

White House seeks to bust myths about talking to contractors
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White House officials on Wednesday circulated a memorandum, first obtained by Nextgov, that encourages procurement officers to communicate with contractors before finalizing solicitations, in an effort to dispel misperceptions about conflicts of interest.

The idea is that companies know the costs and features of current technology better than the government so potential bidders should be consulted early in the process of drawing up system requirements for contracts.

"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," stated a copy of the guidance<<http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/Myth-Busting.pdf>>, signed by Federal Procurement Policy Administrator Daniel Gordon. "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."

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The so-called "myth-busting" campaign is part of a 25-point plan<<http://www.cio.gov/documents/25-Point-Implementation-Plan-to-Reform-Federal%20IT.pdf>> for overhauling the way the government buys \$500 billion worth of computer equipment and services annually.

Fears of contract protests or signing unauthorized deals have prevented some acquisition officers from talking to vendors, according to the memo. Similarly, industry officials may stay away, out of concern that overstepping boundaries could bar them from future government business.

The document requires agencies by June 30 to develop plans for communicating with contractors. The plans must be made public within a month of the White House reviewing them. Wednesday's memo takes pains to stress that nothing within the guidelines should be interpreted to "alter, or authorize violations of, applicable ethics rules, procurement integrity requirements, or other statutes or regulations that govern communication and information sharing."

After discussions with company representatives and agency staff, the White House identified the 10 most frequently-mentioned misconceptions about contractor-government fraternization:

1. "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.
2. "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." 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.

3. "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.

4. "Conducting discussions or 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.

5. "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.

6. "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.

7. "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.

8. "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.

9. "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.

10. "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.