as Prize and Challenge authority under the America COMPETES Act.²¹ While not focused on acquisitions, this authority can help the government acquire innovative solutions from non-traditional contractors. In recent years, prizes and challenges have been successfully used to foster innovation and solve complex problems while saving taxpayer dollars. The Challenges & Prizes Community of Practice²² promotes effective use of this authority through the sharing of stories and experiences.

Some authorities are limited to certain specific agencies. One example is Other Transactions Authority (OTA),²³ which is designed to facilitate access to non-traditional government contractors. The list of authorized agencies has grown in recent years, and Congress has broadened the authority so that its benefits can be applied to support a wider range of requirements.

Agency Innovation in Action

- GSA's Commercial Solutions Opening (CSO) is available for all agencies to quickly access innovative commercial technologies. The CSO provides alternative procedures to those in the FAR, such as use of Broad Agency Announcements (otherwise reserved to R&D activities), for buying emerging commercial technologies. It also offers simplified contract terms and fast-track vendor selection timelines to attract start-up companies and those new to the Federal marketplace.²⁴
- The Transportation Security Administration (TSA) conducted an open prize competition to develop algorithms that improve the accuracy of the Advanced Imaging Technology (AIT) scanners with the goals of breaking down barriers for entry in this field, which has historically been limited to a pool of vertically integrated companies, and discovered new capabilities that had been overlooked. This \$1.5 million prize resulted in over 200 algorithm submissions (from individuals and companies). Eight algorithms received prize money, providing the government with use to the algorithms, enabling TSA to increase the capabilities of this mission critical screening technology.²⁵
- The Department of Commerce's National Technical Information Service (NTIS) has made its Joint Venture authority available for agencies to rapidly access small and large businesses, nonprofits and research groups to provide agile capacity to meet critical mission data priorities. NTIS has partnered with buying organizations across the government to facilitate early problem definition and access to emerging technologies and prototype development, including for the migration of critical citizen service operations to the cloud.²⁶
- OFPP and the US Digital Services (USDS) held a reverse industry day to receive industry feedback and conducted a challenge²⁷ under the COMPETES Act to create incentives for private-sector entities to develop and demonstrate how they would conduct experiential training, which reduced evaluation time

²¹ 111 P.L. 358; "America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science (COMPETES) Reauthorization Act of 2010."

²² <https://digital.gov/communities/challenges-prizes/>.

²³ <https://www.gao.gov/assets/680/674534.pdf> (see page 35 of the report which lists DOD, DOE, ARPA-E, HHS, NIH, DHS, TSA, FAA, DOT, and NASA as agencies authorized to use other transaction agreements).

²⁴ <https://www.gsa.gov/policy-regulations/policy/acquisition-policy/procurement-innovation-resource-center-pirc#CSOProcedure>.

²⁵ <https://dhsocpo.adobeconnect.com/pfvvachq6q7d?launcher=false&fcsContent=true&pbMode=normal> (government-view only).

²⁶ <https://www.ntis.gov/>.

²⁷ <https://www.challenge.gov/toolkit/>.

and led to the Federal government's first hands-on developmental program for digital IT acquisition training.

- Using Prize authority, NASA's Astronaut Email Challenge aimed to fix a problem with the International Space Station (ISS) email system's ability to handle large file attachments for astronauts. NASA awarded 12 winners a total of \$23,638 for software solutions that are beginning the process of flight certification for use on the ISS. NASA estimates it would have cost \$193,000 to fix the issue in-house, whereas the challenge format cost only about \$81,000, a 42 percent savings.

Misconception #4: "Before a potential procurement starts, it is not valuable for government personnel to engage with industry representatives to discuss substantive agency strategic and planning needs."

Fact: To maximize market research efforts, agencies are encouraged to engage vendors early in the planning process to learn about market capabilities and ways that industry may fulfill requirements in non-traditional ways. Acquisition offices can also partner with companies to acquire business intelligence to help the government position itself with better pricing and negotiation strategies, more meaningful evaluation criteria, and improved terms and conditions (so long as the respective entity does not disclose procurement specific information and does not compete on the procurement).²⁸

As articulated in previous OFPP myth-busting guidance (see Attachments 2 and 3), program managers, small business specialists, contracting officers, and other members of the workforce are also encouraged to hold one-on-one conversations with industry, when appropriate, to gain information that may not be shared by industry in a more public setting. These exchanges foster business partnerships while capturing industry feedback to improve acquisition planning and requirements definition.

Agency Innovation in Action

- The Department of Defense (DOD)²⁹ and GSA³⁰ offer a public website forecasting agency needs which enables industry to respond to future solicitations and propose innovative solutions.
- GSA's Ombudsman has a public facing website with resources and links to information valuable to industry and the acquisition workforce in navigating the Federal marketplace.³¹ GSA hosts quarterly meetings with industry associations to discuss agency and government-wide acquisition. GSA also conducts regular "Can We Talk" sessions that bring together representatives from government and industry in informal settings to discuss general challenges in Federal acquisitions. These sessions are recorded and made available for training the acquisition workforce.

²⁸ In partnering with industry representatives, government staff, including industry liaisons, should balance FAR 9.5 requirements to limit conflicts of interest and to ensure that agencies do not inadvertently reduce the field of competition by precluding a potential offeror from participating in a future procurement.

²⁹ <https://www.acq.osd.mil/mibp/dashboard/default.html>.

³⁰ <https://www.gsa.gov/buying-selling/forecast-of-contracting-opportunities>.

³¹ <https://www.gsa.gov/policy-regulations/policy/acquisition-policy/gsa-ombudsman>

- DHS hosts meetings with industry representatives to discuss agency-wide program objectives and strategies at their “Strategic Industry Conversation” events.³² DHS also publicly maintains contacts for dedicated industry liaisons who often meet with industry representatives and facilitate meetings with these representatives and government personnel.³³
- NASA frequently conducts industry days for major procurements to offer industry the opportunity to learn about the upcoming procurements and the NASA mission. Additionally, before the release of the final RFP, NASA routinely allows interested contractors an opportunity to meet with the contracting officers and program personnel to clarify any issues concerning the upcoming procurement.
- VA’s Technical Acquisition Center holds routine industry visits during which VA assists vendors in linking with appropriate program representatives. Vendors are provided the opportunity to brief on core capabilities, deliver product demonstrations, and share solutions that apply to VA’s strategic mission. VA also hosts an annual Industry Engagement event where senior leadership discusses anticipated strategic needs with industry.

Misconception #5: “The best way to engage with industry during the planning phase is through a written request for information.”

Fact: Requests for Information (RFIs), while useful, can result in a static, one-way exchange where agencies do not have the resources to respond and vendors do not have the opportunity to demonstrate their capabilities. However, agencies can conduct virtual meeting sessions (live RFIs) and can schedule separate virtual presentations for potential offerors to demonstrate solutions with contracting officers, program managers, and others. This type of pre-solicitation engagement can improve cost savings, increase competition, promote small business participation, and help define technical requirements. Feedback and input from industry through RFIs, which should not mirror proposal submissions, can inform the government on market capability; which companies are interested in a specific acquisition; pricing strategies that align with market models; critical performance areas that can inform evaluation criteria; and industry input on proposal submission.

As a reminder, acquisition personnel can and should respond to submissions from industry and follow-up with industry to further understand the marketplace and how industry can best help agencies meet their mission.

Agency Innovation in Action

- In conjunction with industry days and pre-solicitation conferences, the Department of Education uses the RFI as an invitation to industry to provide feedback on all aspects of the planned procurement before posting the solicitation. Posted along with a draft requirements document, the RFIs request feedback on the feasibility of the planned contract type, the project schedule, the North American Industry Classification System (NAICS) code and Product Service Code (PSC), as well as if there are any barriers to competition or small business subcontracting.

³² <https://www.dhs.gov/publication/dhs-strategic-industry-conversation>.

³³ <https://www.dhs.gov/aiim>.

- In its RFI for the government's Technology Business Management initiative, GSA hosted a virtual industry event where acquisition personnel responded to questions from interested parties. Following the event, vendors submitted proposals for individual virtual presentations and one-on-one demos of their solutions.
- The Overseas Private Investment Corporation (OPIC), in collaboration with the U.S. Peace Corps, Pension Benefit Guaranty Corporation (PBGC) and the Small Business Administration (SBA), organized a Women-Owned Small Businesses and Information Technology Contracting Opportunities Industry Day where more than 100 women owned small businesses participated to learn about Federal contracting and multi-agency IT buying needs. As a result, OPIC exceeded the small business target goal set by SBA and awarded nearly 9% of the value of all OPIC contracts to women-owned small businesses.
- VA's Construction and Facility Management office has a standard practice of directly engaging industry before major projects to gauge potential workforce shortages and understand small businesses' ability to fulfill the government's requirements. The office has held over 11 industry day meetings during a 15-month period on-site of the proposed construction projects to gain information before solicitations are developed.

Misconception #6: "Advising vendors to withdraw from participating in an acquisition, even if a vendor is not qualified and unlikely to receive the award, will not save time because all vendors would want to continue to the next phase of the review."

Fact: In an advisory, multi-step, down-select process, contracting officers can recommend that vendors whose initial proposals suggested they were unlikely to be successful withdraw from further participation in a procurement to avoid incurring proposal preparation costs.³⁴ The advisory down-select process benefits both the government and industry, especially small businesses, as it helps conserve time, staffing, and cost resources when it is clear that some vendors are unlikely to be selected.

Agency Innovation in Action

- Through a down-select, multiple-step process, DHS provided advisory notifications to vendors who were unlikely to receive an award based on responses to a specific phase of the solicitation. The advisory notice also gave the vendor the option to be considered for the next phase of the procurement if the vendor elected to remain under consideration. Over a dozen procurements conducted through the DHS Procurement Innovation Lab (PIL) have used advisory notifications in a down-select process.³⁵ Through those procurements, more than 200 companies have received advisory notifications not to proceed to the next phase of the procurement and only one company has decided to move forward irrespective of the government's advice.
- VA's Technical Acquisition Center used FAR 13 Simplified Acquisition Procedures to require potential vendors to submit brief case studies demonstrating their ability to implement their proposed Content

³⁴ The advisory down-select process is not necessary when proposals are insufficient and do not meet required capabilities.

³⁵ The DHS Procurement Innovation Lab (PIL) tracks the relevant solicitations and can provide the advisory down-select solicitation language to other Federal agencies and procurement offices.

Management System in adherence to practices found in the Digital Services Playbook.³⁶ VA then advised the vendors that did not meet the requirements in case the vendors wanted to withdraw from consideration.

Misconception #7: “Product demonstrations are too complex and provide limited value for acquisition personnel.”

Fact: The “show me, don’t tell me” approach enables potential vendors to actually demonstrate the product and/or services instead of filling out paperwork to explain how the product and/or service would meet the government’s needs. Such presentations allow companies to exhibit their capabilities and enable agencies to understand relevant products and services before making an award.

Agency Innovation in Action

- DHS uses product demonstrations to test vendor’s capabilities with end-users before acquiring the product, which results in streamlining the acquisition and saving bid and proposal cost.³⁷
- VA’s Technical Acquisition Center employs demonstrations to evaluate a vendor’s capability by asking potential vendors to develop a working prototype during a set time period (ranging from four hours to ten business days) and then having the potential vendors present the prototype on site. The VA also uses prospective program customers to test code during source selection before deciding on the most capable vendor.

Misconception #8: “The best way to evaluate a vendor’s past performance is to look at the Past Performance Information Retrieval System (PPIRS).”

Fact: Contracting officers should use any and all information in their evaluation of offeror experience. FAR 15.305(a)(2)(ii) requires the contracting officers to consider information obtained from any source when evaluating past performance. The source selection authority shall determine the relevance of any similar past performance information. Aside from the PPIRS ratings, source selection panelists can assess and document vendor performance from numerous sources, including (but not limited to): previous contracting officers, news media, reliable commercial sources of performance information, state and local governments, and other references.³⁸

³⁶ <https://playbook.cio.gov/>.

³⁷ <https://www.dhs.gov/publication/pil>.

³⁸ <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/procurement/memo/making-better-use-of-contractor-performance-information.pdf>.

- VA's National Acquisition Center, in addition to the PPIRS information, references other customers' reviews and available reports such as financial reports to complete their past performance evaluation.
- During the source selection process, the Drug Enforcement Agency (DEA) routinely conducts on-site visits of nationwide hazardous waste dispatch centers to assess vendors' adherence to industry standards. This practice allows for first-hand observation of how efficiently the vendors dispatch certified crew members along with the required equipment to a location under special circumstances.

Misconception #9: To help prevent protests, source selection officials should only use precisely defined adjectival ratings and avoid using confidence intervals in evaluating an offeror's capabilities."

Fact: Source selection panelists can assess their level of confidence that an offeror can perform the work using a range of certainty instead of a precise rating criteria.³⁹ Confidence ratings provide evaluators the ability to look more holistically at the strengths and weaknesses of an offer and are often more helpful to a selecting official. Aside from the proposal materials, source selection panelists can assess vendor capabilities using numerous sources, including (but not limited to): previous contracting officers, news media, reliable commercial sources of performance information, state and local governments, and other references.⁴⁰

- DHS has successfully used confidence ratings for technical, non-price factors (not just past performance and corporate experience) on several procurements that were conducted through their innovation lab. The PIL provides sample solicitation language to reference confidence ratings and includes tips for the selection panel on how to evaluate vendors.⁴¹
- NASA established an internal Source Selection Community of Practice Working Group to standardize source selection best practices across NASA Centers. The group ensures that agency evaluation practices are standardized for various contract types and that contractors' price proposals are being evaluated consistently.

Misconception #10: "Agency personnel are generally prohibited from engaging directly with associations and other government-focused industry groups because of ethics considerations."

Fact: Ethics laws and regulations do not generally prohibit federal employees from joining associations or other industry groups, and agencies are encouraged to promote appropriate workforce and leadership participation to

³⁹ Confidence ratings may be used under FAR Subpart 8.4 (schedules), Part 13 (Simplified Acquisitions), Subpart 15.3 (source selections), and 16.505 (multiple-award IDIQ contracts). The levels of confidence must be supported by facts documenting how the offeror understands the requirement and its ability to successfully provide the goods and/or perform the services.

⁴⁰ <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/procurement/memo/making-better-use-of-contractor-performance-information.pdf>.

⁴¹ <https://www.dhs.gov/sites/default/files/publications/PIL-BOOT-CAMP-WORKBOOK.pdf>.

discuss ideas and solutions. Collaborative engagements may include: co-training alongside industry partners, attending industry-hosted workshops, joint conference panel participation, and industry demos.

The government always benefits from constructive communication with industry; associations, non-profits, and related organizations can help acquisition professionals understand changing market dynamics and how these impact procurement strategies. For example, better understanding of a company's decision to bid or not bid, and the work associated with this decision, can drive process improvements that invite more effective competition.

Agency Innovation in Action

- OFPP and AIAs have led exchanges with various industry associations, and government and industry representatives often participate on discussion panels, deliver training in town-hall gatherings, and plan acquisition innovation initiatives.⁴²
- GSA meets quarterly with industry associations to discuss acquisition initiatives, and collaborates with various associations to deliver presentations and trainings at major industry events.
- VA's National Acquisition Center and Construction and Facility Management Office hold monthly and quarterly open forums with industry associations to be updated on innovative private sector practices.
- The Department of Health and Human Services (HHS) Acquisition Team participated in an emerging technology event where the team learned from industry and government experts about artificial intelligence technologies and had the opportunity to pose questions relevant to the agency mission.⁴³
- DOD, Treasury's Internal Revenue Service (IRS), GSA, and DHS hold regularly scheduled "reverse industry days" where industry representatives present their perspectives to help educate the acquisition workforce on the industry-side's activities and considerations.
- One government-industry partnership is working to accelerate the adoption of innovative practices in furtherance of the President's Management Agenda (PMA) through initiatives that will organize community discussions around different dimensions of innovation – by problem, practice, authority, and culture.

⁴² <https://techfarhub.cio.gov/initiatives/aia/>.

⁴³ Official video of the event presentation and question and answer portion are available at <https://www.youtube.com/watch?v=zaz-CTy6isi>; <https://www.hhs.gov/sites/default/files/hhs-buysmarter-journey.pdf>.

ATTACHMENT 2 QUICK GUIDE: “MYTH-BUSTING #1: ADDRESSING MISCONCEPTIONS TO IMPROVE COMMUNICATION WITH INDUSTRY DURING THE ACQUISITION PROCESS”⁴⁴

1.	<p>Misconception – “We can’t meet one-on-one with a potential offeror.”</p> <p>Fact – Government officials can generally meet one-on-one with potential offerors as long as no vendor receives preferential treatment.</p>
2.	<p>Misconception – “Since communication with contractors is like communication with registered lobbyists, and since contact with lobbyists must be disclosed, additional communication with contractors will involve a substantial additional disclosure burden, so we should avoid these meetings.”</p> <p>Fact – Disclosure is required only in certain circumstances, such as for meetings with registered lobbyists. Many contractors do not fall into this category, and even when disclosure is required, it is normally a minimal burden that should not prevent a useful meeting from taking place.</p>
3.	<p>Misconception – “A protest is something to be avoided at all costs - even if it means the government limits conversations with industry.”</p> <p>Fact – Restricting communication won’t prevent a protest, and limiting communication might actually increase the chance of a protest – in addition to depriving the government of potentially useful information.</p>
4.	<p>Misconception – “Conducting discussions/negotiations after receipt of proposals will add too much time to the schedule.”</p> <p>Fact – Whether discussions should be conducted is a key decision for contracting officers to make. Avoiding discussions solely because of schedule concerns may be counter-productive, and may cause delays and other problems during contract performance.</p>
5.	<p>Misconception – “If the government meets with vendors, that may cause them to submit an unsolicited proposal and that will delay the procurement process.”</p> <p>Fact – Submission of an unsolicited proposal should not affect the schedule. Generally, the unsolicited proposal process is separate from the process for a known agency requirement that can be acquired using competitive methods.</p>
6.	<p>Misconception – “When the government awards a task or delivery order using the Federal Supply Schedules, debriefing the offerors isn’t required so it shouldn’t be done.”</p> <p>Fact – Providing feedback is important, both for offerors and the government, so agencies should generally provide feedback whenever possible.</p>
7.	<p>Misconception – “Industry days and similar events attended by multiple vendors are of low value to industry and the government because industry won’t provide useful information in front of competitors, and the government doesn’t release new information.”</p> <p>Fact – Well-organized industry days, as well as pre-solicitation and pre-proposal conferences, are valuable opportunities for the government and for potential vendors including both prime contractors and subcontractors.</p>
8.	<p>Misconception – “The program manager already talked to industry to develop the technical requirements, so the contracting officer doesn’t need to do anything else before issuing the RFP.”</p> <p>Fact – The technical requirements are only part of the acquisition; getting feedback on terms and conditions, pricing structure, performance metrics, evaluation criteria, and contract administration matters will improve the award and implementation process.</p>
9.	<p>Misconception – “Giving industry only a few days to respond to an RFP is OK since the government has been talking to industry about this procurement for over a year.”</p> <p>Fact – Providing only short response times may result in the government receiving fewer proposals and the ones received may not be as well-developed - which can lead to a flawed contract. This approach signals that the government isn’t really interested in competition.</p>
10.	<p>Misconception – “Getting broad participation by many different vendors is too difficult; we’re better off dealing with the established companies we know.”</p> <p>Fact – The government loses when we limit ourselves to the companies we already work with. Instead, we need to look for opportunities to increase competition and ensure that all vendors, including small businesses, get fair consideration.</p>

⁴⁴ More detailed explanations and examples are set forth in OFPP memorandum "[Myth-Busting: Addressing Misconceptions to Improve Communication with Industry during the Acquisition Process](#)" (February 2011).

ATTACHMENT 3 QUICK GUIDE: “MYTH-BUSTING #2: ADDRESSING MISCONCEPTIONS AND FURTHER IMPROVING COMMUNICATION DURING THE ACQUISITION PROCESS”⁴⁵

1.	<p>Misconception – “The best way to present my company’s capabilities is by marketing directly to Contracting Officers and/or signing them up for my mailing list.”</p> <p>Fact – Contracting officers and program managers are often inundated with general marketing material that doesn’t reach the right people at the right time. As an alternative, vendors can take advantage of the various outreach sessions that agencies hold for the purpose of connecting contracting officers and program managers with companies whose skills are needed.</p>
2.	<p>Misconception – “It is a good idea to bring only business development and marketing people to meetings with agency’s technical staff.”</p> <p>Fact – In meetings with government technical personnel, it’s far more valuable for you to bring subject matter experts to the meeting rather than focusing on the sales pitch.</p>
3.	<p>Misconception – “Attending industry dates and outreach events is not valuable because the agency doesn’t provide new information.”</p> <p>Fact – Industry days and outreach events can be a valuable sources of information for potential vendors and are increasingly being used to leverage scarce staff resources.</p>
4.	<p>Misconception – “Agencies generally have already determined their requirements and acquisition approach so our impact during the pre-RFP phase is limited.”</p> <p>Fact – Early and specific industry input is valuable. Agencies generally spend a great deal of effort collecting and analyzing information about capabilities within the marketplace. The more specific you can be about what works, what doesn’t, and how it can be improved, the better.</p>
5.	<p>Misconception – “If I meet one-on-one with agency personnel, they may share my proprietary data with my competition.”</p> <p>Fact – Agency personnel have a responsibility to protect proprietary information from disclosure outside the Government and will not share it with other companies.</p>
6.	<p>Misconception – “Agencies have an obligation not to share information about their contracts, such as prices, with other agencies, similar to the obligation they have not to disclose proprietary information to the public.”</p> <p>Fact – There are no general limitations on the disclosure of information regarding existing contracts between agencies within the Government. In fact, agencies are encouraged to share pricing information to ensure that we are getting the best value for our taxpayers.</p>
7.	<p>Misconception – “To develop my new proposal, I don’t really need to tailor my solution to the specific solicitation since the government won’t read my proposal that closely anyway.”</p> <p>Fact – Offerors should tailor each proposal to the evaluation criteria, proposal instructions, and specific requirements of the solicitation to which they are responding. Contracting Officers and evaluation team members read proposals closely for compliance with the proposal instructions and must evaluate them against the evaluation factors and the statement of work in the solicitation.</p>
8.	<p>Misconception – “If I lose the competition, I shouldn’t bother to ask for a debriefing. The Contracting Officer won’t share any helpful information with me.”</p> <p>Fact – Unsuccessful offerors, as well as successful offerors, should ask for a debriefing to understand the award decision and to improve future proposals.</p>

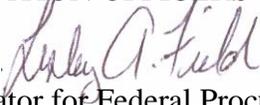
⁴⁵ More detailed explanations and examples are set forth in OFPP memorandum “[Myth-Busting 2: Addressing Misconceptions and Further Improving Communication During the Acquisition Process](#)” (May 2012).



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

January 5, 2017

MEMORANDUM FOR: CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES
CHIEF INFORMATION OFFICERS

FROM: Lesley A. Field 
Acting Administrator for Federal Procurement Policy

SUBJECT: “Myth-busting 3” Further Improving Industry Communication
with Effective Debriefings

With Federal contract spending totaling almost \$440 billion in Fiscal Year 2015, the Federal government has an obligation to conduct all procurement actions in the most effective and efficient manner in order to deliver the best value to the American taxpayer. To maximize the return on its acquisition investment and to ensure access to high-quality solutions, the Federal government must ensure it conducts productive interactions with its industry partners.

In December 2014, the Office of Federal Procurement Policy (OFPP) identified improved communication with industry as a core element for driving better return from each dollar spent on acquisitions.¹ Since that time, OFPP has established the Acquisition 360² feedback tool to create standardized channels for industry to share their experiences with agency acquisitions, conducted a “reverse industry day” to better understand industry’s perspective on training the workforce, and worked with the Federal Acquisition Regulatory Council to publish proposed regulatory changes that reiterate the benefits of responsible and constructive exchanges with industry.³

This “myth-busting” memorandum builds on these efforts and continues an initiative first launched in February 2011 to address misconceptions related to communications with industry during the acquisition lifecycle.⁴ The Federal acquisition workforce and the private sector

¹ *Transforming the Marketplace: Simplifying Federal Procurement to Improve Performance, Drive Innovation, and Increase Savings* (December 2014).

<https://www.whitehouse.gov/sites/default/files/omb/procurement/memo/simplifying-federal-procurement-to-improve-performance-drive-innovation-increase-savings.pdf>.

² *Acquisition 360 – Improving the Acquisition Process through Timely Feedback from External and Internal Stakeholders* (March 2015). <https://www.acquisition.gov/360>

³ In addition to commenting on the rule, the Federal Acquisition Regulatory Council has invited the public to offer suggestions on how to further enhance open communication between industry and agencies.

<https://www.federalregister.gov/documents/2016/11/29/2016-28450/federal-acquisition-regulation-effective-communication-between-government-and-industry>

⁴ *“Myth-Busting”*: *Addressing Misconceptions to Improve Communication with Industry during the Acquisition Process* (February 2011); *“Myth-Busting 2” Addressing Misconceptions and Further Improving Communication During the Acquisition Process* (May 2012).

welcomed this practical discussion that highlighted best practices and successful strategies for implementing them.

As part of the myth-busting series, this memorandum seeks to further strengthen the productive interaction between the Federal government and industry through the effective use of debriefings. Debriefings afford offerors on a competitive solicitation an explanation of the evaluation process, an assessment of their proposal in relation to the evaluation criteria, a general understanding of the basis of the award decision, and the rationale for exclusion from the competition.

Acquisition 360 survey feedback and input from other industry and agency outreach pointed to debriefings as one of the most valuable events during the acquisition lifecycle. Debriefings offer multiple benefits. They help vendors better understand the weaknesses in their proposals so that they can make stronger offers on future procurements, which is especially important for small businesses as they seek to grow their positions in the marketplace. In addition to contributing to a potentially more competitive supplier base for future work, debriefings allow agencies to evaluate and improve their own processes. Further, agencies that conduct quality debriefings have found a decreased tendency by their supplier base to pursue protests. Studies of the acquisition process have observed that protests may be filed to get information – information that could have been shared during a debriefing – about the agency’s award decision to reassure the contractor that the source selection was merit-based and conducted in an impartial manner.⁵

The Federal Acquisition Regulation (FAR) requires agencies to debrief unsuccessful offerors upon written request and provides a basic framework for conducting both pre-award and post-award debriefings.⁶ Despite the numerous benefits associated with an effective debriefing, a number of misconceptions may be discouraging some agencies from taking full advantage of this tool. This memorandum provides a series of myth-busters to address these misconceptions.⁷ This memorandum also highlights a number of impactful steps taken by the Department of Homeland Security (DHS), the National Aeronautics and Space Administration (NASA), the Department of Defense (DOD), and the Department of the Treasury (Treasury), who have each issued comprehensive debriefing guidance to improve the workforce’s understanding and leverage best practices, such as:

⁵ *Report of the Professional Services Council Acquisition Policy Review Committee (2014); Report of the 2013 Professional Services Council Leadership Commission (2013).*

⁶ The FAR provides for both pre-award debriefings (FAR 15.505) and post-award debriefings (FAR 15.506; FAR 16.505). The FAR identifies when debriefings are required, who has a right to a debriefing, and parameters regarding what information may and may not be shared. This guidance must be read in conjunction with the FAR and corresponding agency supplements. This document does not limit, modify, or affect in any way the substantive or procedural requirements and statutory requirements.

⁷ This memorandum is part of the “myth-busting” series previously released by OFPP: “*Myth-Busting*” *Addressing Misconceptions and Further Improving Communication During the Acquisition Process* (May 2012) and “*Myth-Busting 2*”: *Addressing Misconceptions to Improve Communication with Industry during the Acquisition Process* (February 2011).

- Promoting a meaningful consideration of issues by soliciting vendors' questions, and if applicable, provide the overall general ranking of the debriefed offeror's proposal in relation to the other proposals;
- Preparing government personnel on adequate procedures and overall roles and responsibilities by explaining what is and is not allowed to be discussed in accordance with the FAR;
- Including draft checklists and sample agenda items for both oral and written debriefing formats; and
- Outlining useful tips to address debriefings in complex procurements and how to best engage additional stakeholders such as the program office subject matter experts and general counsel.

To broaden the adoption of best practices and maximize the value of debriefings, OFPP recommends that agencies consider establishing or adopting a debriefing guide, if they do not already have one in place.⁸ In addition, agencies are encouraged to review and address in their guidance the “myths” and misconceptions surrounding the debriefing process as described in the attached Appendix. The Appendix discusses frequently referenced issues by both industry and government, differentiates myth from fact, and provides additional information, including existing best practices, to help agencies facilitate effective and efficient debriefings. Agencies are encouraged to post by March 1, 2017 their debriefing guidance, training tools, and debriefing reference materials to share with other agencies at the following URL:

<https://community.max.gov/x/B4fERg>.⁹ Agencies are further encouraged to share relevant debriefing instructions with current and potential industry partners, including those new to Federal procurement.

Thank you for your commitment to this important matter – please contact Iulia Manolache in OMB OFPP at (202) 395-7318 or [Iulia Z. Manolache@omb.eop.gov](mailto:Iulia.Z.Manolache@omb.eop.gov) for additional questions or feedback.

Attachments:

Appendix– Misconceptions and Facts about the Debriefing Process

cc:

Agency General Counsels

⁸ Agency acquisition officials may wish to solicit the help and input of agency General Counsels and Ethics officers in developing the briefing guidance.

⁹ OFPP plans to promote and share these additional agency best practices via a training webinar or similar event.

Appendix

Misconceptions and Facts about the Debriefing Process

<p>1.</p>	<p>Misconception: “Companies do not really use the information provided in a debriefing to improve their work.”</p> <hr/> <p>Fact: Industry has indicated that offerors are less likely to protest when they understand their weaknesses and have clarity on the source selection outcome.¹⁰ Industry has also stressed the value derived from understanding the government’s perspective on the proposal’s strengths and weaknesses and the relevance of this information to future business decisions and future proposals.</p> <p>Best Practice: The NASA procurement debriefing guide emphasizes that offerors expend substantial sums of money and time to participate in the acquisition process and deserve to receive a thorough and meaningful debriefing.¹¹</p>
<p>2.</p>	<p>Misconception: “Debriefings always lead to protests.”</p> <hr/> <p>Fact: An effective debriefing process can greatly reduce the frequency of protests, as protests are often driven by a desire to obtain additional information - information that should otherwise be available via a proper debriefing. According to data in the Government Accountability Office’s (GAO) Bid Protest Annual Report to Congress, the most common reasons why unsuccessful offerors file protests is related to issues with the evaluation criteria in the solicitation.¹² Although offerors have access to the evaluation criteria, they often lack substantive insight into how the source selection officials assessed the proposal’s strengths and weaknesses.</p> <p>Unsuccessful offerors are able to accept unfavorable findings in a debriefing if they perceive that the government has acted with fairness, consistency, objectivity, and in accordance with evaluation criteria described in the solicitation. In some cases, the government’s ability to establish this credibility and rapport may be weakened if the offeror’s perceptions from earlier experiences with the agency are poor – which is another reason for the need of improved debriefings across the government. As a note, higher-dollar procurements that require significant up front proposal development costs and offer greater economic benefits if won may be more likely to be challenged despite the quality of the debriefing.</p> <p>Best Practice: Treasury’s debriefing guide includes mock-debriefing scenarios that highlight the comprehensive level of detail contracting officials should present during</p>

¹⁰ Report of the Professional Services Council Acquisition Policy Review Committee (2014); Report of the 2013 Professional Services Council Leadership Commission (2013).

¹¹ NASA Procurement Debriefing Guide (March 2010). <http://www.hq.nasa.gov/office/procurement/regs/pic04-11A.html>.

¹² GAO Bid Protest Annual Report to Congress for Fiscal Years 2015, GAO-16-270SP (December 10, 2015).

a debriefing.¹³ The scenarios highlight the importance of focusing on open and positive communication and addressing findings pertinent to the offeror’s proposal. The scenarios also reinforce that providing additional information, when done in the right way, should not create new grounds for protest. DOD source selection guidance supplies a debriefing guide which includes a topical list of sample questions that the debriefing team should be prepared to address. The debriefing guide notably states that “a poorly prepared debriefing is the surest way to lose the confidence of the offeror and increase the prospects of a protest.”¹⁴

3.	<p>Misconception: “Debriefings are unpredictable and there is no way for government personnel to prepare.”</p> <p>Fact: A successful debriefing, whether oral or in writing, requires attentive preparation that can be planned with the aid of relevant subject matter experts and can vary with the complexity and the value of the procurement. While an agency may not be able to fully predict a vendor’s exact motivations for requesting a debriefing, there are a number of common-sense assumptions that can be made, such as the likelihood that the unsuccessful offerors seek context to better understand why the proposal was not selected and to gain feedback to strengthen their position in the future. A well-prepared and clearly-organized debriefing will gain the confidence of the unsuccessful offeror by demonstrating that the government’s selection was merit-based, rational, and reasonable. Prior to holding the debriefing, all government personnel attending the debriefing should be informed about the overall process and be made aware of the agenda.</p> <p>FAR 15.505(c)-(d) and 15.506(b)-(c) discuss the authority of the contracting officer in determining the best method for the debriefing. The contracting officer may consider having the technical and program personnel attend the debriefing. The contracting officer should prepare a detailed agenda and outline of information to be presented, gather all of the debriefing materials, draft an opening and closing statement, and confirm that all participants, including those who are new to the debriefing process, are comfortable with the information being presented.</p> <p>Best Practice: The DHS Acquisition Manual (HSAM) supplement contains a debriefing guide which compiles agency-wide debriefing guidance and includes sample materials including a sample agenda, opening statements, responses to offerors’ questions, and written notices.¹⁵ Additionally, the Homeland Security Acquisition Institute (HSAI) hosted a Procurement Innovation Lab learning event addressing debriefing strategy in a multi-step, down-selection involving a large</p>
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¹³ *Lifting the Curtain: “Debriefings”* FAI Media Library, Acquisition Seminar (accessed April 6, 2016). https://www.fai.gov/media_library/items/show/89.

¹⁴ *Department of Defense Source Selection Procedures*, Appendix A: Debriefing Guide (April 01, 2016).

¹⁵ *Department of Homeland Security Debriefing Guide*, Appendix AA (October 2009). https://www.dhs.gov/xlibrary/assets/opnbiz/cpo_hsam.pdf.

	number of offerors. The webinar highlighted that contracting officials may plan and prepare effectively even for a high-volume, high-profile award. ¹⁶
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4.	Misconception: “Contracting officials should provide minimal feedback for procurements conducted under the Federal Supply Schedules or when using simplified acquisition procedures because offerors who participate in acquisitions conducted using these tools understand that agencies are only required to give those offerors a brief explanation for the basis of the award decision.”
	Fact: Providing meaningful debriefings can improve the government’s ability to gain better value from acquisitions conducted using simplified acquisition procedures or through the Federal Supply Schedules. Use of a simplified process does not mean that an offeror can more easily infer the reason for non-selection. Although the risk of protest is lower with smaller dollar acquisitions, benefits such as helping vendors understand how to make their offers more competitive and instilling confidence to participate in future actions can be especially valuable given that small businesses are more likely to bid on these contract actions. FAR Parts 8.405-2(d) and 13.106-3(d) require agencies to provide offerors who request information on awards based on factors other than price alone only with brief explanations of the basis for the award decision. However, this does not preclude agencies from providing offerors with similar or the same type of information agencies would otherwise provide to offerors pursuant to procurements conducted under FAR Part 15. The government’s explanation of why the offeror was unsuccessful may be the only value the offeror receives for its participation and may help mitigate the risk of protest.
	Best Practice: NASA, DOD, and DHS encourage contracting officials using simplified acquisition procedures and the Federal Supply Schedules to provide, whenever possible and feasible, thorough and effective explanation of the basis of award. While agencies recognize the beneficial principles of providing debriefing-like information, instructions recognize the need of contracting officials to evaluate available resources and available staffing and balance the benefits of thorough explanations with the administrative efficiencies of simplified acquisitions.

5.	Misconception: “When an offeror brings an attorney to the debrief that signals that the offeror will protest, therefore, contracting officials should limit the debrief discussion.”
	Fact: A vendor’s decision to bring an attorney to the debriefing does not necessarily signal a heightened potential for a protest or potential of a difficult conversation, especially if the agency is prepared to give an informative and well planned debriefing. Vendors have various internal policies and procedures that may require that an attorney always participate in meetings with government officials. As an

¹⁶ FCL-DHS-9012: *Debriefing Strategy in Multi-step Down-Selections Involving a Large Number of Offerors: A Case Study*, Homeland Security Acquisition Institute.

assurance and as precaution, many agencies ensure that government legal counsel is made aware of and involved in debriefing preparation and the actual debriefing as best determined by the agency. Agencies' use of and consultation with legal counsel is encouraged as a best practice as it helps facilitate a meaningful debriefing.

Best Practice: To gain a better understanding of the potential tone of the debriefing, the NASA debriefing guide states that the contracting officer should solicit the offeror attendee list and relevant titles ahead of the debriefing, whenever possible. The Department of Defense (DOD), as a matter of procedure, recommends that "the Program Manager and/or Requirements Owner and Legal Counsel should participate in debriefings to offerors."¹⁷

6. **Misconception:** "To avoid any issues being raised by the other offerors, the government should disclose to the debriefed offeror only its proposal ratings and that it was not selected as the winning proposal – the government should avoid engaging in further discussions or follow-up questions during the debrief."

Fact: The debriefing is meant to provide a thorough explanation of the basis for the award and should comply with the minimum requirements in accordance with FAR 15.506(a)(1), including an explanation of deficiencies and strengths of offeror proposal; ratings of debriefed offeror's proposal and successful offeror's proposal; past performance ratings of the offeror; overall general ranking of proposals when any ranking was developed by the agency during the source selection; and reasonable responses to relevant questions.

A debriefing cannot provide a page-by-page analysis of the offeror's proposal; a comprehensive point-by-point comparison of the unsuccessful offeror's and the successful offeror's proposals or a side by side, detailed, rating comparison among the offerors; or a debate on the government's award decision – such disclosures are prohibited per FAR 15.506(e). However, by explaining the deficiencies in an unsuccessful offeror's proposal, the unsuccessful offeror may avoid repeating the same issues in future proposals. In turn, this may broaden the future field of the competition where the Federal government can obtain better, more responsive offers.

As explained above, successful debriefings instill confidence in the unsuccessful offerors that the government treated all offerors fairly and assure them that the government evaluated all proposals in accordance with the solicitation and applicable laws and regulations.

Best Practice: NASA provides detailed guidance on the content of the debriefings, scheduling the debriefing and providing thorough debriefing materials, including how to accommodate debriefing formats and how to respond to an argumentative offeror. According to the NASA guide, contracting officials should consider quality

¹⁷ Department of Defense Source Selection Procedures, Appendix A: Debriefing Guide (April 01, 2016).

	debriefings conversations from the start of solicitation development through evaluations. ¹⁸ The Treasury debriefing guidance contains “do’s” and “don’ts” that clarify what may and may not be discussed during a debriefing – the Treasury guidance specifically emphasizes that the government can and should provide constructive feedback and clear responses to follow-up questions that are pertaining to the offeror proposal.
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7.	<p>Misconception: “The government should not spend time debriefing the winning offeror – this is not valuable to either side.”</p> <p>Fact: An effective debriefing can provide short term and long term benefits for both contracting officials and the successful and unsuccessful offerors. FAR 15.506 allows for post-award debriefings for any requesting offeror, including the winning offeror. During a debriefing, contracting officials have the opportunity to received feedback from the offeror on the solicitation and the source selection process. Industry continues to emphasize the important value of debriefings and the fact that offerors are able to identify areas of improvement and responsiveness in proposals and can adjust future proposals to more clearly state how a potential proposal meets the government’s needs.</p> <p>Best Practice: The Small Business Administration (SBA) encourages both successful and unsuccessful offerors to consider asking for a debriefing to better understand the proposal evaluation in order to improve and develop future proposals.</p>
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8.	<p>Misconception: “All debriefings should be completed in writing.”</p> <p>Fact: Debriefings may be completed orally, in writing, or by any other methods acceptable to the contracting officer. While there is no specific requirement on the manner in which a debriefing should be completed, both agencies and industry have expressed a preference for in-person debriefings. In-person debriefings allow for an open, flexible space where the government and offeror are able to communicate in a productive manner and foster a positive rapport. If financially prohibitive for the offeror to attend a debriefing in person, the contracting officer may consider a phone teleconference, a video teleconference, or a written response. Altogether, the preferences of the offeror should be afforded due consideration, however, the contracting officer maintains and makes the final decision as to the location and methodology for the debriefing.</p> <p>Best Practice: NASA, DHS, and Treasury debriefing guides, as well as DOD policy, encourage in person debriefings whenever practicable, but also promote the use of available technologies to facilitate an effective debriefing. For written debriefing materials, if meeting in person is not an option, the guides recommend inclusion of a comprehensive evaluation of the cost and technical ratings of the debriefed offeror.</p>
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¹⁸ NASA Procurement Debriefing Guide (March 2010). <http://www.hq.nasa.gov/office/procurement/regs/pic04-11A.html>.

	As a best practice, the written debriefing materials should be reviewed by agency general counsel.
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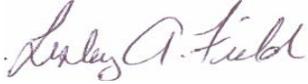


EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

May 7, 2012

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES
CHIEF INFORMATION OFFICERS

FROM: Lesley A. Field 
Acting Administrator for Federal Procurement Policy

SUBJECT: “Myth-Busting 2”: Addressing Misconceptions and Further Improving
Communication During the Acquisition Process

Early, frequent, and constructive engagement with industry leads to better acquisition outcomes, which is why it is one of the key tenets of the Office of Management and Budget’s 25 Point Implementation Plan to Reform Federal IT Management.¹ Such engagement is especially important for complex, high-risk procurements, including (but not limited to) those for large information technology (IT) projects.

To that end, the Office of Federal Procurement Policy (OFPP) last year issued the “Myth-Busting” memorandum on “Addressing Misconceptions to Improve Communication with Industry during the Acquisition Process.”² In the subsequent months, Federal agencies have taken significant additional steps to improve communications between Federal agencies and the vendor community. These developments are discussed further below.

To continue to make progress in improving these communications, OFPP is issuing this second “Myth-Busting” memorandum. Whereas we focused last year on the misconceptions on the part of Federal agencies, we want to continue the discussion by addressing in this memorandum the misconceptions that may be held by some in the vendor community. As we did last year, we highlight the misconceptions in the Attachment and, for each one, provide the facts about the Federal procurement process, with the goal of improving the productivity of our communications. The Attachment also provides additional information and strategies for both agencies and vendors to promote more effective communication.³

We encourage you to share this information with current and potential industry partners – especially those new to government contracting – as part of your outreach efforts to ensure that we are collectively making the best use of our engagement opportunities.

¹ The 25 Point Implementation Plan to Reform Federal Information Technology Management is available at <http://cio.gov/documents/25-Point-Implementation-Plan-to-Reform-Federal%20IT.pdf>

² The OFPP memorandum of February 2, 2011, is available at <http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/Myth-Busting.pdf>

³ Nothing in this memorandum should be read to alter, or authorize violations of applicable ethics rules, procurement integrity requirements, or other statutes or regulations that govern communication and information sharing.

As part of the ongoing, government-wide effort to improve vendor communication, OFPP and OMB's Office of E-Government and Information Technology worked with the Chief Financial Officers (CFO) Act agencies to develop vendor communications plans for:

- reducing barriers to communication,
- incorporating more industry input into agency acquisitions,
- publicizing engagement events, and
- providing training and awareness to employees and vendors.

To increase vendor awareness of these plans and upcoming engagement opportunities, the Chief Acquisition Officers Council worked with the Integrated Acquisition Environment team at the General Services Administration to add a new vendor collaboration feature on the FedBizOpps homepage (www.fbo.gov). Through this Vendor Collaboration Central Event Listing, vendors have quick and easy access to agencies' engagement opportunities, such as industry days, pre-Request for Proposal (RFP) conferences, vendor forums, etc. (Agencies are encouraged to post their upcoming events in accordance with the instructions found on FedBizOpps.)

Since the first "Myth-Busters" memorandum was issued last year, agencies have taken strong steps to promote effective strategies for engagement, including the following examples:

- The Nuclear Regulatory Commission uses several avenues for vendor outreach:
 - Quarterly Business Seminars to educate vendors about the agency,
 - One-on-one discussions between vendors and project managers regarding current technology and future requirements, and
 - Technical counseling sessions for market research on specific requirements.
- The Department of Education held a webinar with prospective offerors in the presolicitation phase of the English Language Learners Professional Development Network procurement.
 - The webinar was advertised on FedBizOpps, and 55 vendors participated. Afterwards, a transcript was posted to FedBizOpps along with the solicitation.
 - This strategy increased competition and resulted in a better solution using innovative ideas that had not previously been considered.
 - This virtual outreach can save time and money and increase participation.

To further assist agencies in these efforts, an Acquisition Collaboration Toolkit has been added to the “vendor engagement collaboration community of practice” at https://max.omb.gov/community/x/_INBIg. To facilitate their early communication with vendors, agencies have multiple tools at their disposal, ranging from wikis and blogs to webinars and meetings. The Acquisition Collaboration Toolkit provides tips, checklists, and additional information on how to use various media tools to host early vendor engagement opportunities. If you have additional best practices and success stories regarding ways to facilitate vendor collaboration, please send them to Joanie Newhart at the email address below.

More effective vendor engagement results from a change in culture in both government and industry organizations. Government professionals must incorporate vendor engagement strategies into their acquisition planning and execution whenever possible. Industry professionals should understand that agencies must balance their limited resources, and that expansion of vendor engagement must begin in those areas most likely to produce positive outcomes in the form of greater efficiency, contract savings, or better requirements development. Together, our efforts will result in more effective solutions to the government’s needs and provide a better value proposition for all of us as taxpayers.

Thank you for your commitment to this important matter. Please contact Joanie Newhart on (202) 395-4821 or jnewhart@omb.eop.gov if you have any questions.

Attachment –Vendor Misconceptions about Communications
with the Federal Government

cc:
Agency General Counsels and Solicitors
Agency Ethics Officers

Vendor Misconceptions about Communications with the Federal Government

	<p>Misconception –“The best way to present my company’s capabilities is by marketing directly to Contracting Officers and/or signing them up for my mailing list.”</p>
<p>1.</p>	<p>Fact – Contracting officers and program managers are often inundated with general marketing material that doesn’t reach the right people at the right time. As an alternative, vendors can take advantage of the various outreach sessions that agencies hold for the purpose of connecting contracting officers and program managers with companies whose skills are needed.</p>

Contracting and program offices are often inundated with marketing material, and this fact lowers the chances that a vendor’s reliance on marketing material will enable these offices to focus on the firm’s capabilities.

A more effective approach is to make your capabilities known through outreach sessions that agencies hold to provide information on how best to do business with the agency, and to provide information on future requirements. Many times these outreach sessions will provide an opportunity for vendors to meet with program managers and contracting officials to generally discuss items on annual procurement plans. Vendors are also encouraged to attend pre-proposal conferences to receive more detailed information about specific agency requirements.

A new Vendor Collaboration Central Event Listing has been added to the FedBizOpps homepage, www.fbo.gov, which provides quick and easy access to agency vendor communication plans and upcoming vendor collaboration events or engagement opportunities, such as industry days, pre-RFP conferences, vendor forums, etc. The FedBizOpps homepage also has a Small Business Central Event Listing where agencies post small business events, such as conferences and training, which can also help you make contact with the appropriate individuals within an agency.

Being familiar with already-available information reduces the burden on the workforce generally, and will make your conversations more targeted and productive. There are several resources that are available to help you find information about existing contracts and upcoming projects. For example, www.usaspending.gov can be queried to get information about current contracts that may be expiring soon; agency websites often have their advanced acquisition

forecasts posted,⁴ and appropriations acts can be a good place to look to see what the agency plans to acquire in the coming year. Another resource is the Government Printing Office's (GPO's) Federal Digital System (FDSYS), available at <http://www.gpo.gov/fdsys/>. FDSYS has electronic copies of the U.S. Government Budget, Code of Federal Regulations, and other helpful information. To better understand agency market research practices, the Department of Homeland Security's Market Research Guide⁵ details the process and can provide insight on how and why market research is conducted.

Best Practices

- ✓ *The Department of Homeland Security's (DHS) recent Industry Day was conducted via live webcast and was attended or viewed by nearly 2,700 vendors. The event, hosted by the Office of the Chief Procurement Officer (OCPO), provided a valuable opportunity for industry stakeholders to learn early in the acquisition process about the Department's acquisition goals and expectations and other matters that affect their ability to compete for contracts. In an effort to involve industry more in the outreach, DHS asked industry leaders to moderate the panel discussions and lead the questioning of DHS panelists about issues involving the top DHS spend categories -- professional services, science and technology, screening technology, and cyber security/intelligence. Industry's response to the new format and the event itself was overwhelmingly positive.*
- ✓ *The U.S. Agency for International Development (USAID) holds small business vendor outreach sessions that are posted on www.fbo.gov. At these sessions, USAID typically provides information on doing business with USAID, has a prime contractor discuss its current role in supporting the agency's mission and relief efforts overseas, and offers a small business success story.*
- ✓ *It's always a good idea for an agency to find out why vendors did **not** bid on a solicitation. It's worth taking the time to call the vendor in case there were competition-limiting items in the solicitation or practices in the acquisition process. Obtaining this information allows the agency to improve future acquisition processes.*
- ✓ *Agency contracting professionals do not find mass emails helpful as these professionals are frequently inundated with generic marketing materials. It is much more effective to target your e-mails to them on specific capabilities or projects.*

⁴ A list of Federal agencies with links to their websites is available at <http://www.usa.gov/directory/federal/index.shtml>.

⁵ Appendix I to the Department of Homeland Security Acquisition Manual, available at http://www.dhs.gov/xlibrary/assets/opnbiz/cpo_hsam.pdf

2.	Misconception – “It is a good idea to bring only business development and marketing people to meetings with the agency’s technical staff.”
	Fact – In meetings with government technical personnel, it’s far more valuable for you to bring subject matter experts to the meeting rather than focusing on the sales pitch.

Agency personnel are interested in better understanding the marketplace, advances in technology, and your firm’s capabilities. In order to gain this understanding, it is usually more helpful for them to discuss technical issues than business development issues.

Industry professionals can benefit by conducting research about the agency in advance of scheduled meetings with agency professionals. Valuable time during one-on-one meetings is often spent sharing commonly available information, which is not helpful to either party. Before meeting with agency personnel, review information on the agency’s website, such as the agency’s mission, structure and organization; its advanced acquisition plans; and its budget. In addition, information on existing contracts in your areas of interest is available at www.usaspending.gov, and information on the specific program of interest is at <http://business.usa.gov/find-resources>. This information will enable you to tailor your presentation to agency officials.

Your technical team may be in the best position to provide the information that the agency needs, and therefore they should be included in these meetings.

Best Practices

- ✓ *The Nuclear Regulatory Commission (NRC) has several avenues for industry outreach: 1) Quarterly Business Seminars which educate vendors about the agency, its mission and business opportunities, as well as NRC’s technical programs, 2) Reverse Green Technology Fairs which feature one-on-one discussions between vendors and Project Managers regarding current technology and future IT requirements, and 3) One-on-One Technical Counseling Sessions which provide vendors with technical guidance on how to conduct business with NRC. Once a specific requirement opportunity is identified, a meeting is coordinated between the specific Project Manager and the vendor. NRC’s Office of Small Business and Civil Rights facilitates these vendor outreach sessions.*

- ✓ *Vendors should bring their technical experts to meetings with agencies. Their knowledge of advances in technology and your firm’s capabilities are much more helpful to agencies than generic sales presentations.*

3.	Misconception – “Attending industry days and outreach events is not valuable because the agency doesn’t provide new information.”
	Fact – Industry days and outreach events can be a valuable source of information for potential vendors and are increasingly being used to leverage scarce staff resources.

The purpose of industry days and outreach events is to communicate the agency mission and upcoming requirements to industry. This information will assist you in deciding whether to invest valuable resources in developing a bid or proposal in response to the government’s solicitation requirements. Vendors may have the opportunity to hear from and speak to agency representatives about their requirements, and can often meet one-on-one with agency personnel before or after the event. Many times, agencies hold sessions designed to help new vendors do business with them. In these sessions, agency personnel are on hand to answer any questions about how to do business with the agency. Gaining a better understanding of an agency will help you more effectively target your outreach, thereby saving valuable resources, and helping you respond to solicitations more effectively. In addition, industry days are a great way to network and make potential subcontract contacts. The Vendor Collaboration Central Event Listing on the Federal Business Opportunities webpage (www.fbo.gov) can help you identify events being held.

Best Practices

- ✓ *More agencies are beginning to hold these meetings virtually to save time and money and increase competition. For example, the Department of Education held a webinar with prospective offerors in the presolicitation phase of the English Language Learners Professional Development Network procurement. This webinar was advertised in advance on FedBizOpps, and 55 vendors participated. Afterwards, a transcript was posted to FedBizOpps along with the solicitation. In addition, the new toolkit for increasing pre-RFP communication encourages agencies to use a variety of social media to engage vendors. If your travel dollars are limited, ask agencies to make their industry days more accessible by offering them online or using other, widely-accessible technologies.*
- ✓ *Agency events can be very valuable. Not only do vendors learn more about the agency, they also get a chance to talk to agency contracting and program professionals face-to-face. Vendors should take advantage of agency outreach opportunities.*

	<p>Misconception – “Agencies generally have already determined their requirements and acquisition approach so our impact during the pre-RFP phase is limited.”</p>
<p>4.</p>	<p>Fact – Early and specific industry input is valuable. Agencies generally spend a great deal of effort collecting and analyzing information about capabilities within the marketplace. The more specific you can be about what works, what doesn’t, and how it can be improved, the better.</p>

Agencies appreciate industry’s valuable input into their acquisition strategies and solicitation packages because it may result in a better solution to their requirements. Simply providing suggestions and comments prior to formal requirements development will not trigger an organizational conflict of interest, as long as the vendor is not then hired to develop the requirements. Suggesting detailed solutions to your concerns is even more valuable. Agencies may issue a Request for Information (RFI) as part of market research to investigate the industry and marketplace in accordance with Federal Acquisition Regulation (FAR) Part 10, to determine if commercial items are available, to determine if small businesses are capable of meeting the agency’s needs, and for many other planning purposes. Agencies may also issue a draft RFP to obtain comments and suggestions from potential vendors on how to improve the solicitation. Agencies may hold pre-solicitation or pre-proposal conferences or webinars, or post wikis to explain the requirements, solicitation process, and evaluation factors.⁶ These engagement opportunities often allow for vendor questions and feedback. You should take advantage of every opportunity to provide the kind of targeted suggestions you’d like to see in the finished product.

Additionally, FAR 15.201 encourages exchanges with all interested parties, beginning at the earliest identification of a requirement through receipt of proposals. After release of a solicitation, the contracting officer is the focal point of any communications with the government to ensure a fair competition is conducted. Many times, a question and answer period is included in the acquisition process, allowing time for potential offerors to review the solicitation and submit questions. Should that not be the case, you are still encouraged to ask the contracting officer any questions that you have, in a timely manner, in order to ensure you understand the solicitation. Contracting officers generally prefer questions via e-mail so that they can ensure they understand the question and so they can facilitate obtaining an answer. Should the contracting officer decide to make any changes to the solicitation, it will be done via an amendment to the solicitation and posted for public viewing.

⁶ Government personnel can learn more about creating productive pre-RFP engagements in the Acquisition Collaboration Toolkit available on the vendor engagement collaboration community of practice at https://max.omb.gov/community/x/_INBIg.

Best Practices

- ✓ *In trying to get the best value for their agency and for the taxpayers, contracting and program professionals want to know when products or services are available in the marketplace that can save money or provide a better solution or both. It is most helpful to provide that information early in the procurement cycle.*
- ✓ *Be specific and clear in your feedback. For example, if an agency is considering a performance-based contract for services but, in your firm's view, has not adequately defined the performance standards, provide the agency with specific suggestions for how the work should be evaluated based on your experience and expertise.*
- ✓ *The General Services Administration's Central Contracting Office recently sought input on the procurement of the next generation of the agency's enterprise IT services and support. Through RFIs, the agency first sought input on the current challenges and strategic technology initiatives, asking industry how it would recommend the agency approach those challenges. A subsequent RFI was issued to seek more specific input to the draft solicitation. A pre-proposal conference, attended by over 50 vendors, helped to further refine agency requirements.*

5.	Misconception – “If I meet one-on-one with agency personnel, they may share my proprietary data with my competition.”
	Fact – Agency personnel have a responsibility to protect proprietary information from disclosure outside the Government and will not share it with other companies.

Agency personnel have a responsibility to protect any information that was received in confidence from an offeror. During source selection, the Procurement Integrity Act and its implementing provisions in the FAR⁷ prohibit Federal procurement officials from disclosing – prior to award of the relevant contract – contractor bid, proposal information or source selection information to any person other than a person authorized to receive such information. Procurement officials take this prohibition very seriously; if a violation occurs, there may be criminal and civil penalties.

While the protections of the Procurement Integrity Act do not apply prior to source selection, other protections remain. In many cases, the Trade Secrets Act⁸ will prohibit Federal employees from divulging protected information, including confidential commercial or financial data, trade secrets, operations, processes, or style of work. Also, the Freedom of Information Act (FOIA) allows agencies to protect commercial or financial information that is privileged or confidential.⁹ In cases where a vendor is concerned that existing protections are insufficient and engaging in pre-solicitation communication will be beneficial, agencies should consider the use of appropriate non-disclosure agreements (NDAs) to ensure that proprietary information will be kept from potential competitors.

⁷ 48 C.F.R. § 3.104-1-11, available at <http://www.gpo.gov/fdsys/pkg/CFR-2010-title48-vol1/pdf/CFR-2010-title48-vol1-part3.pdf>

⁸ 18 U.S.C. § 1905, available at <http://www.law.cornell.edu/uscode/text/18/1905>

⁹ 5 U.S.C. § 552(b)(4), available at <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title5/pdf/USCODE-2010-title5-partI-chap5-subchapII-sec552.pdf>

6.	<p>Misconception – “Agencies have an obligation not to share information about their contracts, such as prices, with other agencies, similar to the obligation they have not to disclose proprietary information to the public.”</p>
	<p>Fact – There are no general limitations on the disclosure of information regarding existing contracts between agencies within the Government. In fact, agencies are encouraged to share pricing information to ensure that we are getting the best value for our taxpayers.</p>

As explained above, agencies have a responsibility to protect proprietary information from disclosure outside the Executive Branch. Restrictions on such outside disclosure prevent harm both to the competitive position of the contractor amongst its competitors and to the interest of the Government in being able to maintain a robust and competitive marketplace.

By contrast, the flow of information among and between agencies within the Executive Branch does not cause such harm. Moreover, such sharing among and between agencies can enable the Federal Government to root out wasteful duplication and negotiate better deals for the taxpayer.

Therefore, while there might be occasional circumstances where an agency could benefit from signing an NDA that would restrict its sharing of information with another agency, agencies should generally avoid NDAs that prohibit sharing of information – particularly pricing information – within the Government. Price visibility is critical to ensuring that the Government gets the best prices and that agencies are not paying more for the same products or services being bought under the same circumstances. As agencies face increasingly constrained budgets, it is critical that they share more pricing information with their Federal colleagues to ensure that the Federal Government is obtaining the best prices for the taxpayer.

***Best Practice** – GSA’s SmartBuy Federal Strategic Sourcing Initiative (FSSI) provides a collaboration area for their interagency Commodity Team members to post their software orders and awarded contracts in order to share prices, and terms and conditions. This sharing of information will allow agencies to compare their requirements with those already procured by the Federal Government to ensure they get the best value for taxpayer dollars. Agencies are encouraged to participate in the Commodity Team. To request membership, send an e-mail to the SmartBuy team at smartbuy@gsa.gov.*

	<p>Misconception – “To develop my new proposal, I don’t really need to tailor my solution to the specific solicitation since the government won’t read my proposal that closely anyway.”</p>
<p>7.</p>	<p>Fact – Offerors should tailor each proposal to the evaluation criteria, proposal instructions, and specific requirements of the solicitation to which they are responding. Contracting Officers and evaluation team members read proposals closely for compliance with the proposal instructions and must evaluate them against the evaluation factors and the statement of work in the solicitation.</p>

Each proposal should be tailored to the final solicitation which lists the requirements, instructions to offerors on how to propose, and evaluation factors. Using your proposal, Government evaluators will determine the strengths and weaknesses of your proposal and also your firm’s ability to perform the prospective contract successfully. If you cut and paste from previous proposals or repeat the solicitation, your proposal may miss the mark in explaining your solution. Offerors that are not responsive to the solicitation risk being eliminated from the competition, thereby wasting valuable time and resources used to prepare the proposal.

You should attend a pre-solicitation or pre-proposal conference if it is offered by the agency. At that conference, the agency will provide you with a better understanding of the procurement and what is required in the proposal, which will help you develop a more comprehensive proposal addressing the requirements.

If you are looking for some assistance in how to be most responsive to government solicitations, there are several resources available to assist you:

- **Business Breakthrough:** GSA has recently created this program to help businesses better understand how to successfully navigate government contracting, including strategies to prepare a winning proposal.¹⁰
- **Procurement Technical Assistance Program:** Created by Congress in 1985 to help businesses seeking to compete successfully in Federal, state and local government contracting, the nationwide network of Procurement Technical Assistance Centers provide one-on-one counseling sessions, classes, seminars and matchmaking events at little or no cost.¹¹

¹⁰ More information is available at <http://www.gsa.gov/portal/category/101431>.

¹¹ More information is available at <http://www.aptac-us.org/new/index.php>.

- **Offices of Small and Disadvantaged Business Utilization (OSDBU):** OSDBUs are the primary advocate within each Federal executive agency responsible for promoting the maximum practicable use of all designated small business categories within the Federal acquisition process. You can find a listing of agency OSDBUs at <http://www.osdbu.gov/members.html>.
- **Veterans First Contracting Program:** The Department of Veterans Affairs has created the Center for Veterans Enterprise (CVE), which is solely dedicated to assisting veterans in starting and building businesses. CVE has a web portal for veteran-owned businesses which is available at <http://www.vetbiz.gov>.
- **BusinessUSA.gov:** A new website, BusinessUSA at <http://business.usa.gov>, was recently developed to be a one-stop shop to help small businesses and businesses of all sizes find information about available Federal programs and opportunities without having to spend time navigating from one Federal agency to another. BusinessUSA combines best practices and information from government agencies.

Best Practices

- ✓ *It is helpful to develop a checklist of solicitation requirements to ensure that a response is provided for each requirement and that it is in the format requested in the solicitation. If you follow the solicitation instructions, it will facilitate evaluation of your proposal.*
- ✓ *Proposals in which vendors simply cut and paste from the RFP or use the same language from a previous proposal often miss important evaluation factors or misunderstand the nuances of the requirements are rarely selected for award.*
- ✓ *Vendors should be fully responsive to all evaluation factors, including past performance information. Some vendors falsely assume they will get credit for good performance since the government was aware of its work, even if the vendor doesn't mention it in its proposal.*

8.	<p>Misconception – “If I lose the competition, I shouldn’t bother to ask for a debriefing. The Contracting Officer won’t share any helpful information with me.”</p>
	<p>Fact – Unsuccessful offerors should ask for a debriefing to understand the award decision and to improve future proposals.</p>

In a formal procurement, the process by which offerors request and receive an explanation of the award decision is the debriefing. Asking for a debriefing is the best way to find out why you were not awarded the contract or order.

In accordance with FAR 15.505 and 15.506, agencies must provide debriefings to unsuccessful offerors in negotiated procurements upon written request either when excluded from the competitive range prior to award, or upon notification of award. These debriefings can be provided in person or in writing, depending on the agency’s preference. When conducting competitions under FAR Part 8, agencies must provide a brief explanation to unsuccessful offerors on awards that are based on factors other than price alone. You can use the information provided to adjust your proposal strategy in future procurements to be more competitive.

We recognize that agencies can sometimes do a better job of letting vendors know why they didn’t receive an award. This is especially true in cases where award is based on other than price alone. While agency procurement personnel are extremely busy, often handling multiple solicitations and contracts at the same time, OFPP’s February 2, 2011 “Myth-Busting” memorandum encouraged agency contracting professionals to not only provide debriefs, but to provide as much information as possible in the debriefing.

Best Practices

- ✓ *One agency encourages the debriefing of the **winning** offeror. This way, the vendor can get specific, targeted feedback on what it did right in the proposal and what it could do even better in the future.*
- ✓ *Another agency writes its selection memorandum with detailed information about the strengths and weaknesses of all the offers so that everyone who bid can understand the outcome. This has reduced protests and received positive feedback from participants.*
- ✓ *Agencies appreciate when unsuccessful vendors request debriefings because it gives contracting professionals an opportunity to point out weaknesses in the vendor’s proposal and provide them with the rationale for award. This valuable information can help vendors be more competitive on future proposals.*



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 2, 2011

OFFICE OF FEDERAL
PROCUREMENT POLICY

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES
CHIEF INFORMATION OFFICERS

FROM: Daniel I. Gordon
Administrator for Federal Procurement Policy

SUBJECT: “Myth-Busting”: Addressing Misconceptions to Improve Communication
with Industry during the Acquisition Process

With expenditures of over \$500 billion annually on contracts and orders for goods and services, the federal government has an obligation to conduct our procurements in the most effective, responsible, and efficient manner possible. Access to current market information is critical for agency program managers as they define requirements and for contracting officers as they develop acquisition strategies, seek opportunities for small businesses, and negotiate contract terms. Our industry partners are often the best source of this information, so productive interactions between federal agencies and our industry partners should be encouraged to ensure that the government clearly understands the marketplace and can award a contract or order for an effective solution at a reasonable price. Early, frequent, and constructive engagement with industry is especially important for complex, high-risk procurements, including (but not limited to) those for large information technology (IT) projects. This is why increasing communication, in the form of a “myth-busters” educational campaign, is one of the key tenets of the Office of Management and Budget’s 25 Point Implementation Plan to Reform Federal IT Management.¹

The Federal Acquisition Regulation (FAR) authorizes a broad range of opportunities for vendor communication², but agencies often do not take full advantage of these existing flexibilities. Some agency officials may be reluctant to engage in these exchanges out of fear of protests or fear of binding the agency in an unauthorized manner; others may be unaware of effective strategies that can help the acquisition workforce and industry make the best use of their time and resources. Similarly, industry may be concerned that talking with an agency may create a conflict of interest that will preclude them from competing on future requirements, or industry may be apprehensive about engaging in meaningful conversations in the presence of other vendors.

¹25 Point Implementation Plan to Reform Federal Information Technology Management available at

<http://cio.gov/documents/25-Point-Implementation-Plan-to-Reform-Federal%20IT.pdf>

² For example, FAR 10.002(b)(2) authorizes a wide range of techniques for conducting market research, including participation in interactive, online communications with industry.

In light of these challenges, the purposes of this memorandum are to:

- 1) identify common misconceptions about vendor engagement that may be unnecessarily hindering agencies' appropriate use of the existing flexibilities, and provide facts and strategies to help acquisition professionals benefit from industry's knowledge and insight;
- 2) direct agencies to remove unnecessary barriers to reasonable communication and develop vendor communications plans, consistent with existing law and regulation, that promote responsible and constructive exchanges; and
- 3) outline steps for continued engagement with agencies and industry to increase awareness and education.

Nothing in this memorandum should be read to alter, or authorize violations of, applicable ethics rules, procurement integrity requirements, or other statutes or regulations that govern communication and information sharing. However, all methods of communication that are not prohibited, either by those rules or otherwise, should be considered, if they would be helpful.³ In addition, contracting officers, program managers, and other acquisition officials should continue to exercise appropriate discretion to balance the practical limitations of frequent vendor engagement, including the demand such engagement places on the time of the acquisition workforce, with the need to better understand the market and make decisions in the best interest of the government.

Top 10 Misconceptions and Facts

The Office of Federal Procurement Policy (OFPP) held a series of outreach sessions with industry representatives, acquisition professionals, agency procurement attorneys, and others to identify and address core misconceptions about communication between the government and industry during the pre-award acquisition process. While these conversations will continue, as discussed later, ten misconceptions were mentioned frequently, and so are addressed by this memorandum. Attachment 1 lists these issues, and provides additional information and strategies to help agencies promote fair and appropriate engagement during various acquisition phases.

Vendor Communication Plan

Some agencies have developed policies for communicating with industry while others have not, resulting in disparate practices and confusion. To provide better direction to the workforce and to clarify the nature and schedule of engagement opportunities for industry, each agency should develop a high-level vendor communication plan. The plan should discuss how the agency will reduce unnecessary barriers, publicize communication opportunities, and prioritize engagement

³ See FAR Part 1.102(d) stating that if a specific strategy, practice, policy or procedure is in the best interests of the government and is not addressed in the FAR, nor prohibited by law (statute or case law), Executive Order or other regulation, then the strategy, practice, policy or procedure is a permissible exercise of authority.

opportunities for high-risk, complex programs or those that fail to attract new vendors during re-competitions. Details on the required elements of this plan are included in Attachment 2.

The 24 Chief Financial Officer (CFO) Act agencies are required to develop a vendor communication plan; to make these plans available to their workforce and the public, as appropriate; and to update them at least annually. These agencies shall submit their draft plans, by June 30, 2011, for review by the Office of Management and Budget. The draft plans will be reviewed by the Administrator for Federal Procurement Policy and the Federal Chief Information Officer (CIO) to ensure that agencies are encouraging more communication, taking advantage of existing authorities, and educating their workforce on communication opportunities. Based on this review, the agencies will finalize their plans and make them available to their workforce and to the public, as appropriate, no later than 30 days after the completion of OMB's review. Small agencies are encouraged to review their existing vendor communication guidance in light of the principles discussed in this memorandum and make appropriate modifications to encourage more communication, or develop guidance if none exists.

Increasing Awareness

Throughout 2011, OFPP will work with the Federal Acquisition Institute (FAI), the Defense Acquisition University (DAU), and agency training practitioners to conduct an awareness campaign to eliminate unnecessary barriers to engagement. As agencies work to develop and refine their vendor communications plans, they will be supported by a number of efforts:

Continued Discussion

Expansion of the conversation between industry and government and the education on both sides must continue in an open, transparent forum. To support this discussion, agencies and industry are invited to join a moderated, online dialogue starting in mid-February to help identify additional misconceptions, concerns, perceived conflicts in policies, and success stories that will help improve communications between government and industry. Additional information on how to participate in this and other discussions will be made available on www.caoc.gov and www.cioc.gov.

Community of Practice (COP)

To help agencies increase and improve vendor engagement, OFPP and E-Gov will launch an online COP no later than June 2011 that will provide additional strategies, do's and don'ts for agencies and for vendors, frequently asked questions, agency and industry success stories, case studies, and other tools to improve engagement. Next month, OFPP will convene a working group of federal acquisition professionals to help define the requirements of this site. If you are interested in participating in this working group, please identify your agency's point of contact by February 14 to Mindy Connolly of OFPP at mconnolly@omb.eop.gov.

Training and Outreach

FAI will develop a continuous learning module that contracting officers, program managers, procurement attorneys, and others can utilize to develop a better understanding of the types of permissible communication. This is scheduled to be available early in the third quarter of FY 2011 on the FAI website – www.fai.gov. Additionally, FAI and OFPP will provide sessions at widely-attended procurement conferences throughout 2011 to increase awareness of the need for more industry engagement. Agencies should provide similar training or outreach efforts, especially to their front line acquisition and program personnel.

Acquisition Communication Platform

In accordance with the 25 Point Implementation Plan to Reform Federal IT Management, the General Services Administration is seeking input from agencies, industry, and other stakeholders on developing a communication platform that would facilitate exchanges for specific planned acquisitions. This platform will allow the government to more easily engage the vendor community during the pre-solicitation stage, and may be further developed to facilitate communication during other stages of the acquisition. Development of the requirements will consider existing platforms and functionality and will be developed in collaboration with the Integrated Acquisition Environment. Additional details will be communicated to the community as they become available.

Conclusion

While agencies do not have the resources, and are not required, to meet with every vendor at every step of the acquisition process, information gathered from industry sources plays an invaluable role in the acquisition process. For this reason, agencies must develop practices that will ensure early, frequent, and constructive communication during key phases of the process. The federal government's ability to achieve successful program outcomes, effectively and efficiently, depends upon agencies establishing effective strategies for industry engagement and supporting those strategies with senior-level commitment.

Thank you for your commitment to this important matter. Please contact Mindy Connolly on (202) 395-7724 or mconnolly@omb.eop.gov if you have any questions.

Attachments

Attachment 1 –Misconceptions and Facts about Vendor Communication

Attachment 2 - Vendor Communication Plans

cc:

Agency General Counsels and Solicitors
Agency Ethics Officers

Misconceptions and Facts about Vendor Communication

1.	Misconception – “We can’t meet one-on-one with a potential offeror.”
	Fact – Government officials can generally meet one-on-one with potential offerors as long as no vendor receives preferential treatment.

Prior to issuance of the solicitation, government officials – including the program manager, users, or contracting officer – may meet with potential offerors to exchange general information and conduct market research related to an acquisition. In fact, the FAR, in Part 15, encourages exchanges of information with interested parties during the solicitation process, ending with the receipt of proposals. There is no requirement that the meetings include all possible offerors, nor is there a prohibition on one-on-one meetings. Any information that is shared in a meeting that could directly affect proposal preparation must be shared in a timely manner with all potential offerors to avoid providing any offeror with an unfair advantage (FAR 15.201(f)).

The government ethics rules and Competition in Contracting Act, (10 U.S.C. § 2304), prohibit preferential treatment of one vendor over another. Where vendor interaction is expected to include contract terms and conditions, any one-on-one meetings should include, or at least be coordinated with, the contracting officer (FAR 15.201).⁴ After the solicitation is issued, the contracting officer shall be the focal point for these exchanges. (Special rules govern communications with offerors after receipt of proposals; that situation is not addressed here.)

Some vendors have expressed concern that involvement in pre-solicitation discussions might lead to exclusion resulting from organizational conflict of interest (OCI) concerns. This should not be the case. While a vendor who, as part of contract performance, drafts the specification for a future procurement will almost certainly be barred by OCI rules from competing for that future procurement, pre-solicitation communications are generally less structured, less binding, and much less problematic. When a vendor, in its role supporting the government, is drafting specifications for a future acquisition, the government is relying on the vendor to provide impartial advice regarding the requirements needed to meet the government’s future needs. Ensuring that the vendor will not be motivated by a desire to win the future contract is the way we try to ensure that this advice will be impartial. This differs dramatically from the pre-solicitation context. In the latter context, the government is not looking for impartial advice from one source, but is instead looking for a variety of options from a variety of sources, each one understandably, and reasonably, attempting to demonstrate the value of its own approach. These marketing efforts, in themselves, do not raise OCI concerns.

⁴ Under sealed bidding procedures, in accordance with FAR Part 14, only the contracting officer, superior, or other authorized individual can transmit this information.

2.	<p>Misconception – “Since communication with contractors is like communication with registered lobbyists, and since contact with lobbyists must be disclosed, additional communication with contractors will involve a substantial additional disclosure burden, so we should avoid these meetings.”</p>
	<p>Fact – Disclosure is required only in certain circumstances, such as for meetings with registered lobbyists. Many contractors do not fall into this category, and even when disclosure is required, it is normally a minimal burden that should not prevent a useful meeting from taking place.</p>

Disclosure is an important tool that ensures public trust in our contracting process, but it should not be an impediment to meeting with contractors and is not required in every circumstance. In the case of meetings where registered lobbyists are employed, contractors are required to track the costs and activities of their lobbying activities, as required by FAR Part 31, but that obligation places the disclosure burden on the contractor and does not require the government to take any steps. In this “standard” case, additional communication with contractors will not involve an additional disclosure burden, though conduct of all communications should be consistent with the principles of fairness and accountability. Moreover, this rule only applies in those circumstances where a contractor or one or more of its employees are registered lobbyists, which will not be the case in every meeting.

There have been additional requirements for disclosure regarding spending under the American Recovery and Reinvestment Act (ARRA). Government officials are required by the March 2009 Presidential memorandum on “Ensuring Responsible Spending of Recovery Act Funds”⁵ to disclose discussions with registered lobbyists related to ARRA procurements. Any ARRA procurement that was conducted with involvement from registered lobbyists does carry this additional disclosure requirement (only a small number of all procurements during this period were obligated using funding from ARRA).

Another source of concern might be the additional ethical commitments required of political appointees by Executive Order 13490, “Ethics Commitments by Executive Branch Personnel.” While the ethics pledge required by this Executive Order does extend and strengthen certain limitations on actions by government personnel, most notably with respect to pre- and post-employment restrictions, the pledge does not create general barriers to meeting with industry to discuss procurements. The pledge prohibits some contact with former clients and former employers for two years, which might create a specific limitation in some circumstances, but it does not establish a general prohibition on meeting with registered lobbyists, even in one-on-one circumstances.

Finally, even in the special situations where disclosure is required, that should not be a reason for avoiding communication in situations where the communication will improve the procurement and provide better value to the taxpayer.

⁵ Available at http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-20-09/.

3.	Misconception – “A protest is something to be avoided at all costs - even if it means the government limits conversations with industry.”
	Fact – Restricting communication won’t prevent a protest, and limiting communication might actually increase the chance of a protest – in addition to depriving the government of potentially useful information.

Protests are, in fact, quite rare. At least 99 percent of procurements are never protested, although high dollar procurements, of course, are more likely to be protested. The overriding goal of the agency and its program managers, contracting officers, and attorneys should be the best procurement solution, and industry engagement can improve the supplies or services received or can reduce the price paid by the government. If contracting officers conduct responsible, meaningful, and constructive communications during the course of a procurement, issues that could give rise to a bid protest are likely eliminated. Trying to make a procurement ‘protest-proof’ is rarely a good use of agency resources, and it may lead to decisions that aren’t in the interest of the government. Moreover, restricting communication for fear of protests may actually increase the likelihood of a protest – for example, by a vendor that hopes to get more information through ‘discovery’ during the protest.

4.	Misconception – “Conducting discussions/negotiations after receipt of proposals will add too much time to the schedule.”
	Fact – Whether discussions should be conducted is a key decision for contracting officers to make. Avoiding discussions solely because of schedule concerns may be counter-productive, and may cause delays and other problems during contract performance.

Although the government often states it intends to award without discussions/negotiations, the clause at FAR 52.215-1⁶ reserves the government’s option to conduct discussions and it is usually a good practice to retain that option.

While discussions may add time to the acquisition schedule, the contracting officer should make a thoughtful decision as to whether to conduct discussions and, if so, what the scope and extent of discussions required should be. Schedule pressures should generally not be the primary, or even a strong, driver in the contracting officer’s decision on whether or not to hold discussions. One consideration the contracting officer should take into account is that conducting robust pre-solicitation communications with industry may actually minimize the need for discussions and result in a better technical solution and improved contract performance. Other considerations include the complexity of the procurement, and the history of change orders on previous or related contracts that were due to lack of a clear understanding of the requirements and contract terms and conditions by the parties. In situations where discussions are not held, post-award contract

⁶ When preparing solicitations, contracting officers should carefully evaluate whether to include the clause at 52.215-1 or its Alternate 1.

modifications that increase the government’s costs are often required. These costly changes are negotiated after the government has lost the benefits of a competitive environment.

When discussions are considered helpful to obtaining the best outcome in a procurement, the schedule should be developed accordingly. Contracting officers should be empowered by their management to make these judgment calls on a case-by-case basis and should have the full support of their customers.

5.	Misconception – “If the government meets with vendors, that may cause them to submit an unsolicited proposal and that will delay the procurement process.”
	Fact – Submission of an unsolicited proposal should not affect the schedule. Generally, the unsolicited proposal process is separate from the process for a known agency requirement that can be acquired using competitive methods.

All acquisition officials should be familiar with FAR Subpart 15.6 and their agency’s procedures for receiving and evaluating an unsolicited proposal. Receipt of unsolicited proposals should not cause delay in an acquisition.

6.	Misconception – “When the government awards a task or delivery order using the Federal Supply Schedules, debriefing the offerors isn’t required so it shouldn’t be done.”
	Fact – Providing feedback is important, both for offerors and the government, so agencies should generally provide feedback whenever possible.

Although debriefings are not required when using the Federal Supply Schedules (FSS) under FAR Part 8.4 procedures, even in those situations, agencies are instructed to “provide a brief explanation of the basis for the award decision” where the award was based upon factors other than price (FAR 8.405-2(d)). Agencies that order from FSS contracts regularly are missing an important feedback opportunity if they do not take time to explain to FSS offerors how to improve their offers in the future. For newer contracting officers, the less structured explanation required for FSS offerors can be a valuable learning opportunity to prepare for structured debriefings. In both FSS and FAR Part 15 procurements, agencies are encouraged to provide the maximum amount of relevant information to offerors, rather than focusing on sharing only the minimum that is legally required.

7.	Misconception – “Industry days and similar events attended by multiple vendors are of low value to industry and the government because industry won’t provide useful information in front of competitors, and the government doesn’t release new information.”
	Fact – Well-organized industry days, as well as pre-solicitation and pre-proposal conferences, are valuable opportunities for the government and for potential vendors – both prime contractors and subcontractors, many of whom are small businesses.

Industry days, as well as pre-solicitation and pre-proposal conferences, directly benefit the government by promoting a common understanding of the procurement requirements, the solicitation terms and conditions, and the evaluation criteria. These events also benefit industry – especially small businesses – by providing prime contractors and subcontractors an opportunity to meet and develop relationships or teaming agreements that benefit contract performance. However, the value of these events derives from the government providing the maximum information to potential offerors on its requirements, answering questions, and improving the solicitation based on feedback from the potential offerors. In that way, the requirements can be made as clear as possible to assist potential offerors in providing the best solution to the government.

Strategy - where appropriate, use interactive web-based technology to expand the reach of the exchange, such as a live webinar with streaming video to immediately address questions from stakeholders. Consider combining this with immediate one-on-one meetings with vendors to make these engagements more useful, especially for large, complex requirements.

8.	Misconception – “The program manager already talked to industry to develop the technical requirements, so the contracting officer doesn’t need to do anything else before issuing the RFP.”
	Fact – The technical requirements are only part of the acquisition; getting feedback on terms and conditions, pricing structure, performance metrics, evaluation criteria, and contract administration matters will improve the award and implementation process.

Issuing a high quality solicitation requires engaging with industry on issues that go beyond the government’s technical requirements. In order to appropriately price proposals and reduce the number of potential change orders, industry needs information about any unique terms and conditions, small business set-aside requirements, subcontracting goals, and other matters about which the contracting officer is the expert. Although industry may have had their best technical representatives engaged with the program manager, the contracting officer should communicate to vendors as much information as possible about the government’s needs as early as possible. As a result of early communication, the contracting officer may learn some things that suggest that an

approach somewhat different than planned may cause increased competition, more small business participation, lower prices, or even a better definition of the government’s technical requirements.

Strategy – Issue an RFI to make sure the government not only understands the capabilities of industry, but can develop or improve its acquisition strategy regarding contract type, performance requirements, performance work statements/statements of work, and performance metrics. Release a draft request for proposal, including sections L and M, to be sure the solicitation instructions are clear.

9.	Misconception – “Giving industry only a few days to respond to an RFP is OK since the government has been talking to industry about this procurement for over a year.”
	Fact – Providing only short response times may result in the government receiving fewer proposals and the ones received may not be as well-developed - which can lead to a flawed contract. This approach signals that the government isn’t really interested in competition.

While the FAR does contain some requirements on the length of time between issuance of solicitations and proposal due dates, often task and delivery orders do not have these requirements. Contracting officers should consider that allowing offerors additional time to prepare their proposals will likely yield better proposals, streamlined evaluations, and a reduction in the need for (or scope of) discussions. While the workforce is stretched thin and requirements often arise unexpectedly, shortcutting the proposal development process often results in fewer proposals, and/or proposals that are more difficult to evaluate. This situation can lead to expensive outcomes. Providing adequate time for vendor communication throughout the procurement process – including adequate time for proposals – indicates that the government is interested in obtaining the best outcomes. Contracting officers should have the full support of their customers in determining the right amount of time for receipt of proposals.

10.	Misconception – “Getting broad participation by many different vendors is too difficult; we’re better off dealing with the established companies we know.”
	Fact – The government loses when we limit ourselves to the companies we already work with. Instead, we need to look for opportunities to increase competition and ensure that all vendors, including small businesses, get fair consideration.

FAR Section 10.002 expressly allows for participation in interactive, online communications among industry, acquisition personnel, and customers. While agencies should ensure that these tools can be used securely and appropriately, their use should be encouraged to the maximum extent practicable. In accordance with OMB’s 25 Point Implementation Plan to Reform

Federal IT Management, GSA and OMB will be developing an acquisition communications platform for launch in June 2011 that will increase collaboration on RFIs and draft RFPs, improve communication during question and answer periods, and otherwise support better engagement. Agencies may also have similar tools, and their use should be encouraged.

Strategy – Use the procurement forecast to generate interest and publicize those opportunities available to small businesses. Ensure that the points of contact on the forecast are aware of the content and timing of the release of the document so they can address any inquiries, consider holding an outreach session or webinar to announce the release or update, and don't bundle or overpromise requirements. Hold industry days, public meetings, or small business conferences, and consider hosting multiple outreach sessions for large or complex requirements.

Vendor Communication Plans

Agencies should provide clear, consistent direction to their workforce and industry partners about how to engage with industry prior to the award of contracts and task and delivery orders under the Federal Supply Schedule, government-wide acquisition contracts, and other indefinite delivery/indefinite quantity contracts.

To ensure this, agencies shall develop high-level plans that include the core elements listed below. These plans should be general in nature and can build on existing guidance. OFPP will work with the agencies in the development of the community of practice discussed earlier to identify best practices, training opportunities, samples of guidance, and other information that may be helpful in developing these communication plans.

- 1) Statement of agency commitment to:
 - a) Communicate early, frequently, and constructively with industry;
 - b) Include small businesses and subgroups of small businesses in communications with industry;
 - c) Include vendors that the agency has not worked with in the past;
 - d) Identify, in the agency's published procurement forecast, which procurements are likely to involve opportunity for additional communication with industry; and
 - e) Protect non-public information including vendors' confidential information and the agency's source selection information.

- 2) Identification of senior agency and bureau (if applicable) official responsible for promoting vendor engagement;

- 3) Brief description of efforts undertaken or planned to reduce barriers and promote engagement;

- 4) Criteria for identifying which acquisitions must include vendor input in the pre-award phase and the extent of the required engagement as a condition of approval by the agency's investment review board (or similar body). At a minimum, acquisition plans for high-risk, large-dollar, and complex programs, such as those for major IT systems and for re-competitions that need to attract new entrants to ensure adequate competition, should include a comprehensive vendor engagement strategy that:
 - includes at least one industry day or a pre-solicitation or pre-proposal conference; and
 - allows for a reasonable amount of one-on-one engagement; and
 - allows time for discussions, as needed and in accordance with FAR Part 15, during the proposal evaluation process; or
 - requires a written justification as to why those steps are unnecessary.

- 5) Publication of engagement events to include industry days, small business outreach sessions, pre-solicitation conferences, RFP question and answer sessions, etc. These shall be posted and updated regularly using the existing “special notices” function on www.fedbizopps.gov and on other sites as identified by the agency.⁷
- 6) Brief description of roles and responsibilities of the –
 - a) Contracting Officer
 - b) Program Manager
 - c) COR/COTR
 - d) General Counsel
 - e) Ethics Officers
 - f) OSDBU
 - g) Other Officials⁸
- 7) Training and awareness efforts for employees and contractors;
- 8) Links to existing policies; and
- 9) Plans to follow-up with employees and industry representatives within 6 months of posting the vendor engagement plan, to further refine and improve communication, (e.g., post-award surveys of the contracting officers, program managers, and offerors for large, complex procurements, focus group meetings for general feedback).

⁷ Instructions for posting such events on www.fedbizopps.gov will be provided to agency points of contact for vendor communication as needed.

⁸ Such as those identified in the procurement forecast.