

SEC Vendor Communication Plan

I. Background

Communicating with potential vendors early and often during the acquisition process can help the Securities Exchange Commission (SEC) gain better product and service information and improve the quality of market research efforts. The Federal Acquisition Regulation (FAR) 15.201¹ encourages exchanges between the Government and interested parties, from the earliest identification of a requirement through receipt of proposals, and they should be conducted in a fair and transparent manner. Such communications may include industry or small business conferences, public hearings, and one-on-one meetings with potential offerors. SEC officials are urged to engage with vendors, particularly during the pre-solicitation phase and for high dollar, more complex procurements, so long as sensitive or proprietary information is protected on behalf of the Government and vendors alike. Communications with the interested businesses can be very beneficial and result in:

- Greater clarity of SEC requirements;
- Increased awareness of current industry products and services;
- Increased competition, including greater use of small businesses in subcontracting opportunities;
- More realistic expectations about marketplace capabilities;
- Greater use of small business set asides;
- Better business decisions made by vendors about their private sector investments in products or services offered to the SEC;
- More favorable pricing;
- Increased cost savings;
- Higher quality contract deliverables; Fewer performance problems; and
- Early resolution of potential performance issues.

On February 2, 2011, the Office of Federal Procurement Policy (OFPP) issued a memorandum entitled “Myth-Busting: Addressing Misconceptions to Improve Communication with Industry during the Acquisition Process.” The memorandum outlines ten misconceptions and facts about vendor communication, and directs agencies to develop practices that will ensure early, frequent, and constructive communication during key phases of the acquisition process. The OFPP memorandum can be found at:

<http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/Myth-Busting.pdf>

¹ Federal Acquisition Regulation 15.201 "Exchanges with Industry Before Receipt of Proposals"; [Subpart 15.2—Solicitation and Receipt of Proposals and Information](#)

II. Statement of Agency Commitment

The SEC is committed to communicating with industry by taking advantage of existing authorities and educating our workforce on additional opportunities to work with industry. To ensure that we clearly understand the marketplace and contract with industry to provide sound solutions in support of the SEC mission, the SEC will conduct market research that will encourage competition and allow us access to the best qualified suppliers. The SEC seeks to maximize its collaboration with both large and small businesses and is interested in considering the capabilities of businesses that have not worked with the SEC before.

In particular, the SEC, as permitted by law, seeks to utilize to the maximum extent practicable small, minority-owned, women-owned, veteran-owned, service-disabled veteran-owned, HUBZone, and small disadvantaged, businesses.

III. Identification of Senior Agency Official Responsible for Promoting Vendor Engagement.

The Head of the Contracting Activity (HCA) is responsible for promoting vendor engagement. Additionally, the HCA is responsible for the direct management of the contracting activity, including the appointment of contracting officers and other responsibilities described in Federal Acquisition Regulation (FAR) Subpart 2.1- Definitions.

IV. Roles and Responsibilities

Director, Office of Acquisitions (DOA): The Director is responsible for the overall management and oversight of the Office of Acquisitions (OA) procurement functions within the SEC.

Senior Procurement Executive (SPE): The SPE is an individual appointed pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3) and is responsible for the management direction of the SEC acquisition system, including implementation of the unique acquisition policies, regulations, and standards of the SEC. The Chairman of the SEC has designated the Director of OA, as the SPE.

Contracting Officer (CO): The Chairman of the SEC has delegated CO responsibilities to the Chief Operating Officer (COO) and the Senior Procurement Executive (SPE). The Chairman has delegated authority to the SPE to select all other COs within the SEC based on qualifications, to appoint them as COs, and to terminate their appointments. The SPE may further delegate these responsibilities to the Head of Contracting Activity (HCA). Contracting Officer appointments to SEC employees outside of the Office of Acquisitions (OA) are limited to purchases at or below the simplified acquisition threshold and to specified supplies and services.

The CO has the authority to enter into, administer, and terminate contracts and make related determinations and findings. Contracting Officers are responsible for ensuring performance of all

necessary actions for effective contracting, and safeguarding the interests of the United States in its contractual relationships. The CO has the overall and primary responsibility for conducting individual procurements in accordance with law, executive orders and all other applicable procedures. FAR 1.602 discusses CO appointment, authorities and responsibilities in detail.

Contracting Officer Representative (COR): A COR is a Federal employee, appointed by a CO in writing, who monitors the technical or performance aspects of a contract and performs other duties specified by their appointment letter. The individual who will serve as the COR once the contract is awarded should participate in developing the requirement and other pre-award activities so that they may be familiar with all aspects of the contract.

Program Manager (PM): The designated Federal employee with responsibility for and authority to accomplish SEC program objectives, and/or develop, produce, and sustain requirements to meet the SEC's operational needs. The PM, in coordination with the COR, should:

- Inform the CO, as soon as a need is identified, about the level of vendor engagement needed to help the PM and others conduct effective market research;
- Assess the need for introducing new entrants to the market and recommend to the CO ways it can be to accomplished;
- Discuss vendors engagement activities with the CO prior to meetings – the CO may not attend but should be aware of all communications; and
- Be as knowledgeable as possible about the requirements for acquisition planning.

Director, Office of Minority and Women Inclusion (OMWI): Senior official responsible for the increased participation of minority and women-owned businesses in the programs and contracts of the agency at all levels of its business activities.

Director, Office of Small Disadvantaged Business Utilization (OSDBU): The OSDBU is designated by the Chairman of the SEC and is responsible for implementing and executing programs to assist small businesses, including veteran-owned, service disabled veteran owned, HUBZone, small disadvantaged, and Women Owned Small Business Concerns (WOSBC). The OSDBU is responsible to and reports directly to the Chairman of the SEC.²

Supplier Diversity Officer (SDO): This designated Federal employee reports to the Director of the Office of Minority and Women Inclusion and is primarily responsible for coordinating technical assistance to diverse firms and ensuring, to the maximum extent possible, that such firms are given the opportunity to fairly compete for and receive SEC contract awards. This is done by:

² FAR 19.201(d)

- Conducting regularly scheduled vendor outreach days, participating in diverse business conferences and matchmaking sessions;
- Creating awareness and collaborating with internal participants including the Contracting Officer (CO), Contract Specialist (CS), and Contracting Officer Representative (COR) to identify minority and women-owned businesses with the capabilities to meet the agency's business needs;
- Serving as an advisor on technical evaluation panels to ensure the inclusion of minority and women-owned businesses;
- Coordinating and collaborating with other agencies on best practices for inclusion of minority and women-owned businesses.

Small Business Specialist (SBS): This designated Federal employee is responsible for the implementation and execution of programs to assist small businesses, veteran-owned small businesses, and service-disabled veteran owned small businesses, HUBZone small businesses, small disadvantaged businesses, and Women Owned Small Business Concerns (WOSBC). Additional responsibilities include the following:

- Promote overall efforts to improve engagement with small businesses and increase SEC wide awareness of the need to communicate with industry;
- Coordinate small business vendor activities with program and acquisition teams;
- Coordinate and collaborate with interagency organizations and the business community regarding small business vendor engagement activities;
- Serve as the SEC's primary contact for engaging prospective small businesses;
- Collaborate with the CO, Contract Specialist (CS), and the requiring office to ensure the inclusion of small businesses in upcoming SEC requirements; and
- Publicize outreach and training opportunities using a variety of vehicles including the Small Business Central Event Listing on www.fbo.gov.

The Office of the General Counsel (OGC): The Office of the General Counsel provides legal advice to the acquisition team regarding appropriate communications and review acquisition documents for legal sufficiency.

Ethics Officer (EO): Provides advice, guidance, and training on the ethical standards that apply to SEC employees and oversees the standards of conduct programs throughout the SEC. Ensures ethics training is taken and clearly explains what is permissible and what is prohibited.

V. Efforts Planned to Reduce Barriers and Promote Vendor Engagement

SEC recognizes that vendor engagement is critical to successfully meeting the challenges associated with supporting the SEC acquisition mission. To effectively promote vendor engagement, SEC plans must overcome internal and external barriers that exist in the Federal contracting marketplace. Examples of these barriers may include:

- Overly restrictive Statements of Work (SOW) and/or evaluation criteria;
- Vendor restrictions to accessing opportunities advertised in solicitation announcement systems such as FedBizOps;
- Difficulty with maintaining lines of communications with small, veteran-owned, service-disabled veteran-owned, HUBZone, small disadvantaged, and women-owned small businesses;
- Difficulty involving new vendors in solicitations;
- Short proposal response times; and
- Inadequate planning of SEC acquisitions.

The SEC works to reduce these barriers and promote vendor engagement at various levels of the organization and through partnerships with other Federal agencies, such as the U.S. Small Business Administration (SBA) and the General Services Administration (GSA). The OMWI actively participates in and sponsors a variety of diverse business conferences. To increase and improve vendor communications and promote engagement with the supplier community, the SEC's Office of Acquisition will:

- Take affirmative steps to promote supplier diversity;
- Utilize small, veteran-owned, service-disabled veteran-owned, HUBZone, small disadvantaged, and women-owned small businesses to the maximum extent practicable;
- Treat all vendors and potential vendors fairly and impartially;
- Conduct business with integrity, fairness, and openness;
- Communicate constructively with industry, both large and small vendors;
- Take proactive measures to include and ensure that small, veteran-owned, service disabled veteran owned, HUBZone, small disadvantaged and women-owned small businesses are included in SEC market research and acquisition planning activities to the maximum extent practicable.
- Avoid communications that lend themselves to unauthorized commitments; and
- Ensure that CORs and PMs notify COs before commitments with vendors are made.

VI. 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 SEC's investment review board (or similar body).

Communicating early in the acquisition process with potential offerors enhances the SEC's ability to procure quality supplies and services more efficiently and promote more competition. While the SEC does not define a minimum dollar threshold for including comprehensive vendor engagement during the acquisition process, SEC COs, CORs, and PMs are encouraged to engage industry for a wide range of procurement needs, especially:

- Procurements with new requirements;
- Procurements that received limited responses to previous solicitations;
- High risk procurements;
- Complex and large scale procurements; and
- Re-competitions.

As previously mentioned, SEC holds industry days, pre-solicitation conferences, and/or pre-proposal conferences as necessary and allows for reasonable engagement with vendors. SEC assesses vendor communication needs during acquisition planning and will identify and plan for the following, as applicable:

- Issuing a Request for Information (RFI);
- Issuing a Sources Sought notice;
- Issuing a draft Request for Proposal (RFP) or draft Statement of Objectives (SOO);
- Using online collaboration with interested offerors via Web 2.0,
- Allowing for a reasonable amount of one-on-one engagement with vendors; and
- Providing an appropriate amount of time for discussions with vendors during the proposal evaluation process (in accordance with FAR Part 15).

The SEC will conduct communication with vendors in a courteous and consistent manner that honors procurement integrity rules while capitalizing on the value of frequent and useful dialogue with industry. Internally, the SEC will collaborate with the Office of the General Counsel (OGC) to provide guidance, as necessary, regarding the appropriateness of SEC engagement opportunities with vendors to provide proper, clear, and consistent communication.

VII. Publication of Engagement Events

Vendor engagement events, such as industry days, small business and other vendor outreach sessions, pre-solicitation/pre-proposal conferences, etc. shall be posted publicly and updated using the "special notices" function on FedBizOps.

VIII. Training Efforts

All staff with responsibilities in the SEC acquisitions process will avail themselves of continuous training on industry best practices to ensure they are knowledgeable about Federal contracting and effectively communicating with industry. To facilitate and ensure appropriate communications with industry, avoid unauthorized commitments, and to facilitate effective Government/Business relationships, the SEC has drafted rules that govern meetings between SEC Contracting Officer Representatives and Program Managers and industry representatives.

The guidance is included as “Attachment A,” will be posted with the SEC Vendor Communication Plan for the benefit of all SEC COs, CORs, PMs and other SEC employees.

IX. Links to Existing Policies

- Federal Business Opportunities (FEDBIZOPPS) – www.fbo.gov
- Securities and Exchange Commission (SEC) – www.SEC.gov
- National Women’s Business Council (NWBC) – www.Womenbiz.gov
- Minority Business Development Agency (MBDA) – www.MBDA.gov
- System for Award Management (SAM) – www.SAM.gov
- Federal Acquisition Institute (FAI) – www.FAI.gov
- Small Business Administration (SBA) – www.SBA.gov

X. Follow-up Plans to Refine and Improve Vendor Communication:

The SEC will re-visit this Vendor Communication Plan (VCP) 6 months after it is posted to gauge its effectiveness on reaching stakeholders, including COs, Contract Specialists, CORs/PMs and vendors. The SEC will be able to better identify the overall effectiveness of outreach efforts at that time. Revisions to this VCP will be made as necessary.

Attachment A

GUIDANCE FOR MEETING WITH INDUSTRY REPRESENTATIVES *(What SEC Contracting Officers (COs), Contracting Officer Representatives (CORs), and Divisions/Offices and other SEC staff need to know before they meet with vendors and industry representatives)*

SEC Contracting Officers (COs), Contracting Officer Representatives (CORs), Program Managers (PMs), and other staff are encouraged to talk with industry representatives of both large and small businesses so that SEC procurements reflect an understanding of the commercial marketplace. This exchange of information, however, must take place within a framework that treats all vendors (and potential vendors) fairly and impartially. Your CO is your best resource in preparing you for a vendor meeting; always inform your Contracting Officer before meeting with a vendor. The following guidelines will help a SEC PM and other SEC staff members to develop a framework and set of sound business practices when meeting with vendors.

THE GUIDANCE: After the SEC's needs are established and the requirements to satisfy those needs are developed, no exchange with industry and potential vendors shall occur without the permission and without the presence of the Contracting Officer. A procurement begins at the point when the SEC's needs are established and the description of the requirements to satisfy agency need is developed. In meetings with vendors or industry representatives, do not disclose "procurement sensitive" or "source selection sensitive" information; do not disclose the proposal evaluation process or the specifics of an on-going procurement; and do not discuss litigation or pending litigation. *No information shall be released after the SEC's needs are established and the requirements to satisfy those needs are developed without the permission of the CO.*

1. AVOID UNAUTHORIZED COMMITMENTS (i.e., an agreement that is not binding because the Government representative making the agreement lacks the proper authority to enter into that agreement on behalf of the Government). In the case of contracts, only a CO can commit the Government.

Good Practice: End each vendor meeting with the statement: "Nothing discussed in this meeting authorizes you to work, start work, or bill for work. Any understanding on your part to the contrary is a not valid."

2. TREAT ALL VENDORS AND POTENTIAL VENDORS FAIRLY AND IMPARTIALLY.

3. CONDUCT BUSINESS WITH INTEGRITY, FAIRNESS, AND OPENNESS. Not only must the acquisition process have integrity, but the actions of each SEC employee and SEC contractor personnel must reflect integrity, fairness, and openness. Avoid Organizational Conflicts of Interest or even the appearance of a conflict.

4. UNDERSTAND YOUR ETHICS RESPONSIBILITIES. Consult your CO or the SEC Ethics Officer if you have questions or concerns related to ethical conduct or procurement integrity.

5. BEFORE ACCEPTING A MEETING, NOTIFY YOUR CONTRACTING OFFICER. Your Contracting Officer may provide you with information about the vendor, their current contracts with SEC, or if they are active in proposing to a specific procurement. After agency needs are established and requirements to satisfy those needs are developed, **no** exchange with industry and potential vendors will occur without the permission and without the presence of the Contracting Officer. (See “The Rule” above.)

6. CONTROL THE MEETING AND ITS AGENDA. Always prepare and follow a meeting agenda. Before the meeting, identify specific information that you want the vendor to address. You may limit the number of attendees and specify the mix of the vendor’s business development and technical staff to attend.

7. EMPHASIZE THAT THE PRIMARY PURPOSE OF THE MEETING IS FOR THE GOVERNMENT TO LEARN ABOUT THE INDUSTRY AND MARKETPLACE. Ask questions and get an understanding of the advantages and issues associated with a particular approach or business practice. Ask the vendor clarifying questions, but avoid expressing opinions or preferences. The meeting should not be the basis for further action, and should not unintentionally solicit a proposal.

8. ALWAYS MAKE THE INFORMATION YOU PROVIDE THE SAME TO ALL VENDORS. Provide a standard information package to all vendors that provide up-to-date and accurate information about the mission and requirements. **Good Practice:** Provide vendors with information that could properly be published on the SEC public website. You should not provide *other-than-public information* without prior written approval of your CO and Office of the General Counsel (OGC).

9. ENSURE IMPARTIALITY. **Do not** render to, or accept, preferential treatment from any private party (e.g., VIP visitor treatment for vendors such as Government vehicle rides from the airport, officially hosted free dining.).

10. DOCUMENT THE RESULTS OF THE MEETING. Documenting the results and findings of the meeting is a critical part of your market research effort. Be sure to record the date, place, and meeting participants, including their company affiliation and contact telephone numbers/emails. Title this document “Market Research” and record the results in a manner appropriate to the size and complexity of the acquisition.