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VENDOR COMMUNICATION PLAN

This Vendor Communication Plan represents a commitment by the U.S. Nuclear Regulatory Commission (NRC) to promote increased dialogue with the vendor community prior to awarding contracts.

Introduction

Communications with potential suppliers should occur early and frequently to gain better product and service information. This is the subject of the Office of Federal Procurement Policy's guidance issued to Federal agencies on February 2, 2011.

Increased emphasis on frequent information exchanges with industry is intended to improve the quality of the agency's market research efforts, and should be conducted in a fair, level, and transparent manner. While recent attention has been on expanding dialogue with the vendor community, this is not a new requirement. In fact, the Federal Acquisition Regulation (FAR) 15.201 encourages such exchanges between the Government and interested parties, from the earliest identification of a requirement through receipt of proposals.

Agency officials are encouraged to engage in more frequent information exchanges with vendors, particularly during the pre-solicitation phase, especially for high dollar, more complex procurements, so long as sensitive or proprietary information is protected on behalf of the Government and vendors alike. Exchanges with the public can be very beneficial and result in: (a) greater clarity of agency requirements; (b) increased awareness of industry products and services; (c) better business decisions made by vendors about their private sector investments in products or services available to the agency; (d) increased competition, including greater use of small businesses in subcontracting opportunities; (e) greater use of small business set asides; (f) more favorable pricing; (g) increased cost savings; (h) more realistic expectations about marketplace capabilities; (i) higher quality contract deliverables; and (j) fewer performance problems, to name a few.

Proper communication exchanges with vendors can add significant value to and create efficiencies in: solicitation development, proposal preparation, proposal evaluation, discussions, and contract award processes.

The NRC is committed to:

1. Engaging in timely, constructive and professional information exchanges with the vendor community, with an emphasis on high dollar, complex procurements.

2. Ensuring that small businesses and other businesses alike are included in communications about agency requirements through agency postings and vendor outreach efforts, in coordination with the agency's Small Business Program, Office of Small Business and Civil Rights.

3. Reducing unnecessary communication barriers will include overcoming any negative stigmas in the agency associated with government and vendor dialogue, through education and awareness campaigns (i.e., town hall meetings with CORs, e-mail messages, SharePoint resources). Specifically,

   - NRC will address concerns that agency staff may have about meetings with vendors, particularly in one-on-one situations, regarding procurements.

   - This Vendor Communication Plan serves as the cornerstone for agency guidance governing future engagement opportunities with the vendor community, and will be updated annually and disseminated to employees, including CORs, to ensure common understanding, consistent application, transparency, and fairness.

   - The agency will provide guidance to NRC employees on the conduct of communications with vendors and disseminate best practices to employees. In addition to ensuring that vendor communications are conducted in a manner that is proper and beneficial, this education campaign will help assuage concerns that inhibit communication with vendors.

4. Reducing unnecessary barriers to attract new vendors and enhance competition, especially where there is a pattern of receiving only one quotation or proposal. General examples of barriers to competition may include: (a) overly restrictive statements of work (SOW) and/or evaluation criteria, (b) short proposal response times, (c) insufficient market research, and (d) highly specialized work requirements in the nuclear industry. Efforts to reduce such barriers include:

   - NRC's Acquisition Instruction number 96-06 requires contract specialist to note any reasons why only one proposal or quote was received under FSS schedule purchases. Time permitting, the specialist seeks additional quotes or grants additional time for the preparation of quotes. This similar process will also be applied broadly to any situation where only one proposal or quotation is received.

   - NRC's Management Directive 11.1, "NRC Acquisition of Supplies and Services," discourages restrictive SOWs and solicitations, and the agency's April 2011 "*Acquisition Guidebook for Project Officers and Project Managers*" discourages unnecessary barriers to competition. Additional information will be provided to employees in the form of training and office communications to inform them of

methods to reduce barriers to competition, including the use of overly restrictive evaluation criteria.

- Internal guidance has been implemented to discourage short proposal response times with sensitivity to requesting submittal of proposals near major holidays.

- NRC's Division of Contracts (DC) has issued checklists and templates to improve the process for documenting, screening, and approving sole source and limited source justifications. NRC's "*Acquisition Guidebook for Project Officers and Project Managers*" includes sample templates for Limited Sources Justifications and Justifications for Other Than Full and Open Competition (JOFOC). Also, a checklist for JOFOCs was included in the April 2011 Guidebook and issued separately to DC staff on August 3, 2011.

- NRC has developed a market research brochure located on its SharePoint website and requires Project Officers and Project Managers to take mandatory on-line training on this topic.

- In addressing highly specialized requirements, NRC engages in one or more of the following activities during the pre-solicitation phase, including:

    - Developing SOWs to limit the use of design;

    - Issuing sources sought notices to identify qualified firms;

    - Determining through market research whether small businesses are capable of performing the requirements;

    - Determining whether the SOW can be reasonably divided between general and specialized functions, for possible small business set-aside opportunities or open market competition; and/or

    - Encouraging teaming arrangements, with an emphasis on small business utilization.

- NRC has internal oversight committees that regulate and direct the agency's acquisition process and types of purchases. Specifically,

    - NRC's Procurement Oversight Committee reviews all agency acquisitions valued at $1 million and above. This higher level approval process ensures that a rational basis exists for the design and award of agency procurements and discusses matters concerning a variety of topics including, but not limited to, potential barriers to competition, contract type, performance-based contracting, duplication of services, use of Enterprise Wide Contracts, strategic sourcing, small business goals, and addresses any compliance matters, etc.

- NRC's Directorate for Strategic Acquisition was created in 2011 to lead the NRC's 21st Century Acquisition Program, consisting of strategic acquisition and implementation of the Financial Accounting and Integrated Management Information System. The Directorate is responsible for establishing portfolio councils representing a cross section of the agency to procure goods and services in a more strategic and targeted manner.

5. Identifying in the NRC's Forecast of Contract Opportunities http://www.nrc.gov/about-nrc/contracting/forecast.html which procurements are likely to involve opportunity for additional communication with industry and publicizing communication engagement opportunities on the Federal Business Opportunities website (https://www.fbo.gov/), including pre-solicitation and pre-proposal conferences for high dollar, high-risk, complex programs, or those that fail to attract new vendors during re-competitions.

6. Prioritizing engagement opportunities for: (a) High risk, complex programs, and (b) solicitations that fail to attract new vendors during re-competitions. Specifically, NRC employees are encouraged to share as much information as reasonably and legally possible with the general public to explain agency requirements and seek public comment. High risk, complex programs should be given high priority when scheduling meetings and conferences with the general public. This approach ensures public awareness and transparency for planned agency procurements. Early and frequent vendor participation is critical in developing effective acquisition strategies, conducting efficient competitions, and achieving programmatic success. An aggressive outreach effort with vendors is also an effective strategy in addressing situations where agency re-competitions fail to attract new vendors, especially small businesses.

7. Protecting proprietary information contained in offerors' proposals and other information obtained during the source selection process, including preventing inadvertent release through the Freedom of Information Act (FOIA) process or divulging vendors' confidential information or source selection information to those without a legitimate need-to-know.

Communicating early with potential offerors [traditional and non-traditional vendors] promotes competition and enhances NRC's ability to obtain quality supplies and services more efficiently. NRC provides the public with access to its annual Forecast of Contract Opportunities via the agency's external website. The NRC Forecast is a resource to ensure that industry is aware of upcoming business opportunities with the NRC. Part I of the NRC Forecast includes projections of all anticipated commercial contract opportunities exceeding $25,000 and potential commercial interagency contract opportunities, Part II of the NRC Forecast includes projections of all anticipated modifications to existing acquisitions, and Part III includes a list of the NRC's current and active contracts exceeding $25,000.

NRC also engages the vendor community at pre-solicitation and pre-proposal conferences, particularly for large information technology procurements, and will continue to do so. NRC sponsors and attends quarterly outreach meetings ("Quarterly Business Seminars") with the vendor community to engage them on acquisition-related topics of interest to them. For information concerning upcoming Quarterly Business Seminars, please visit:

http://www.nrc.gov/about-nrc/contracting/small-business/meet-greet-seminars.html. DC employees are encouraged to post meeting schedules and invitations for engagements with the vendor community on https://www.fbo.gov/ (i.e., pre- and post-solicitation conferences).

NRC also frequently attends events sponsored by the Montgomery County Chamber of Commerce to engage the business community and stimulate business activity in Montgomery County, Maryland.

The agency will continue working collaboratively to increase communication efforts and eliminate unnecessary barriers that otherwise prevent the NRC from engaging in meaningful and responsible dialogue with industry suppliers. This entails gradually altering a culture that has been taught for many years that it is safer to limit contact with contractors rather than engaging them for fear of a protest or appearance of a conflict of interest. NRC officials are to use sound business judgment and adhere to regulatory and statutory requirements when engaging vendors. Communication with a wide and diverse audience, including businesses of all sizes, is often the best overall strategy to ensure fair and equal treatment while disseminating information and sharing ideas to serve mutual interests.

Agency communication with vendors will be conducted in a courteous and cohesive manner that honors procurement integrity rules, while capitalizing on the value of frequent and useful dialogue with industry. DC, in collaboration with the Office of the General Counsel (OGC), will provide internal guidance, as necessary, regarding the appropriateness of agency engagement opportunities with vendors to ensure proper, clear and consistent communication.

Accordingly, acquisition plans for high-risk, large-dollar value ($10 million and over), and complex acquisitions of products and/or services must include a comprehensive vendor engagement strategy that:

- includes at least one industry day or a pre-solicitation or pre-proposal conference;
- allows for a reasonable amount of one-on-one engagement [subject to the conditions set forth in this plan];
- allows time for discussions, as needed and in accordance with FAR Part 15, during the proposal evaluation process; or
- requires a written justification to the file as to why those steps are unnecessary or not feasible.

However, Contracting Officers (CO) may apply any or all of the techniques indicated above (below the $10 million threshold) if the CO determines that the acquisition warrants or may benefit from increased vendor engagement.

In addition, COs should include an acquisition milestone for discussions for new procurements valued in excess of $1 million, regardless of whether discussions are anticipated.

By planning in advance for the possibility of discussions and incorporating them into acquisition milestone plans, the agency maintains the necessary flexibility to raise and resolve important

issues and ensures that time constraints do not dissuade COs from engaging in discussions when discussions would otherwise be advantageous to the NRC.

Engagement events include industry days, small business outreach sessions, and presolicitation and preproposal conferences. Solicitation question and answer sessions are posted and updated regularly, typically but not exclusively, using the existing "special notices" function on the Federal Business Opportunities website https://www.fbo.gov/.

The NRC also encourages the use of technologies, such as wiki, to help: (1) publicize communication and engagement opportunities with the public; (2) improve collaboration with vendors by allowing instant feedback on acquisitions and process improvements; and (3) promote transparency.

Roles and Responsibilities of Agency Officials

- Contracting Officer (CO) – Has the ultimate authority to determine the appropriateness, frequency and degree to which the NRC engages the public with respect to planned or pending procurement actions. Once the solicitation has closed, the CO is the sole focal point for requests from the public on procurement matters. Generally serves as the Source Selection Authority in awarding contracts and is responsible for leading or facilitating communication engagement activities in the DC and Regional Offices. Establishes and maintains the ground rules for information sharing and ensures high integrity and fairness during all phases of the acquisition process. Uses information gained through the vendor communication exchange process to influence solicitation requirements and source selection process, including contract type, level of small business participation, multiple awards, payment structure, evaluation criteria, etc. Collaborates with OGC and Small Business Program representatives in addressing industry concerns or requests, including requests for one-on-one meetings. Addresses efforts that will be undertaken to remove barriers to competition. Attends vendor communication meetings, as appropriate, to better understand industry capabilities and requirements in order to enhance the Government's solicitation requirements. Under the Competition in Contracting Act, 41 U.S.C. § 253(a)(1)(A), COs have a duty to promote and provide for competition and to provide the most advantageous contract for the Government. Therefore, COs must be proactive and take any necessary steps or actions to maximize competition.

- Program Manager – The functions of this position are subsumed in the COR/Project Officer (PO) role.

- Contract Specialist – Supports the CO in all aspects of the procurement process. Attends communication exchange meetings and may represent the CO. Actively seeks out engagement opportunities with industry, where feasible, and engages in vendor outreach activities. Attends vendor communication meetings to better understand industry capabilities and requirements in order to enhance the Government's solicitation requirements, in coordination with the CO. Assists the PO in taking minutes during one-on-one vendor meetings or other types of exchanges with industry and documents the file.

- Contracting Officer's Representative (COR) – Plans and coordinates communication exchange activities with the CO and Contracting Specialist. Takes minutes during one-on-one vendor meetings or other types of exchanges with industry. Uses information gained through the vendor engagement process to enhance the quality of agency requirements and budget estimates. Attends vendor communication meetings to better understand industry capabilities and requirements in order to enhance the Government's requirements contained in the SOW, Performance Work Statement, or Statement of Objective. Note: At the NRC, a COR has the title of PO or Project Manager (PM) and carries out similar responsibilities. The different titles are used interchangeably throughout this Plan and are used synonymously.

- Office of the General Counsel (OGC) – Provides guidance and opinions to agency officials regarding proper conduct of interactions with industry.

- Ethics Officer – (At the NRC, this function resides in the OGC.) Provides guidance and feedback to ensure that issues concerning Organizational Conflicts of Interest are addressed and do not unnecessarily impede proper engagement between the agency and vendors. Provides guidance to ensure proper business practices, procurement integrity, and avoidance of personal conflicts of interest. Includes matters concerning vendor communication in training seminars or briefings.

- Office of Small and Disadvantaged Business Utilization (OSDBU) – (At the NRC, the OSDBU function resides with the Small Business Program, Office of Small Business and Civil Rights.) Is responsible for the agency's Forecast of Contracting Opportunities. Negotiates agency small business set-aside and subcontracting goals with the Small Business Administration (SBA) and works in close collaboration with offices in meeting annual NRC small business goals established by the SBA. Conducts small business outreach conferences and meetings to assist businesses in understanding agency business practices and procedures and small business contracting opportunities.

Communication with Industry Prior to Receipt of Quotations or Proposals

Sharing information with vendors and engaging in open exchanges and dialogue during the early stages of procurements can provide unique insight from industry that could improve the quality of agency requirements and processes. This type of interaction could enhance competition and lead to efficiencies in the acquisition process and other positive outcomes that benefit all concerned.

One-on-one meetings are encouraged in order to facilitate open information exchanges either with a single vendor or with a small group of vendors. Regardless, they must be conducted in a fair and transparent manner and be well documented. If a COR/PO would like to hold one-on-one meetings, they must contact the CO in advance.

The CO will determine whether the PO or a DC staff member should attend (depending on the unique circumstances) and whether there are any issues that should be reviewed or addressed in advance of such meetings. This approach will serve to safeguard the integrity of the procurement process.

The FAR includes the following methods for engaging in early exchanges between Government and industry:

- industry or small business conferences
- public hearings
- one-on-one meetings with potential offerors
- pre-solicitation notices
- draft requests for proposals (RFP)
- requests for information (RFI)
- pre-solicitation or pre-proposal conferences
- site visits
- market research conducted in accordance with FAR Part 10

FAR 15.201(f) emphasizes that fairness to all prospective vendors must always be maintained and serve as a guide in dictating the scope and nature of the dialogue and assure a level playing field. Essentially, any information shared by NRC with a vendor during one-on-one meetings affecting the preparation of proposals under a competitive solicitation must be made publicly available as soon as possible. Otherwise, the agency's efforts at early communication may be counterproductive and foster an unfair competitive advantage for a prospective offeror. Conversely, any interactions between the agency and a prospective offeror that concern the firm's "confidential" business strategy must not be disclosed to the public, as such communications are protected from disclosure by Federal law and regulation. The agency should be candid with vendors about what information can be shared with the general public to ensure confidentiality while promoting transparency and openness.

Market Research

Market research is the foundation of an effective acquisition. It is the process of collecting and analyzing information about the capabilities within the marketplace to satisfy the Government's needs. It can identify industry trends in the marketplace, emergent technologies, and the development of new products and services.

Information gained from market research can help shape a solicitation to ensure a clear definition of the requirements while reducing unnecessary barriers to competition. Market research is also used to obtain information on commercial vendors, recent pricing information, and available off-the-shelf items capable of meeting NRC's requirements.

FAR 10.002 states: "Acquisitions begin with a description of the Government's needs stated in terms sufficient to allow market research. Market research is then conducted to determine if commercial items or non-developmental items are available to meet the Government's needs or could be modified to meet the Government's needs."

<u>According to FAR Part 10, Market Research is Conducted</u>:

- Before developing new requirements documents for an acquisition by that agency.

- Before soliciting offers for acquisitions with an estimated value in excess of the simplified acquisition threshold [$150,000].

- Before soliciting offers for acquisitions with an estimated value less than the simplified acquisition threshold when adequate information is not available and the circumstances justify its cost.

- Before soliciting offers for acquisitions that could lead to a bundled contract (15 U.S.C. 644(e)(2)(A)).
- Before awarding a task or delivery order under an indefinite-delivery/indefinite-quantity (ID/IQ) contract (e.g., GWACs, MACs) for a noncommercial item in excess of the simplified acquisition threshold (10 U.S.C. 2377(c)).

- On an ongoing basis in order to take advantage (to the maximum extent practicable) of commercially available market research methods to effectively identify the capabilities of small businesses and new entrants into Federal contracting that are available in the marketplace for meeting the requirements of the agency in furtherance of —

    - A contingency operation or defense against or recovery from nuclear, biological, chemical, or radiological attack; and

    - Disaster relief to include debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities. (See FAR 26.205).

Information Types

The following information is not intended to be all-inclusive; rather, it is intended to serve as a basic framework for appropriately communicating with industry. This information is intended to support the engagement efforts of contracting and project/program personnel to ensure that communications with industry are appropriate and follow applicable Federal laws and regulations. Prior to engaging industry, acquisition personnel should consider the prohibitions and restrictions that may apply to the situation, including restrictions contained in the FAR and other laws and regulations (procurement integrity, FOIA, etc.). If the COR/PO is unsure about an appropriate response to a request for information or whether he or she should attend a meeting with industry, the COR should contact the CO or an OGC attorney for guidance.

Public Information:

As a Government official and representative, a COR/PO may share information with industry that is available to the public. The following types of information are publicly available and are not considered confidential:

- Information concerning the identity and scope of work of other Government contracts.

- Information that the contractor has previously disclosed to the public.

- Information reproduced from public documents, such as RFPs or other publically available NRC documents or publications.

- Information concerning the identity of the incumbent contractor and the aggregate cost for the Government contract, as such information is posted on FedBizOpps at https://www.fbo.gov/.

Sensitive or Proprietary Information:

The following types of information must be treated as confidential, assuming the information was not made public by the Government and disclosure is not otherwise required by law, statute or regulation:

- Information that would disclose a firm's approach to performing contract work.
- Information that would disclose a firm's plan to manage a contract, including subcontracting.
- Information concerning a firm's relevant experience and expertise, except for general information regarding the firm's Government-sponsored contracts, grants or agreements that is public information.
- Information concerning the identities or qualifications of specific employees, consultants, subcontractors, and subcontractor employees that a firm proposes to use in performing the contract work.
- Information concerning a firm's proprietary processes, devices, software, organization of reports, analyses, etc.
- Information concerning a firm's accounting methods or practices.
- Information that would disclose a firm's labor rates, salaries, overhead costs, general and administrative costs, fee or profit policies, and amounts.

Training efforts for employees will include the dissemination of internal guidance and feedback to ensure effective use of communication approaches with the vendor community. Information to facilitate public awareness for vendors will include postings on the Federal Business Opportunities website (https://www.fbo.gov/), agency website, or through other means (i.e., brochures).

One-on-One Meetings with Potential Offerors

FAR 15.201(c)(4) – "Exchanges with industry before receipt of proposals," specifically authorizes one-on-one meetings between the Government and potential offerors.

At the NRC, maintaining a high level of integrity and ethics is central to our ability to conduct fair and transparent acquisitions, as well as garner the public's trust. That said, the agency will look for appropriate opportunities to engage in more one-on-one communications with interested vendors as part of its market research efforts to obtain valuable feedback regarding agency solicitations. One-on-one meetings with vendors could provide the agency with a greater

understanding of the marketplace and better insight into possible solutions to agency needs and problems and contribute to achieving best value in procurements.

Interaction is regulated by the FAR to provide for fair and equal treatment as well as to support designated socio-economic programs. Over the years, these regulations have been interpreted differently by agencies, and many have interpreted them very strictly in fear of violating Federal regulations. The threat of a Government General Accountability Office protest or possible scrutiny from the Office of the Inspector General have contributed significantly to the conservative approach used by many acquisition officials throughout the Federal Government. However, resorting to less communication with the vendors with whom agencies depend upon for their goods and services seems counterintuitive and may be counter-productive from a best value perspective.

Prior to receipt of proposals, COR/POs and COs may meet with interested vendors one-on-one as part of market research, especially in situations where there is a significant gap in information or knowledge on the Government side that would benefit from such meetings. One-on-one meetings must be conducted in a fair and transparent manner and be sufficiently documented for the contract file and labeled "Sensitive Information". As mentioned above, if a COR/PO would like to hold one-on-one meetings with vendors, he or she must contact the CO in advance. The CO will determine whether the COR/PO should attend the meeting and whether a DC staff member should also be present. Providing advance 43 notice permits the CO or OGC to assess whether issues exist that might otherwise undermine or compromise the integrity of the procurement process. This approach will serve to safeguard the integrity of the agency's procurement process while fully gauging the impact of information and suggestions on the NRC's technical requirements, cost/price features of solicitation, and terms and conditions.

Agency officials should also maximize opportunities for public informational meetings, including pre-solicitation or pre-proposal conferences, to discuss the Government's requirements and solicit input from the vendor community.

Should issues or information warrant sharing with prospective offerors, the CO will post the question and answers on https://www.fbo.gov/ or other appropriate website to ensure adequate transparency and openness.

Links to NRC Contracting Information Include:

Contracting Opportunities
http://www.nrc.gov/about-nrc/contracting.html

Forecast of Contract Opportunities
http://www.nrc.gov/about-nrc/contracting/forecast.html

NRC Acquisition Regulations (NRCAR) – 48 CFR Chapter 20
http://www.nrc.gov/about-nrc/contracting/48cfr-ch20.html

Small Business Program
http://www.nrc.gov/about-nrc/overview.html

Small Business Contracting Programs
http://www.nrc.gov/about-nrc/contracting/procure.html

The NRC will conduct a sample survey within 6 months of the posting of this Plan with stakeholders, including COs, Contract Specialists, CORs/POs and vendors, to gauge the overall effectiveness of outreach efforts. Revisions to this Plan will be made as necessary.

Virginia A. Huth, Director, DC, is the responsible official for promoting vendor engagement and implementing this Vendor Communication Plan.

Enclosures:
1. FAR 15.201 (in full text)
2. Applicable Regulations and Statute

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FAR 15.201 - Exchanges with Industry Before Receipt of Proposals

(a) Exchanges of information among all interested parties, from the earliest identification of a requirement through receipt of proposals, are encouraged. Any exchange of information must be consistent with procurement integrity requirements (see [FAR] 3.104). Interested parties include potential offerors, end users, Government acquisition and supporting personnel, and others involved in the conduct or outcome of the acquisition.

(b) The purpose of exchanging information is to improve the understanding of Government requirements and industry capabilities, thereby allowing potential offerors to judge whether or how they can satisfy the Government's requirements, and enhancing the Government's ability to obtain quality supplies and services, including construction, at reasonable prices, and increase efficiency in proposal preparation, proposal evaluation, negotiation, and contract award.

(c) Agencies are encouraged to promote early exchanges of information about future acquisitions. An early exchange of information among industry and the program manager, contracting officer, and other participants in the acquisition process can identify and resolve concerns regarding the acquisition strategy, including proposed contract type, terms and conditions, and acquisition planning schedules; the feasibility of the requirement, including performance requirements, statements of work, and data requirements; the suitability of the proposal instructions and evaluation criteria, including the approach for assessing past performance information; the availability of reference documents; and any other industry concerns or questions. Some techniques to promote early exchanges of information are –

(1) industry or small business conferences;
(2) public hearings;
(3) market research, as described in [FAR] Part 10;
(4) one-on-one meetings with potential offerors (any that are substantially involved with potential contract terms and conditions should include the contracting officer; also see paragraph (f) of this section regarding restrictions on disclosure of information);
(5) pre-solicitation notices;
(6) draft RFPs; [*Request for Proposals*]
(7) RFIs; [*Request for Information*]
(8) pre-solicitation or pre-proposal conferences; and
(9) site visits.

(d) The special notices of procurement matters at [FAR] 5.205(c), or electronic notices, may be used to publicize the Government's requirement or solicit information from industry.

(e) RFIs may be used when the Government does not presently intend to award a contract, but wants to obtain price, delivery, other market information, or capabilities for planning purposes. Responses to these notices are not offers and cannot be accepted by the Government to form a binding contract. There is no required format for RFIs.

(f) General information about agency mission needs and future requirements may be disclosed at any time. After release of the solicitation, the CO must be the focal point of any exchange with potential offerors. When specific information about a proposed acquisition that would be necessary for the preparation of proposals is disclosed to one or more potential offerors, that information must be made available to the public as soon as practicable, but no later than the next general release of information, in order to avoid creating an unfair competitive advantage. Information provided to a potential offeror in response to its request must not be disclosed if doing so would reveal the potential offeror's confidential business strategy, and is protected under [FAR] 3.104 or [FAR] Subpart 24.2. When conducting a pre-solicitation or pre-proposal conference, materials distributed at the conference should be made available to all potential offerors, upon request.

Regulations and Statutes Applicable to Communications with Industry

The following regulations and statutes and are not intended to represent the complete list of requirements applicable to communicating with industry, but do serve to provide a basis for regulatory compliance.

- Procurement Integrity Act (41 U.S.C. § 423) - Government officials may not disclose proprietary or source selection information. (FAR 3.104)
  https://www.acquisition.gov/far/current/html/Subpart%203_1.html#wp1139280

- Freedom of Information Act (5 U.S.C. § 552)
  http://www.justice.gov/oip/amended-foia-redlined-2010.pdf
  (FAR Subpart 24.2)

- Conflict of Interest Prohibition (18 U.S.C. § 208) – Government officials may not participate in a matter that presents an actual or apparent conflict of interest.
  http://www.law.cornell.edu/uscode/search/display.html?terms=208&url=/uscode/html/uscode18/usc_sec_18_00000208----000-.html

- Competition in Contracting Act (CICA) (10 U.S.C. § 2304) – Government officials may not give unauthorized preferential treatment to one firm but must treat all firms equally.
  http://www.law.cornell.edu/uscode/html/uscode10/usc_sec_10_00002304----000-.html

- Trade Secrets Act (18 U.S.C. § 1905) – Government officials may not disclose trade secrets or other proprietary information without permission of the owner of the information. Government officials must protect procurement-sensitive information and information that would not otherwise be lawfully disclosed to the public under the Freedom of Information Act.
  http://www.law.cornell.edu/uscode/html/uscode18/usc_sec_18_00001905----000-.html

- Federal Advisory Committee Act (5 U.S.C. Appendix 2, § 5) – Government officials must comply with the Federal Advisory Committee Act when seeking advice or recommendations from a group that includes non-Government employees to ensure that the Government is not inappropriately influenced by a special interest.
  http://www.archives.gov/federal-register/laws/fed-advisory-committee/