

DOE/NNSA Vendor Communication Plan

I. Background

The Department of Energy (DOE) developed this Vendor Communication Plan to address how it will reduce barriers, provide for enhanced communications and promote vendor engagement in its acquisition process. For the purposes of this document, the term DOE includes the National Nuclear Security Administration (NNSA) within DOE.

II. Statement of Agency Commitment

DOE is committed to early, frequent, and constructive communication with its industry partners during the acquisition process. We believe that this communication is critical to every phase of the acquisition process, from market research through contract performance. Accordingly, it is DOE's policy that Contracting Officers (COs) should interpret their responsibilities for information disclosure broadly and disclose the maximum information permitted by law and regulation about Departmental needs to industry during the acquisition process. Of course non-public information including vendors' proprietary data and agency source selection information must always be protected. DOE's commitment to vendor communication extends in a special way to small businesses, Best-in-Class (BIC) and other spend under management (SUM) solution contractors, and those businesses with which DOE has not worked in the past.

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

The Industry Liaison (IL), Ms. Sharon Archer, with support from the Acquisition Innovation Advocate (AIA), Mr. David Leotta, is the senior DOE official responsible for promoting vendor engagement for DOE. The IL and AIA may be contacted at DOE_OAPMPolicy@hq.doe.gov.

IV. Description of Efforts Undertaken or Planned to Reduce Barriers & Promote Engagement

DOE has long sought to encourage appropriate and effective communication with its industry partners during the acquisition process. It has published several guides for use by acquisition personnel, including *DOE/HR-0194 "Let's Talk: Acquisitions and Communications"* and *"Tools for Improving Industry/Government Communications During the Procurement Process"*. These guides provide a wealth of information to acquisition

personnel regarding the available tools to increase vendor engagement, as well as practical “do’s and don’ts” of disclosure.

Despite this consistent guidance and the flexibilities provided by the Federal Acquisition Regulation, a culture of risk aversion continues to exist. The primary barrier to improving communication is simply a reluctance to do so on the part of acquisition personnel, out of fear of protest or otherwise compromising the integrity of the process. Therefore, in order to further encourage responsible communication with industry, DOE plans to increase awareness of the benefits of vendor communication, while increasing its utilization of the following proven techniques and incorporating recent best practices:

(a) Industry Days

DOE periodically conducts industry days and reverse industry days. The former are held in order to allow DOE to explain its overall programmatic needs and mission requirements and to solicit questions from industry. Industry participants learn the status of programs and DOE’s priorities first hand, while DOE can request market information about products and capabilities to inform the development of a successful acquisition strategy. The latter are focused on improving the acquisition process by seeking industry feedback on DOE’s acquisition philosophy and practices such as developing contract incentives or training the workforce.

DOE continues to find new and effective ways to collaborate with industry. The Office of Technology Transitions (OTT) partners with our 17 National Laboratories to conduct several InnovationXLab Summits each year. Industry, universities, manufacturers, investors, and end-users exchange ideas with lab innovators on promising technologies, including artificial intelligence and advanced manufacturing, to build relationships and increase commercialization opportunities at the decision-maker level. The Office of Nuclear Energy (DOE-NE) recently sent over 400 emails to industry inviting them to attend two consecutive Industry Days on its requirement for advanced nuclear technology development. At this event, held in-person and via webinar, DOE reviewed pre-award requirements, provided grant application training, discussed lessons learned from the release of the funding opportunity announcement (FOA), and more. NE plans to hold an annual Industry Day for the life of the award through the year 2022.

(b) Requests for Information and Draft Solicitations

Requests for information are a useful market research tool that DOE utilizes to solicit preliminary information from industry to identify potential sources and capabilities in the marketplace. This information can be critical in developing a realistic acquisition strategy with a high probability of meeting programmatic requirements.

Draft solicitations are often useful for technically complex competitive acquisitions, or when unique contractual approaches are employed. The document should be as complete as possible, containing draft specifications, evaluation factors and key terms and conditions. Industry often provides useful comments and insights that enable DOE to fine-tune the solicitation and maximize the chances of success.

DOE will investigate and consider encouraging the use of emerging social media solutions for pre-award collaboration.

(c) Pre-solicitation & Pre-proposal conferences

Pre-solicitation conferences allow DOE to explain the particulars of a specific acquisition, including anticipated milestones and to answer industry questions. These conferences often provide an effective way of facilitating communications between potential prime and subcontractors. The conferences are especially useful when conducted following the release of a draft solicitation. Attendee lists should be published quickly in order to facilitate teaming (especially useful for small businesses).

Pre-proposal conferences are an excellent opportunity for potential offerors to obtain clarification of doubtful elements of the solicitation and to provide any necessary feedback in order to ensure DOE receives high quality proposals and avoids future problems.

(d) One-On-One Engagement with Industry

Since our industry partners are often (understandably) reluctant to share useful information in a public forum for fear of losing their competitive advantage, one-on-one meetings can be a very effective communications technique for exploring viable offerings beyond the incumbent, especially during the market research and pre-solicitation phases of the acquisition process. They can also be incorporated into pre-solicitation conferences as breakout sessions for increased efficiency and value. It is important to remember that if discussion of potential contract terms and conditions is contemplated, the CO must be included (FAR 15.201(c)(4)).

(e) Business Forecast and Other Vendor Websites

DOE posts upcoming prime contract and subcontract opportunities, as well as expiring contracts, on the public business forecast website at <https://www.energy.gov/osdbu/acquisition-forecast>. This website, maintained by DOE's

Office of Small & Disadvantaged Business Utilization (OSDBU), promotes small business participation in developing innovative solutions for future procurements.

DOE's Office of Environmental Management (EM) has an end state contract model vendor website to engage with industry on its cleanup contracts. EM has streamlined the contracts by better defining discrete scopes of work for site closure or end states, resulting in more realistic and reliable pricing, appropriate incentive structures, and reduced environmental financial liability. EM actively sought and received vendor input while creating the contract model. Communications with industry can be accessed at https://www.emcbc.doe.gov/SEB/em_escm.

(f) Oral Proposals & Presentations

Oral presentations can happen at any time during the acquisition process. They often occur in the form of oral proposals, which allow for portions of an offer to be presented verbally (but representations and certifications must be submitted as required by the FAR, and exceptions to solicitation terms and conditions must be in writing). A major advantage of oral proposals is that they allow for real time exchange of information with an array of subject matter experts. As a best practice, the solicitation should set a standard duration for all vendor presentations, require key personnel to present the portion of work for which they would be responsible, and advise potential offerors that presentations will be recorded to document what was said.

(g) Advisory Notices in Down Selections

When the source selection process has multiple phases, issuing an advisory notice at the end of each phase to vendors who are unlikely to receive an award allows industry to decide whether to continue to the next phase based on DOE's advice on the competitiveness of the offer. This option helps industry avoid the costs of preparing unnecessary proposals and saves DOE the time of evaluating them. It also significantly reduces the risk of protest because offerors do not feel like they were strung along, and industry rather than DOE is responsible for any decision not to continue.

(h) Maximum disclosure at debriefings, and feedback sessions for procurements that don't require formal debriefings

When done well, debriefings and informal feedback sessions for unsuccessful offerors can be valuable tools for increasing effective competition in the future by improving the quality of future proposals. Sometimes COs, out of fear of protest, conduct debriefings in a minimalist fashion, providing only the required minimum elements identified at FAR

15.506(d). While point-by-point comparisons and disclosure of information prohibited from release or exempt from release under FOIA shall not be made, DOE encourages its COs to make their debriefings as meaningful as possible by providing the maximum amount of relevant information. DOE COs are encouraged to use the following debriefing best practices:

- Share the evaluated strengths of an offeror's proposal, along with its weaknesses and deficiencies, in an open and constructive manner. This is often much appreciated and reduces the risk of protest. Offerors spend a considerable amount of time and money on proposal preparation and value feedback that will help them submit a better proposal the next time.
- Focus on the proposal's strengths and weaknesses in relation to the solicitation's evaluation criteria, rather than comparison with other offers.
- Encourage offerors to submit questions in advance to allow time to prepare clear responses.
- Reveal the relative ranking of the debriefed offeror's proposal.
- Hold a pre-debriefing meeting with the DOE acquisition team. Review procedures, establish roles and responsibilities of subject matter experts, and plan what information will (and will not) be shared with offerors in accordance with FAR 15.505, 15.506, and 16.505.
- Develop a checklist and agenda for the debriefing that includes an opening statement and setting of ground rules.
- Consider establishing practice scenarios that illustrate the level of detail needed for meaningful debriefings. Include a list of commonly-asked questions with sample responses that the DOE acquisition team can tailor in advance. Also provide sample techniques for addressing argumentative offerors.
- Determine the debriefing attendees in advance. At a minimum, the DOE CO, technical representative, and legal counsel should participate. Obtain a list of planned debriefing attendees from the offeror (name and title).
- Encourage successful offerors to request a debriefing, as even they (and the Government) could benefit from an improved proposal the next time.
- Conduct in-person debriefings whenever practicable. If the debriefing must be in writing, provide a comprehensive evaluation of cost/price and technical ratings, in consultation with the technical representative and legal counsel.

In the same spirit, DOE encourages its COs to provide meaningful feedback (when requested) in circumstances where debriefings are not required by the FAR, such as simplified acquisitions, or task or delivery order awards placed against Federal Supply Schedules. COs are already required at FAR 8.405-2(d) and 13.106-3(d) to provide a brief

explanation of the basis for the award decision, and this explanation should be sufficiently thorough (while remaining brief) to constitute meaningful feedback.

V. Criteria for Identifying Acquisitions which Must Include Vendor Engagement in the Pre-Award Phase

In order to ensure that appropriate vendor engagement is obtained for the agency's most critical acquisitions, all acquisition plans for contracts expected to exceed \$100M (including options), and for all contracts defined as "Capital Asset Projects" or "Major IT Investments" within the meaning of the DOE Capital Planning and Investment Control (CPIC) program, in conjunction with the investment review processes outlined in DOE Orders 413.3B Chg 5, "Program and Project Management for the Acquisition of Capital Assets" and 200.1A Chg 1, "Information Technology Management" should include a comprehensive vendor engagement strategy that includes at least one industry day or pre-solicitation or pre-proposal conference, allows for a reasonable amount of one-on-one engagement, and allows appropriate time for discussions as needed and in accordance with FAR Part 15 during the proposal evaluation process. Acquisition plans which lack any of these requirements should include a justification as to why the omitted steps are deemed unnecessary.

VI. Publication of Engagement Events

All vendor engagement activities, including industry days, small business outreach sessions, pre-solicitation/pre-proposal conferences etc. should be posted publicly and updated regularly using the "Vendor Collaboration" and "Small Business Events" functions when searching Contract Opportunities on beta.SAM.gov. Depending on the circumstances of the instant acquisition, it may be appropriate to consider additional methods of publication to facilitate the participation of otherwise highly qualified sources who may not be current government contractors.

VII. Roles and Responsibilities in Vendor Communication

a) Contracting Officer (CO): The role of the CO in the vendor communication process is critically important. Typically the CO, in collaboration with the program office will determine which vendor communication techniques are appropriate for the instant acquisition and they will jointly execute the chosen strategies. The CO should especially consider methods that may generate new entrants to the market in order to increase competition, and collaborate with the OSDBU to reach out to small businesses. COs should be aware of the contents of the agency procurement forecast, and ensure that the entry for the

instant acquisition is accurate. After the solicitation is released, the CO must be the focal point for all communications with offerors.

b) Program/Project Manager (PM): The PM is typically the procurement initiator, and has an extensive role in the acquisition process. Regarding vendor communication, the PM is heavily involved in the market research process and will usually provide the technical subject matter expertise in meetings with industry (one-on-one or pre-solicitation conferences). As soon as a need is identified, the PM should inform the CO about the level of vendor engagement needed to conduct effective market research, and assess the expected level of competition and associated need for introducing new entrants to the market. Any pre-solicitation vendor engagement activities should be coordinated with the CO (though the CO need not attend).

c) Contracting Officer's Representative (COR): The COR has an extensive role in the contract administration phase, performing technical oversight functions as delegated by the CO. The COR should always keep the CO informed, and document important events and communications as appropriate. The COR must remember to be cautious and not let communications with the contractor turn into constructive changes to the contract which could increase cost and delay performance.

d) General Counsel: General Counsel serves in an advisory role and seeks to ensure that the acquisition team's actions are in accordance with statute and regulation. Accordingly, counsel should encourage communication to the maximum extent practicable, and advise the acquisition team on what is considered appropriate communications in terms of content, delivery, and methodology.

e) Ethics Officers: Agency ethics officers are a valuable resource available to the acquisition team and are particularly useful in resolving or mitigating potential conflicts of interest and other ethical situations that may arise. DOE includes vendor communications in the annual ethics training to clearly explain what is permissible, not just what is prohibited.

f) Head of the Contracting Activity (HCA): Each HCA or designee serves as an Ombudsman for vendor engagement for their Field/Program Office and is responsible for the overall contracting activity effort to improve engagement with large and small businesses, increase awareness of the need to communicate with industry effectively, and to seek feedback on the agency's outreach efforts on a regular basis. See the list of DOE HCAs at <https://www.energy.gov/management/downloads/doe-heads-contracting-activity-and-procurement-directors>. NNSA HCAs are Oliver Voss, Director, Office of Acquisition Management and Kim Gallegos, Deputy Director, Office of Acquisition Management.

g) Acquisition Career Manager (ACM): The ACM ensures that everyone is informed of training opportunities to improve vendor engagement.

h) Office of Small & Disadvantaged Business Utilization (OSDBU): OSDBU advocates for the increased use of small and disadvantaged businesses in agency procurements. They maintain and publish the DOE Acquisition Forecast which provides extensive information on potential prime and subcontracting opportunities. They host an annual small business conference that is very well attended and offers educational workshops, speakers, and business matchmaking sessions.

i) Acquisition Innovation Advocate (AIA): The DOE AIA, from the Office of Acquisition Management (DOE-MA), promotes and monitors groundbreaking DOE vendor engagement practices and acquisition methods, for reporting to OFPP.

j) Industry Liaison (IL): The DOE IL, also from the Office of Acquisition Management (DOE-MA), works with the AIA, OSDBU, and other personnel identified in this paragraph VII, to develop Agency strategies to increase vendor engagement and refute misconceptions on communicating with industry.

VIII. Training and Awareness Efforts for Employees and Vendors

The Federal Acquisition Institute Training Application System (FAITAS) has a continuous learning module CLM 005, Industry Proposals and Communication, which helps participants develop a better understanding of permissible communication during the acquisition process. All personnel involved in the acquisition process are encouraged to complete this module which is accessible via the FAI website – www.fai.gov.

IX. Links to Existing DOE Policies & Guidance

- DOE/HR-0194 *Let's Talk: Acquisitions and Communications*
http://energy.gov/sites/prod/files/maprod/documents/Acquisitions_Communications.pdf
- *Tools for Improving Industry/Government Communications During the Procurement Process*
http://energy.gov/sites/prod/files/maprod/documents/Tools_for_Improving_Industry_Communications.pdf
- DOE Order 200.1A Chg 1, *Information Technology Management*
<https://www.directives.doe.gov/>

- DOE Order 413.3B Chg 5, *Program and Project Management for the Acquisition of Capital Assets*
<https://www.directives.doe.gov/>
- Acquisition Guide Chapter 7.1, *Acquisition Planning*
<https://www.energy.gov/management/downloads/department-energy-acquisition-guide>
- Acquisition Guide Chapter 15.3, *Source Selection*
<https://www.energy.gov/management/downloads/department-energy-acquisition-guide>