

Growing Your Business In the Federal Marketplace

How to Legally and Ethically Shape Future Federal Procurements

scale²Market

Agenda

Pre-Solicitation Communications

- What the regulations really say
- Framework for Success
- Pitfalls and Situations to Avoid
- Q&A

Seeking Clarity

Federal employees and contractors misunderstand how to engage in legal and ethical pre-solicitation communications.

Office of Federal Procurement Policy - OFPP

Why allow pre-solicitation communications at all?

- Understand what is available



Why Won't The Government Talk to Me?

- Information is irrelevant
- Information overload
- Not enough time
- Fear of protests

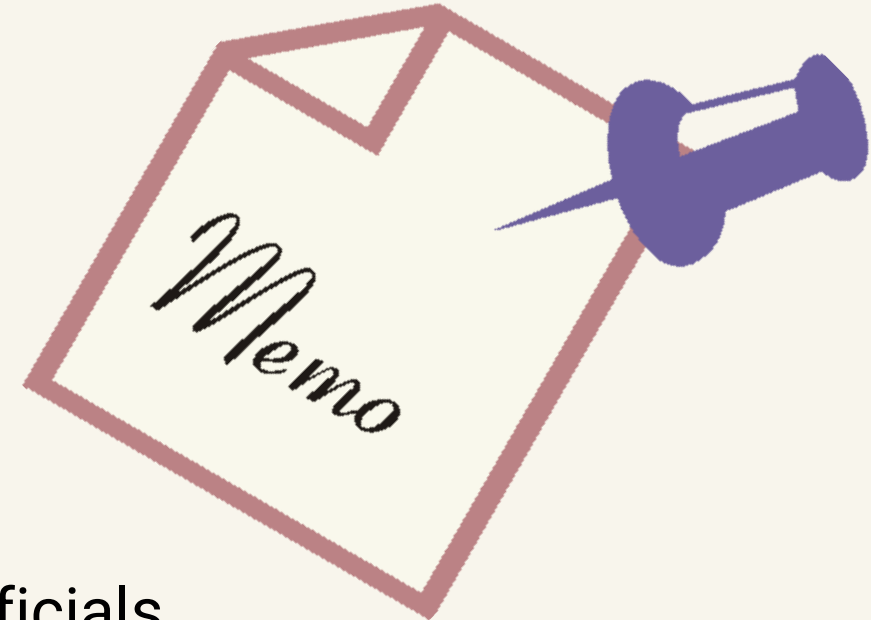
Industry Liaisons

- OMB myth busting memo #4, April 2019
- Government is behind the curve
- President's agenda to modernize



Regulations and Clarifications

- FAR 15.201 & FAR 10
- [OFPP myth busting memos:](#)
 - One on one meetings are lawful
 - Lower probability of protests
 - Provides useful information to government
 - Industry days and conferences add value
 - Exchanges with program and contracting officials are more productive than general marketing research
- **Early and specific input from industry is beneficial**



more... Regulations and Clarifications

- 2016 NDAA Section 887
- Requires FAR Council to issue clear regulatory language to encourage exchanges with industry
- One-on-one meetings are lawful pre-solicitation communications
- Government wants innovative solutions
- Government is required to conduct market research, per FAR part 10



A Framework for Success

- Who?
 - Vendors/Contractors, end users, program managers, contracting office & support personnel, Agency SB office, industry liaisons & others
- When?
 - Any time – all the time; until an RFP is released



A Framework for Success

- What can be discussed?
 - Contract type
 - Contract strategy
 - Acquisition schedule
 - Requirements feasibility
 - SOW/PWS
 - Data requirements
 - Procurement System Input
 - Proposal instructions
 - Supporting documents
 - Industry questions and concerns



A Framework for Success

How to Sell Innovation to the Government

- How is it done?
 - White Papers, Unsolicited Proposals
 - One-on-One meetings
 - Phone calls
 - Draft RFP's
 - RFI/SSN
 - Conferences
 - Public hearings; Industry Days
 - Demonstrations
 - Pilots
 - Site visits



Organizational Conflicts of Interest

- Unfair competitive advantage based on unequal access to beneficial competitive information
- Paid vs Unpaid Advice
 - Paid – can NOT compete for work
 - Unpaid – CAN compete for work
- FAR 9.505-2 ('No OCI will exist')
 - Acting as 'Industry Representative'
 - Gov't supervision and control
 - Multiple input sources
 - No input on crafting SOW or PWS
 - OK to engage in marketing and sales activities



What to Avoid

- Favors in exchange for bidding information
- Conflicts of interest (actual or appearance)
- Impropriety or Bias
- Preferential treatment or collusion
- Contracting officials can't share proprietary information with other vendors
- Unequal access to information



For More Information

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Questions?