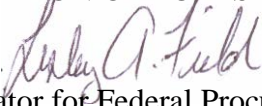




EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

January 5, 2017

MEMORANDUM FOR: CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES
CHIEF INFORMATION OFFICERS

FROM: Lesley A. Field 
Acting Administrator for Federal Procurement Policy

SUBJECT: “Myth-busting 3” Further Improving Industry Communication
with Effective Debriefings

With Federal contract spending totaling almost \$440 billion in Fiscal Year 2015, the Federal government has an obligation to conduct all procurement actions in the most effective and efficient manner in order to deliver the best value to the American taxpayer. 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.¹ Since that time, OFPP has established the Acquisition 360² 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.³

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.⁴ The Federal acquisition workforce and the private sector

¹ *Transforming the Marketplace: Simplifying Federal Procurement to Improve Performance, Drive Innovation, and Increase Savings* (December 2014).

<https://www.whitehouse.gov/sites/default/files/omb/procurement/memo/simplifying-federal-procurement-to-improve-performance-drive-innovation-increase-savings.pdf>.

² *Acquisition 360 – Improving the Acquisition Process through Timely Feedback from External and Internal Stakeholders* (March 2015). <https://www.acquisition.gov/360>

³ In addition to commenting on the rule, the Federal Acquisition Regulatory Council has invited the public to offer suggestions on how to further enhance open communication between industry and agencies.

<https://www.federalregister.gov/documents/2016/11/29/2016-28450/federal-acquisition-regulation-effective-communication-between-government-and-industry>

⁴ *“Myth-Busting”*: *Addressing Misconceptions to Improve Communication with Industry during the Acquisition Process* (February 2011); *“Myth-Busting 2” Addressing Misconceptions and Further Improving Communication During the Acquisition Process* (May 2012).

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.⁵

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.⁶ Despite the numerous benefits associated with an effective debriefing, 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.⁷ 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:

⁵ *Report of the Professional Services Council Acquisition Policy Review Committee (2014); Report of the 2013 Professional Services Council Leadership Commission (2013).*

⁶ The FAR provides for both pre-award debriefings (FAR 15.505) and post-award debriefings (FAR 15.506; FAR 16.505). The FAR identifies when debriefings are required, who has a right to a debriefing, and parameters regarding what information may and may not be shared. This guidance must be read in conjunction with the FAR and corresponding agency supplements. This document does not limit, modify, or affect in any way the substantive or procedural requirements and statutory requirements.

⁷ This memorandum is part of the “myth-busting” series previously released by OFPP: “*Myth-Busting*” *Addressing Misconceptions and Further Improving Communication During the Acquisition Process* (May 2012) and “*Myth-Busting 2*”: *Addressing Misconceptions to Improve Communication with Industry during the Acquisition Process* (February 2011).

- Promoting a meaningful consideration of issues by soliciting vendors' questions, and if applicable, provide the overall general ranking of the debriefed offeror's proposal in relation to the other proposals;
- Preparing government personnel on adequate procedures and overall roles and responsibilities by explaining what is and is not allowed to be discussed in accordance with the FAR;
- Including draft checklists and sample agenda items for both oral and written debriefing formats; and
- Outlining useful tips to address debriefings in complex procurements and how to best engage additional stakeholders such as the program office subject matter experts and general counsel.

To broaden the adoption of best practices and maximize the value of debriefings, OFPP recommends that agencies consider establishing or adopting a debriefing guide, if they do not already have one in place.⁸ In addition, agencies are encouraged to review and address in their guidance the "myths" and misconceptions surrounding the debriefing process as described in the attached Appendix. The Appendix discusses frequently referenced issues by both industry and government, differentiates myth from fact, and provides additional information, including existing best practices, to help agencies facilitate effective and efficient debriefings. Agencies are encouraged to post by March 1, 2017 their debriefing guidance, training tools, and debriefing reference materials to share with other agencies at the following URL:

<https://community.max.gov/x/B4fERg>.⁹ Agencies are further encouraged to share relevant debriefing instructions with current and potential industry partners, including those new to Federal procurement.

Thank you for your commitment to this important matter – please contact Iulia Manolache in OMB OFPP at (202) 395-7318 or [Iulia Z. Manolache@omb.eop.gov](mailto:Iulia.Z.Manolache@omb.eop.gov) for additional questions or feedback.

Attachments:

Appendix– Misconceptions and Facts about the Debriefing Process

cc:

Agency General Counsels

⁸ Agency acquisition officials may wish to solicit the help and input of agency General Counsels and Ethics officers in developing the briefing guidance.

⁹ OFPP plans to promote and share these additional agency best practices via a training webinar or similar event.

Appendix

Misconceptions and Facts about the Debriefing Process

<p>1.</p>	<p>Misconception: “Companies do not really use the information provided in a debriefing to improve their work.”</p> <hr/> <p>Fact: Industry has indicated that offerors are less likely to protest when they understand their weaknesses and have clarity on the source selection outcome.¹⁰ 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.</p> <p>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.¹¹</p>
<p>2.</p>	<p>Misconception: “Debriefings always lead to protests.”</p> <hr/> <p>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.¹² 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.</p> <p>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.</p> <p>Best Practice: Treasury’s debriefing guide includes mock-debriefing scenarios that highlight the comprehensive level of detail contracting officials should present during</p>

¹⁰ Report of the Professional Services Council Acquisition Policy Review Committee (2014); Report of the 2013 Professional Services Council Leadership Commission (2013).

¹¹ NASA Procurement Debriefing Guide (March 2010). <http://www.hq.nasa.gov/office/procurement/regs/pic04-11A.html>.

¹² GAO Bid Protest Annual Report to Congress for Fiscal Years 2015, GAO-16-270SP (December 10, 2015).

a debriefing.¹³ 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 prepared debriefing is the surest way to lose the confidence of the offeror and increase the prospects of a protest.”¹⁴

3.	<p>Misconception: “Debriefings are unpredictable and there is no way for government personnel to prepare.”</p> <p>Fact: A successful debriefing, whether oral or in writing, requires attentive preparation that can be planned with the aid of relevant subject matter experts and can vary with the complexity and the value of the procurement. While an agency may not be able to fully predict a vendor’s exact motivations for requesting a debriefing, there are a number of common-sense assumptions that can be made, such as the likelihood that the unsuccessful offerors seek context to better understand why the proposal was not selected and to gain feedback to strengthen their position in the future. A well-prepared and clearly-organized debriefing will gain the confidence of the unsuccessful offeror by demonstrating that the government’s selection was merit-based, rational, and reasonable. Prior to holding the debriefing, all government personnel attending the debriefing should be informed about the overall process and be made aware of the agenda.</p> <p>FAR 15.505(c)-(d) and 15.506(b)-(c) discuss the authority of the contracting officer in determining the best method for the debriefing. The contracting officer may consider having the technical and program personnel attend the debriefing. The contracting officer should prepare a detailed agenda and outline of information to be presented, gather all of the debriefing materials, draft an opening and closing statement, and confirm that all participants, including those who are new to the debriefing process, are comfortable with the information being presented.</p> <p>Best Practice: The DHS Acquisition Manual (HSAM) supplement contains a debriefing guide which compiles agency-wide debriefing guidance and includes sample materials including a sample agenda, opening statements, responses to offerors’ questions, and written notices.¹⁵ Additionally, the Homeland Security Acquisition Institute (HSAI) hosted a Procurement Innovation Lab learning event addressing debriefing strategy in a multi-step, down-selection involving a large</p>
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¹³ *Lifting the Curtain: “Debriefings”* FAI Media Library, Acquisition Seminar (accessed April 6, 2016). https://www.fai.gov/media_library/items/show/89.

¹⁴ *Department of Defense Source Selection Procedures*, Appendix A: Debriefing Guide (April 01, 2016).

¹⁵ *Department of Homeland Security Debriefing Guide*, Appendix AA (October 2009). https://www.dhs.gov/xlibrary/assets/opnbiz/cpo_hsam.pdf.

	number of offerors. The webinar highlighted that contracting officials may plan and prepare effectively even for a high-volume, high-profile award. ¹⁶
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4.	Misconception: “Contracting officials should provide minimal feedback for procurements conducted under the Federal Supply Schedules or when using simplified acquisition procedures because offerors who participate in acquisitions conducted using these tools understand that agencies are only required to give those offerors a brief explanation for the basis of the award decision.”
	Fact: Providing meaningful debriefings can improve the government’s ability to gain better value from acquisitions conducted using simplified acquisition procedures or through the Federal Supply Schedules. Use of a simplified process does not mean that an offeror can more easily infer the reason for non-selection. Although the risk of protest is lower with smaller dollar acquisitions, benefits such as helping vendors understand how to make their offers more competitive and instilling confidence to participate in future actions can be especially valuable given that small businesses are more likely to bid on these contract actions. FAR Parts 8.405-2(d) and 13.106-3(d) require agencies to provide offerors who request information on awards based on factors other than price alone only with brief explanations of the basis for the award decision. However, this does not preclude agencies from providing offerors with similar or the same type of information agencies would otherwise provide to offerors pursuant to procurements conducted under FAR Part 15. The government’s explanation of why the offeror was unsuccessful may be the only value the offeror receives for its participation and may help mitigate the risk of protest.
	Best Practice: NASA, DOD, and DHS encourage contracting officials using simplified acquisition procedures and the Federal Supply Schedules to provide, whenever possible and feasible, thorough and effective explanation of the basis of award. While agencies recognize the beneficial principles of providing debriefing-like information, instructions recognize the need of contracting officials to evaluate available resources and available staffing and balance the benefits of thorough explanations with the administrative efficiencies of simplified acquisitions.

5.	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

¹⁶ FCL-DHS-9012: *Debriefing Strategy in Multi-step Down-Selections Involving a Large Number of Offerors: A Case Study*, Homeland Security Acquisition Institute.

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.”¹⁷

6. **Misconception:** “To avoid any issues being raised by the other offerors, the government should disclose to the debriefed offeror only its proposal ratings and that it was not selected as the winning proposal – the government should avoid engaging in further discussions or follow-up questions during the debrief.”

Fact: The debriefing is meant to provide a thorough explanation of the basis for the award and should comply with the minimum requirements in accordance with FAR 15.506(a)(1), including an explanation of deficiencies and strengths of offeror proposal; ratings of debriefed offeror’s proposal and successful offeror’s proposal; past performance ratings of the offeror; overall general ranking of proposals when any ranking was developed by the agency during the source selection; and reasonable responses to relevant questions.

A debriefing cannot provide a page-by-page analysis of the offeror's proposal; a comprehensive point-by-point comparison of the unsuccessful offeror’s and the successful offeror’s proposals or a side by side, detailed, rating comparison among the offerors; or a debate on the government's award decision – such disclosures are prohibited per FAR 15.506(e). However, by explaining the deficiencies in an unsuccessful offeror’s proposal, the unsuccessful offeror may avoid repeating the same issues in future proposals. In turn, this may broaden the future field of the competition where the Federal government can obtain better, more responsive offers.

As explained above, successful debriefings instill confidence in the unsuccessful offerors that the government treated all offerors fairly and assure them that the government evaluated all proposals in accordance with the solicitation and applicable laws and regulations.

Best Practice: NASA provides detailed guidance on the content of the debriefings, scheduling the debriefing and providing thorough debriefing materials, including how to accommodate debriefing formats and how to respond to an argumentative offeror. According to the NASA guide, contracting officials should consider quality

¹⁷ Department of Defense Source Selection Procedures, Appendix A: Debriefing Guide (April 01, 2016).

	debriefings conversations from the start of solicitation development through evaluations. ¹⁸ The Treasury debriefing guidance contains “do’s” and “don’ts” that clarify what may and may not be discussed during a debriefing – the Treasury guidance specifically emphasizes that the government can and should provide constructive feedback and clear responses to follow-up questions that are pertaining to the offeror proposal.
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7.	<p>Misconception: “The government should not spend time debriefing the winning offeror – this is not valuable to either side.”</p> <p>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.</p> <p>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.</p>
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8.	<p>Misconception: “All debriefings should be completed in writing.”</p> <p>Fact: Debriefings may be completed orally, in writing, or by any other methods acceptable to the contracting officer. While there is no specific requirement on the manner in which a debriefing should be completed, both agencies and industry have expressed a preference for in-person debriefings. In-person debriefings allow for an open, flexible space where the government and offeror are able to communicate in a productive manner and foster a positive rapport. If financially prohibitive for the offeror to attend a debriefing in person, the contracting officer may consider a phone teleconference, a video teleconference, or a written response. Altogether, the preferences of the offeror should be afforded due consideration, however, the contracting officer maintains and makes the final decision as to the location and methodology for the debriefing.</p> <p>Best Practice: NASA, DHS, and Treasury debriefing guides, as well as DOD policy, encourage in person debriefings whenever practicable, but also promote the use of available technologies to facilitate an effective debriefing. For written debriefing materials, if meeting in person is not an option, the guides recommend inclusion of a comprehensive evaluation of the cost and technical ratings of the debriefed offeror.</p>
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¹⁸ NASA Procurement Debriefing Guide (March 2010). <http://www.hq.nasa.gov/office/procurement/regs/pic04-11A.html>.

	As a best practice, the written debriefing materials should be reviewed by agency general counsel.
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