

“Myth-busting”

Further Improving Industry Communication with Effective Debriefings

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In a 2011 memo released by the Office of Management and Budget, there was some discussion about the Federal government’s obligation to conduct all procurement actions in the most effective and efficient manner in order to deliver the best value to the American taxpayer. Federal contract spending totaled almost \$440 billion in Fiscal Year 2015. 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. Since that time, OFPP has established the Acquisition 360 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.

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. The Federal acquisition workforce and the private sector 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.

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. Despite the numerous benefits associated with an effective de-briefing, 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. 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:



Misconceptions and Facts about the Debriefing Process

Misconception: “Companies do not really use the information provided in a debriefing to improve their work.”

Fact: Industry has indicated that offerors are less likely to protest when they understand their weaknesses and have clarity on the source selection outcome. 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.

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.



Misconception: “Debriefings always lead to protests.”

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. 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. 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.

Best Practice: Treasury's debriefing guide includes mock-debriefing scenarios that highlight the comprehensive level of detail contracting officials should present during a debriefing. 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 pre-pared debriefing is the surest way to lose the confidence of the offeror and increase the prospects of a protest."



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 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."



Misconception: "The government should not spend time debriefing the winning offeror – this is not valuable to either side."

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.

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.

MYTH BUSTED!