

Council of Defense and Space Industry Associations
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CODSIA Case 2018-004

Via internet: www.regulations.gov

September 21, 2018

General Services Administration
Regulatory Secretariat Division (MVCB)
2d Floor, Attn: Lois Mandell
1800 F Street, N.W.
Washington, D.C. 20405

Ref: FAR Case 2017-014: Use of Acquisition 360 to Encourage Vendor Feedback

Dear Ms. Mandell:

On behalf of the Council of Defense and Space Industry Associations (CODSIA),¹ we are pleased to submit these comments in support of the Advance Notice of Proposed Rulemaking (ANPR) to amend the FAR to establish a standard survey for obtaining voluntary feedback from actual and potential offerors on Government solicitations and contracts, published in the *Federal Register* on July 23, 2018.² CODSIA supports the ANPR. We do not view the voluntary nature of the survey responses called for in this ANPR as imposing any meaningful time or “paperwork” burden on industry. In our view, any time taken by industry to respond to these surveys is voluntary and will contribute to improving the federal acquisition process.

Several CODSIA associations have been long-standing supporters of the “Acquisition 360” initiative and welcomed the 2015 OFPP action to commence that process. While OFPP’s 2015 action focused on only a selected range of solicitations, and the survey posed only a limited number of questions, we know that it resulted in highlighting significant deficiencies in the acquisition process, including, specifically the debriefing process – which lead to an OFPP “myth-busters” memo and subsequent legislative and regulatory improvements in the debriefing process.

¹ CODSIA was formed in 1964 by industry associations with common interests in federal procurement policy issues at the suggestion of the Department of Defense. CODSIA consists of seven associations – Aerospace Industries Association (AIA), American Council of Engineering Companies (ACEC), Associated General Contractors (AGC), Information Technology Alliance for Public Sector (ITAPS), National Defense Industrial Association (NDIA), Professional Services Council (PSC), and U.S. Chamber of Commerce. CODSIA’s member associations represent thousands of government contractors nationwide. The Council acts as an institutional focal point for coordination of its members’ positions regarding policies, regulations, directives, and procedures that affect them. A decision by any member association to abstain from participation in a particular case is not necessarily an indication of dissent.

² See July 23, 2018 *Federal Register*, available at <https://www.gpo.gov/fdsys/pkg/FR-2018-07-23/pdf/2018-15355.pdf>.

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In our view, regularizing the “acquisition 360” survey process across the entire government and across a broad range of buying activities and acquisitions will provide valuable information to federal agencies and their acquisition leaders that is not otherwise available in such a structured and systemic way. We view the voluntary survey of the pre-award process to be particularly valuable; however, strong consideration should be given to also conducting surveys during the contract administration phase, particularly for large dollar value task orders under multiple-award indefinite-delivery/indefinite quantity (IDIQ) awards. Further, since the survey is voluntary for industry, we do not expect it to impose a time or paperwork burden on industry.

Comments on Specific Survey Questions

The July 23, 2018 *Federal Register* notice provided a link to specific survey questions to be used in conjunction with a subsequent rulemaking,³ and solicited feedback on the survey questions. We are pleased to provide the following comments.

Three questions in the “solicitation phase” section address the evaluation factors; they should follow each other. In addition, the question about “innovative solutions” could be clarified to address the “ability to propose innovation as part of your proposal.” There should also be a question dedicated to the quality and timeliness of the government’s response to Requests for Information (RFIs) or pre-proposal inquires. Consideration should be given to adding a question or two about the effect of any local rules or procedures (as well as government-wide practices) on the acquisition. Finally, the survey should have the ability to include a narrative for responses; this short narrative may provide context for the government when reviewing survey responses. In addition, the survey questions should align with the policy topics identified in proposed FAR 42.1401(b).

Finally, consideration should be given to adding a validation question, such as whether the respondent submitted a proposal for the specific solicitation, and if not, add a comment box to provide an opportunity to explain why no proposal was submitted in response to the solicitation.

Comments on Additional Questions

In addition, the July 23, 2018 *Federal Register* notice solicited comments on additional questions. We are pleased to provide comments on those questions below.

Q1: Benefits to industry and government.

There are more than 600,000 federal contractors registered in SAM. Agencies issue thousands of solicitations annually. Only a small number of those registered contractors,

³ See <https://www.acquisition.gov/360>

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however, belong to organizations, such as the CODSIA member associations, that routinely engage in advocacy efforts to improve the acquisition process – either for specific buying activities or for the government as a whole. Yet many of these vendors have deep experience in the federal acquisition process and would willingly share their perspective on the process if given a structured process to do so. Thus, an “acquisition 360” survey would provide government officials with valuable external commentary on the government’s solicitation process that is not otherwise readily available. The benefits to the government arise from the collective insight these surveys would provide about industry’s views and experiences that could lead to improvements in the buying agencies’, and the government’s, acquisition process. For industry, these surveys will provide a low-to-no cost mechanism to highlight to the government what works and what doesn’t work in the acquisition system. Additionally, the survey will provide industry with a needed avenue to communicate positive and negative feedback.

Q2: Is the approach effective?

Among the most effective approaches is in-person feedback sessions that allow the government to hear ideas and implement them prior to a solicitation release. In addition to in-person meetings, surveys can be an effective, and low-cost, means for obtaining industry perspectives on how the acquisition process is working and where improvements can be made. These surveys are not – and should not be viewed as – the exclusive method agencies use to obtain feedback from vendors. But they could provide for a systematized process to obtain information over a long-period of time from a broad cross-section of knowledgeable vendors who demonstrate an interest in improving the acquisition process. No other mechanism exists to capture vendor perspectives on specific acquisitions. Using specific screening questions, agencies can validate that respondents were aware of the specific solicitation requirements – even if one or more of them chose not to respond to an opportunity. There are additional considerations if surveys are conducted during the contract administration phase, in part because of the likelihood of capturing data on fewer affected companies. Industry would still welcome a review of contract administration and project management post-completion. Nevertheless, conducting structured “acquisition 360” surveys, even at the award phase of the acquisition lifecycle, is still valuable and they should be deployed.

Q3: How long will it take to complete the survey?

It is impossible at this phase of the rulemaking process to effectively estimate the exact amount of time it will take any one organization to complete the survey because of the number of undecided variables, such as the number of survey questions, the degree to which survey respondents choose to add qualitative narrative, and the number of vendors (relating to pre-award reviews) that volunteer to respond. Those that choose to respond, however, will generally be very familiar with the solicitation and will not need to collect or organize statistical data. Thus, as was evident from the limited experience under OFPP’s

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2015 initiative, the time and “paperwork” burden should be minimal. To more precisely assess the time parameter, however, as part of future surveys, respondents could be asked to provide an estimate of the time it took them to respond.

Q4: Estimate the benefits or burdens to actual or potential offerors.

As discussed in response to Q3 above, because of the number of undecided variables, it will be difficult to estimate the number of voluntary respondents and the individual burden created by such responses. There is no direct benefit to the vendors who respond to the survey but the information they provide will be one of the few sources of structured feedback the buying agency will receive on the acquisition process and on how the buying activity conducted the specific acquisition. Industry believes that such feedback and data can be invaluable to the government recipients. Benefits may only be realized if innovative suggestions gathered from surveys result in actual improvements in future solicitations. Surveys could also help provide metrics on these innovations.

Q5: Should information be available for industry review? How should change be considered?

Information should be provided to industry to review the results of feedback and discuss any reforms that will be implemented. Depending on the specific questions used, most of the questions should be focused on how the buying activity conducted a specific acquisition – and that information would be of little general applicability. We are aware of limited past efforts by some to try to “rate” contracting officers or contracting agencies based on a self-styled scorecard of agency attributes, with limited value. Nevertheless, agency acquisition leaders would and should be interested in how a buying office is conducting their acquisitions. When coupled with internal performance and process reviews, these voluntary industry survey responses can provide an important validation (or invalidation) of a buying activity’s behaviors. In addition, the industry surveys can highlight local or FAR-based ambiguities in the conduct of procurements, such as surfacing the widespread inconsistencies in debriefing during the OFPP 2015 initiative. We strongly encourage buying organizations to analyze the survey data and regularly share their analysis with the local vendor communities, interested associations, and with other appropriate private sector organizations such as Procurement Technical Assistance Centers (PTACs).

With respect to changes based on data submitted, survey questions should be evaluated at least semi-annually at the national and local levels to ensure the surveys are eliciting useful responses from the vendor community; and, that evaluation should be broadly shared with both the government and the private sector acquisition community. Broad-based acquisition questions and “verbatim” should be reviewed by the agency’s policy organization with the same objective. To determine whether changes to the acquisition process should be made based on the data submitted, we strongly encourage agency

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policy organizations to analyze the survey data and regularly share their analysis with interested associations, with other appropriate private sector organizations such as PTACs, as well as using other publication mechanisms, such as the *Federal Register*, to solicit further public input about potential process or regulatory changes.

Q6: Should surveys differ by type of company or type of acquisition?

We do not recommend that surveys differ by type of company. For surveys focused on the buying activity's pre-award process, all offerors and prospective offerors should be encouraged to respond to the survey.

The surveys should differ by type of acquisition. We recognize that surveys will have to have additional (or unique) questions based on the type of acquisition if it is to provide meaningful and actionable information to the buying activity. An Invitation For Bid (IFB) involves a different acquisition process than a Cost-Reimbursement or Time & Materials (T & M) contract type acquisition, even though core questions should be identical across all contract types.

Q7: Is voluntary opportunity a burden?

As noted in response to other questions above, based on the information available to date, we do not view this voluntary opportunity as imposing a time or paperwork burden on industry.

Q8: Would a hyperlinked "button" on FedBizOpps facilitate responses?

We encourage the FAR Council to use many different mechanisms to notify offerors and potential offerors (and contract awardees for contract administration surveys) about the voluntary survey opportunities. A hyperlinked "button" on FedBizOpps is one such mechanism. Other approaches could include posting information on the contracting agency's acquisition website, including a reminder in the contracting officer's cover letter accompanying a specific solicitation, as well as reminders at "industry day" sessions. Those industry day sessions are also a perfect opportunity for acquisition leaders to inform registrants of the success in using the survey and what the organization has learned from past surveys (and other internal and external reviews) about the agency's acquisition process.

Q9: Answers Remain Anonymous

We support having the responses come in anonymously, as provided in the proposed clause 52.xxx-xx. We also support including the solicitation number in the survey as a validation question and reference point, but the Product Service Code is not necessary. The government should review all of the submissions received, even if only one or two

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responses are received; as the respondent(s) may not have submitted a proposal in response to the solicitation, and their perspective may be among the most valuable received.

Q10: Ensure data quality

We have no comment on additional steps to ensure data quality.

Comments on Specific Regulatory Provision

We offer the following additional comments on the specific draft provisions included in the *Federal Register* notice.

FAR 5.407 Feedback on Pre-award Process and Debriefing

We recommend adding language that makes it clear that there are various techniques to solicit industry feedback that buying activities should use in addition to these voluntary surveys.

FAR 42.1401 Policy

As noted above under the comments on the survey questions, the objectives identified in 42.1401(b) should be aligned with the survey questions on these topics. They are not aligned in the ANPR.

Clause 52.xxx-XX Acquisition 360 Voluntary Survey

We support the simple and straightforward formulation of the solicitation provision. As discussed above, we encourage expanding the coverage to include contract administration surveys, as well. We would support adding an appropriate cut-off date for survey responses – such as 30 or 45 days after the award decision is announced (irrespective of whether a protest is filed).

Conclusion

CODSIA strongly supports the FAR Council moving forward expeditiously with a proposed rule that will develop a regularized, structured, and systemic “acquisition 360” voluntary industry survey from prospective and actual offerors concerning the solicitation process. We see similar value with a voluntary industry survey focused on the contract administration phase, particularly for multiple-award IDIQ contracts. We appreciate the opportunity to respond to the specific proposed survey questions and the additional questions posed in the *Federal Register*. We do not view the voluntary survey as imposing any “paperwork” burden on industry.

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Thank you for your consideration of these comments. If you have any questions or need any additional information, please do not hesitate to contact Alan Chvotkin, who serves as CODSIA's project manager for this case. He can be reached at (703) 875-8148 or chvotkin@pscouncil.org.

Sincerely,



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