

DEPARTMENT OF JUSTICE

VENDOR COMMUNICATION PLAN



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Department of Justice Vendor Communication Policy Statement

The Department of Justice (DOJ) spent over \$7 billion on contracts and orders for goods and services in fiscal year 2011. This procurement volume presents an opportunity to leverage information gathered from industry sources to increase competition, improve program outcomes, and to maximize the use of small businesses in our acquisitions. Further, the DOJ acquisition community has an obligation to conduct procurements in the most effective, responsible, and efficient manner possible.

Our industry partners are often the best source of market information, so I support and encourage productive interactions between industry partners and DOJ staff. Such interactions will facilitate a clear understanding of the marketplace, and result in effective solutions at a reasonable price.

The attached vendor communication plan outlines my vision for robust engagements, and the Myth-Busting pamphlet dispels some commonly held myths about interacting with vendors. When done correctly, vendor communications can improve our procurement outcomes and provide cost savings to the DOJ, and broaden our supplier base. I encourage the DOJ acquisition community to use all authorized opportunities for vendor communication.

As the DOJ Chief Acquisition Officer, I am committed to reducing unnecessary barriers to competition, publicizing procurement opportunities, and prioritizing engagement opportunities for high-risk and complex programs. I welcome your support in carrying out the DOJ vendor communication plan.



Lee Lofthus
DOJ Chief Acquisition Officer

Attachments:

- 1. DOJ Vendor Communication Plan**
- 2. Vendor Communication Myths – Busted (pamphlet)**
- 3. Roles and Responsibilities of the Government Team for Improving Vendor Communication**

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Attachment 1

Introduction

The Department of Justice (DOJ) spent over \$7 billion in fiscal year 2011 on contracts for goods and services in support of its mission. Access to current market information is critical for agency program managers as they define requirements and identify sources; and to contracting officers as they develop acquisition strategies, seek opportunities for small business, and negotiate contract terms. Industry partners are the best source of this information; therefore, the federal government is encouraged to have productive interactions to gain a clear understanding of the marketplace and award premium contracts. Further, the DOJ acquisition community has an obligation to conduct procurements in the most effective, responsible, and efficient manner possible.

Purpose

The purpose of this Vendor Communication Plan is to promote collaborative communication between program offices, acquisition offices and industry partners. By providing information on solutions, strategies and success stories, all stakeholders can become more empowered to support vendor communication.

Applicability

This plan applies to acquisitions of a high dollar value or high-risk, complex programs, Exhibit 300 information technology systems; and procurements for re-competition that need to attract new entrants to ensure adequate competition.

Authority

Federal Acquisition Regulation (FAR) 10.000 and Office of Management and Budget's memorandum dated February 2, 2011 entitled, "Myth-Busting - Addressing Misconceptions to Improve Communication with Industry during the Acquisition Process."

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1) Statement of Department Commitment

The primary objective of the Department of Justice's (DOJ) vendor communication efforts is to ensure the satisfaction of customer requirements while obtaining the best possible price, schedule, and performance under the fairest market conditions. The transparency afforded by clear, concise, and open communication with industry potentially translates to better competition and therefore competitive pricing, greater inclusion of small businesses, better performance, and resolution of misunderstandings earlier in the procurement process.

The Department of Justice and all of its Bureaus, and Offices, Boards and Divisions (OBDs) are committed to –

- Communicating early, frequently, and constructively with industry in the conduct of fair and open business opportunities -
 - DOJ will engage industry as soon as practicable; review advance procurement plans and forecasts annually for opportunities to engage industry;
- Including small businesses and subgroups of small businesses in communications with industry -
 - DOJ will engage the small business sector, and when appropriate, set aside and/or reserve procurements for small businesses and subgroups;
- Including vendors that DOJ has not worked with in the past -
 - DOJ will hold industry days to introduce new vendors to the federal procurement process and mechanisms by which the Department makes the vendor community aware of its requirements;
- Identifying, in our published procurement forecast, which procurements are likely to involve opportunity for additional communication with industry; and
- Protecting non-public information including vendors' confidential information and source selection information.

DOJ's commitment to these goals and this plan will ultimately improve the quality, timeliness, and cost savings of products/services acquired to fulfill the agency's mission.

2) Senior Agency and Bureau Official Responsible for Promoting Vendor Engagement

The DOJ Chief Acquisition Officer has overall responsibility for direction of the Department's vendor engagement efforts, and has support from the highest management levels within the agency. However, the Chief Acquisition Officer, Senior Procurement Executive, Bureau Procurement Chiefs, Office of Small and Disadvantaged Business Utilization Director, and the various Competition Advocates throughout the Department share responsibility for ensuring the vendor communication plan is effectively executed.

Each DOJ Bureau oversees management of vendor communication with input and assistance from its Small Business representatives and Competition Advocates.

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Other stakeholders involved with carrying out the plan include program offices, CORs, contracting officers, and contract specialists.

The appropriate Bureau legal counsel will be engaged as necessary in all aspects of the procurement process, including acquisition planning, market research, and the procurement itself.

3) Efforts to Reduce Barriers and Promote Vendor Engagement

DOJ recognizes that an effective communication plan involves internal and external stakeholders and that vigilance is required to balance competing interests related to operational security, individual privacy, executive deliberative processes, compliance with statutes, ruling, and regulations, resource availability, and maintaining a “level playing field” environment for potential and incumbent contractors.

DOJ will take the following steps (as appropriate) to reduce barriers and promote vendor engagement:

- Distribute the vendor communication plan via a Procurement Guidance Document
- Distribute pamphlet, “Vendor Communication Myths – Busted”, see Attachment 1
- Incorporate the vendor communication plan in procurement training
- Post the plan on DOJ and Bureau websites
- Provide the vendor communication plan (or information to access the plan) at vendor outreach sessions
- Require contracting officers to address vendor communications in acquisition plans
- Post draft statements of work on FedBizOpps/e-Buy for industry comment
- Sponsor vendor expos (including small business only expos)
- Use FedBizOpps to conduct market research (i.e., Requests for Information, sources source, pre-solicitation conferences)
- Use market surveys
- Collect appropriate business size and socio-economic information from vendors
- Hold pre-solicitation and pre-proposal conferences
- Hold bureau industry days
- Publicize vendor engagement events through e-gov tools (i.e., FedBizOpps)
- Hold monthly small business vendor meetings
- Engage the OSDBU early in acquisition planning; include opportunities in forecasts
- Encourage early engagement of the procurement office by the Program Office
- Ensure source list of GSA FSS vendors includes the widest range of capable firms
- Conduct preproposal conferences and site visits where appropriate
- Use social media tools to announce and advertise opportunities (in accordance with OMB M-10-23, Guidance for Agency Use of Third-Party Websites and Applications, and DOJ Memo Social Media and Web 2.0)

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- Provide contact information on the DOJ Website for DOJ and its Bureau contracting offices including the following:
 1. Full Department and Bureau Name of Procurement Activity
 2. Bureau Procurement Chief and Procurement Activity Management Staff (POC) Information
 3. Websites for Bureau acquisition offices
 4. Forecast Opportunities – displayed on the DOJ site and the bureau acquisitions office sites
 5. Department Competition Advocate and OSDBU contact
 6. Bureau Competition Advocate and Small Business Specialist contact information
 7. Schedule of Vendor Engagement Opportunities, i.e., planned vendor outreach sessions, small business conferences, pre-solicitation conferences, industry days
 8. Types and frequency of services and/or commodities the Department and Bureaus purchase
 9. DOJ Vendor Communication Plan

4) Identifying Acquisitions and Opportunities for Vendor Input

During the acquisition planning phase, DOJ contracting and program staff and the OSDBU will consider opportunities for vendor engagement and address the vendor engagement strategy in the acquisition plan.

A vendor engagement strategy will be prepared for high-risk requirements. This strategy will address the type(s) of vendor engagement to occur, such as one-on-one meetings, industry days, and pre-solicitation conferences. When vendor engagement is not feasible for high-risk requirements, the contracting officer will prepare and include in the file a written statement addressing the decision. Other acquisitions that may require a vendor engagement strategy include high-dollar, high-risk, complex programs; Exhibit 300 information technology systems; and re-competes that need to attract new entrants to ensure adequate competition.

5) Publication of Engagement Events

DOJ will publicize engagement events such as industry days, small business outreach sessions, and pre-solicitation conferences through the FedBizOpps, and/or OSDBU and Bureau websites. RFP questions and answers will be posted and updated regularly using the existing “special notices” function on www.fedbizopps.gov, and through websites such as e-Buy.

6) Description of Roles and Responsibilities

See Attachment #2

7) Training and Awareness Efforts for Employees

DOJ will distribute this Vendor Communication Plan to its Bureaus for distribution to the appropriate acquisition professionals and program office staffs involved in Bureau acquisition

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planning, and will require that each Bureau designate a point of contact for questions relating to the plan.

Training materials for acquisition professionals will include this Vendor Communication Plan.

8) Links to existing policies

DOJ policy related to the vendor communication plan will be published on the CAO website at: <http://www.justice.gov/jmd/pe/>

DOJ Bureaus will publish the plan on their websites, or link to it at: <http://www.justice.gov/jmd/pe/>

9) Plans to Follow up with Employees and Industry Representatives

DOJ is considering including in solicitations an invitation for vendors to voluntarily submit post-award feedback regarding the effectiveness of the vendor communication strategy.

DOJ is also considering posting the plan on FedBizOpps to solicit feedback for improving the plan to better address challenges and barriers that impede vendor engagement.

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Attachment 2

Pamphlet: "Vendor Communication Plan Myth Buster"

MYTH 4
"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.


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.

MYTH 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.

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 a delay in an acquisition.

There are five additional commonly held myths about vendor communication. Read about them at <http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/Myth-Busting.pdf>



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VENDOR COMMUNICATION

MYTHS

BUSTED

**Dispelling Myths
About Vendor
Communication**

**To improve communication during
the acquisition process**

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Attachment 2 (continued)

Pamphlet: "Vendor Communication Plan Myth Buster"

**Dispelling Myths
About Vendor Communication**

"With expenditures of over \$500 billion annually on contracts and orders for goods and services, the federal government is obligated to conduct procurements in the most effective, responsible, and efficient manner possible. Access to current market information is crucial 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 consultative engagement with industry is especially important for complex, high-risk procurements, including (but not limited to) those for large information technology (IT) projects." Dan Gordon, Administrator, OIGPP

Myth 1
"We can't meet one-on-one with a potential offeror."

Fact – Government officials can generally meet one-on-one with potential offerors to gather market data as long as no vendor receives preferential treatment.

Prior to issuing a solicitation, the program manager, users, or contracting officer may meet with potential offerors to exchange general information and conduct market research related to an acquisition.

**Dispelling Myths
About Vendor Communication**

Myth 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.

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.

**Dispelling Myths
About Vendor Communication**

"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." OIGPP Myth Buster Campaign

Myth 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.

At least 99 percent of procurements are never protested, although high dollar procurements are more likely to be protested. If contracting officers conduct responsible, meaningful, and constructive communications during the course of procurement, issues that could give rise to a bid protest are likely eliminated. 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.

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Attachment 3

***Roles and Responsibilities of the Government Team Responsible
for Improving Vendor Communication***

Official	Vendor Communication Roles and Responsibilities
Contracting Officer (CO)/Contract Specialist	<ul style="list-style-type: none"> • <u>Determine the plan</u> - For each appropriate acquisition (especially high-risk or complex acquisitions), establish the timing, frequency, and degree of vendor engagement necessary to appropriately develop requirements, acquisition strategy, and performance metrics • <u>Identify means</u> - Recommend appropriate means of communication (one-on-one meetings, vendor days, draft RFPs, teleconferences, or combination of these methods) - <ul style="list-style-type: none"> ○ Consider methods that would generate new entrants to the market to increase competition ○ In conjunction with the OSDBU and small business specialist to identify the best small business outreach opportunities • <u>Communicate to the agency team</u> - Set expectations with the PM (and COR if appropriate) about who will conduct vendor engagement efforts and how these sessions will be conducted <ul style="list-style-type: none"> ○ Encourage the PM and COR to communicate appropriately for pre-solicitation efforts ○ Be the focal point for vendor communication after the solicitation is issued • <u>Document</u> - document the file as appropriate • <u>Knowledgeable of the agency procurement forecast</u> – the forecast is used by many small businesses to determine where to invest bid and proposal costs • <u>Myth Busters</u> – share myth buster information with program/project managers and CORs; incorporate myth buster information/guidance in COR delegation letters • <u>Participate in vendor engagement activities</u> - Lead and/or participate when appropriate/necessary
Program/Project Manager (P/PM)	<ul style="list-style-type: none"> • <u>Confer with the CO early</u> – As soon as a need is identified, inform the CO about the level of vendor engagement needed to help the PM and others conduct effective market research. • <u>Evaluate expected level of competition</u> - Assess the need for introducing new entrants to the market and recommend to the CO ways to do so • <u>Notify the CO</u> - Discuss vendor engagements activities with the CO prior to the meetings – the CO may not attend but should be aware of all communications • <u>Knowledgeable of the agency procurement forecast</u> – the forecast is used by many small businesses to determine where to invest bid and proposal costs • <u>Research the market</u> - to determine if there are is an adequate number of vendors to ensure competition and consider small business sources

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Official	Vendor Communication Roles and Responsibilities
COR	<ul style="list-style-type: none"> • <u>Focus on post-award opportunities</u> - Identify ways to improve communication after award, such as award kick-off events, vendor boards (for multiple award contracts) • <u>Notify the CO</u> – keep the CO informed and document as appropriate • <u>Be cautious</u> – Don't let communications with the contractor evolve into constructive changes to the contract, which could cost money and time
General Counsel	<ul style="list-style-type: none"> • <u>Advise the CO and other acquisition professionals regarding their efforts to encourage communications to the maximum extent practicable to ensure communications are appropriate</u> in terms of content, delivery methodology, etc. • <u>Provide legal review and advice during the development of Vendor Communications Guidelines and Procedures</u> • <u>Provide legal advice and, to the extent feasible, participate in training acquisition professionals on appropriate vendor engagement activities</u>
Ethics Officer	<ul style="list-style-type: none"> • <u>Include vendor communications in annual ethics training</u> - Ensure ethics training clearly explains what is permissible – not only what is prohibited
Agency Outreach POC (per MythBuster memo)	<ul style="list-style-type: none"> • <u>Promote vendor engagement</u> – this senior agency or bureau official is responsible for the agency's overall efforts to improve engagement with large and small businesses, increase awareness of the need to communicate with industry, and to seek feedback on engagements to improve the agency's outreach effort on a regular basis • <u>Use the community of practice</u> – seek information and provide best practices to the acquisition Communities of Practice (COP) to leverage other tools
Acquisition Career Manager (ACM)	<ul style="list-style-type: none"> • <u>Keep everyone informed of training or related opportunities</u> - Provide COs, PMs, CORs, and others with information on training or awareness activities to improve vendor engagement
OSDBU and Small Business Specialists	<ul style="list-style-type: none"> • <u>Focus on the agency procurement forecast</u> - Apprise COs and the contract specialists of the agency's procurement forecast so that they are prepared to respond to inquiries • <u>Use the Small Business Central Event Listing on FedBizOpps to publicize opportunities</u> – this functionality, recently released, helps small businesses find outreach events and promotes competition
CIO	<ul style="list-style-type: none"> • <u>Keep up with technology</u> - CIOs and CTOs should offer new media suggestions for increasing outreach (social media, new technologies, etc.) and assist the team in developing rules and record keeping
Competition Advocate	<ul style="list-style-type: none"> • <u>Promote competition</u> - Encourage industry outreach for sole source procurements