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capabilities, technologies, and competitive forces in meeting an agency need. Market research is essential to the government's ability to buy best-value products and services that solve mission-critical problems.

Is market research the sole dominion of the contracting officer?

Absolutely not. The type of market research we are describing — arguably the most critical and valuable — takes place *before* the government has begun to describe its requirement. There is no procurement in the works at this point and no pre-procurement information to divulge.

When is market research conducted?

According to FAR Part 10, market research is conducted:

- *Before* developing new requirements documents for an acquisition;
- *Before* soliciting offers for acquisitions with an estimated value in excess of the simplified acquisition threshold (defined in FAR Part 2, currently \$100,000); and
- *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 the cost of market research.

Beyond these regulatory provisions, there is a “real world” application: when using the competitive processes of FAR Subpart 8.4 to buy from FSS multiple award schedule contracts. We know of one agency that follows an especially well structured process to acquire goods and services: develop a short, general description of the need; conduct market research to

(FASA). FASA defined these terms broadly³ and created a statutory preference for their acquisition by federal agencies. Nonetheless, there is also a preference for using existing equipment (available for reassignment or use within the agency) and preferred sources of supply (as detailed in FAR Part 8) before initiating new acquisitions. *Therefore, market research should consider both government and industry sources.*

Aren't there prohibitions against contacting vendors before a solicitation is released?

Contact with vendors and suppliers for purposes of market research is now encouraged. In fact, the FAR specifically promotes the exchange of information "among all interested parties, from the earliest identification of a requirement through receipt of proposals."⁴ The limitations that apply (once a procurement is underway) are that prospective contractors be treated fairly and impartially and that standards of procurement integrity⁵ be maintained.

Why not just conduct a pre-solicitation conference?

Two reasons. First, if there is a draft solicitation, you've already decided on an approach and it's too late for effective market research. Second, pre-solicitation conferences don't work that well. In our view, they're a waste of time. From the private-sector viewpoint, here's the game. Go to the pre-solicitation conference, but either don't sign in or sign in with a false affiliation and maybe even name. Believe, however, that others are not as clever as you, and scan the sign-in sheet to see who your potential competitors are. Find a strategic location and scan the crowd for familiar faces. Again, one of your major concerns is to determine who might compete and who might be teaming.

Of course, if the government thinks they will get solution-oriented feedback, they're sadly mistaken. You and most of the people at the pre-solicitation conference are in the business of marketing or business development. You are there to get information, not give any back. You're not the technical experts, problem solvers, or managers that the government people *really* want to talk with.

Listen carefully to what the government has to say. Try to figure out the players and the power structure. When questions are called for, don't give away any information that might reveal your hand or competitive advantage. While you'd like the government to have that information, you *for sure* don't want your competitors to have it.

Even if the acquisition approach doesn't make sense in terms of marketplace realities, don't say a word. There's no win-win way to influence the acquisition. First, it's probably already too late. Besides, if you have a great idea, you don't want the government taking your idea, amending the solicitation, and then competing it and giving your competitors the advantage of your "better idea." Second, you will have to

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respond to the solicitation and, typically, the government team has written its intended solution into the solicitation in incredible detail. You know you will parrot back the answers, trying to establish why you above all others are “uniquely qualified” to execute the government’s predetermined solution. Third, even if you do have a better way, *and* it is recognized as such, the government typically would not be able to accept your proposal because it would not comply with one or more of the preordained “mandatory” requirements in the solicitation. The best you can hope for is to get the contract and then work toward modification ... in a noncompetitive environment.

We’re exaggerating, but there’s a great deal of truth in this scenario.

What’s a better approach?

We recommend one-on-one market research sessions with industry leaders to learn about the state of the marketplace, commercial practices, and commercial performance metrics. Especially with regard to the latter, asking contractors to provide performance measures and collection methods they are using on their existing contracts (both commercial and government) can identify candidate performance factors for the performance-based statement of work.

That’s permitted?

Yes, even in the rule-laden “contracting by negotiation” procedures. See Federal Acquisition Regulation 15.201(c)(4).

Note that this is market research in advance of the government’s statement of its needs. Given that the requirements have not (or should not have) been defined, disclosure of procurement-sensitive information is not an issue. Thus, program managers can have a detailed discussion of approaches and potential solutions with industry peers. This is addressed in FAR 15.201(f), which provides:

General information about agency mission needs and future requirements may be disclosed at any time.

The contracting officer need not be a part of market research conducted before solicitation release (although his or her participation as part of the acquisition team may be desirable). However, *once a solicitation is released*, the “contracting officer shall be the focal point of any exchange with potential offerors.”

What should we ask contractors?

It depends on the acquisition. In those we have worked on, we placed a special emphasis on commercial and industry best practices, performance metrics and measurements, innovative delivery methods for the required

services, and incentive programs that providers have found particularly effective. Here is the agenda we used:

- 30 minutes – why the company is a marketplace leader
- 60 minutes – best practices, government and industry
- 60 minutes – performance measures and metrics (bring samples and examples)⁶
- 60 minutes – incentive plans and programs (bring samples and examples)⁷

Will contractors really share that information?

Our experience is definitely yes. You made the contact and are offering them a rare opportunity to showcase their skills and abilities. Nonetheless, you have to set the stage.

How is that done?

First, do some research to identify the industry leaders. One means is by using lists such as Government Executive Magazine's "Top 200 Federal Contractors."⁸ Another means is to use commercial firms that specialize in such information. Analyze the marketplace and determine how many and which firms you need to contact for your market research needs. Record your rationale.

Second, organize a standard agenda for the one-on-one meetings.

Third, continue your research and determine who is the right person to call. Most contractors have an individual assigned to each agency. Find out who "owns" you and make the call. Explain what you are doing, give a brief overview of the size, scope and complexity of the program, and indicate that you will follow up with a letter.

Fourth, send a letter requesting a meeting, preferably at the contractor's corporate location. Provide a brief synopsis of the problem you are trying to solve. Advise that the purpose of the meeting is to conduct market research needed to craft an innovative acquisition strategy for a mission-critical agency need. Indicate that the firm's marketplace standing is the reason its participation is sought. Request, given the operational focus of the market research, that the contractor team be comprised solely or primarily of program management and operations personnel. (You do not want a room full of "marketers" and sales people.) Also, if the company has both a government and commercial division, encourage representatives from both to attend. (We have found that commercial divisions are more likely to have experience in performance-based arrangements.) Make it clear that you encourage the introduction of any samples and examples of best practices and especially performance

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metrics and measurements that the contractor believes would be pertinent to the project. (It is easier to recognize a good idea than develop one.) Indicate that any information gained in the meeting will be protected as confidential business information.

Fifth, conduct the meetings interactively. Nothing is more boring than a one-way four-hour-long briefing! Remember, this is market research well in advance of solicitation development. This meeting is being held so that you can learn. Ask questions regarding the information being presented. Delve into the advantages and possible pitfalls of the approaches discussed. Make it meaningful and then capture it! Document each meeting immediately after it is held.

Sixth, analyze the results of all the meetings; identify "lessons learned," trends, and promising metrics and incentive approaches; and prepare a market research report that captures the knowledge gained. Be sure to mark all documents as containing "confidential business information" and limit their distribution.

Finally, hold a strategy session with the acquisition team to determine how the acquisition strategy should be affected by the market research.

Is the effort worthwhile?

Most emphatically yes. It can expand the range of potential solutions, change the very nature of the acquisition, establish the performance-based approach, and represent the agency's first step on the way to an "incentivized" partnership with a contractor. We know of two recent cases where this happened.

Drawing on our consulting experience, in one case an agency began market research with a very small solution set. The approach was altogether too typical: Take the last RFP, update it, and buy basically the same thing again. This would have resulted in the agency expressing its need in terms of the state of the marketplace that had existed in the original competition many years previously. The agency would have issued a "facilities management" work description instead of a description and approach more typical of the marketplace today: true outsourcing, with performance-based partnering. After conducting *meaningful* market research, the range of possible approaches and solutions increased dramatically, and the agency adopted a significantly more beneficial approach to solving the requirement.

In another case, the very nature of the acquisition changed: from an IT support services contract to a performance-based, loan-servicing contract. The agency went to a completely different segment of the marketplace to solve its needs, and it changed completely its approach to contract pricing. It happened this way. The agency was trying to develop incentive provisions to improve performance of its loan portfolio. During market research, the agency learned that standard (loan-servicing) industry

practice is to structure agreements so that the servicing contractors only get paid if the loans are performing. This is a far cry from the transaction-based pricing the agency had with the IT support services contractor ... an arrangement that actually paid the contractor more for non-performing loans because so many more transactions (letters, etc.) are required. There was no incentive for the contractor to achieve the agency's intended outcome. In contrast, loan-servicing contractors have a strong contractual incentive to do what it takes to keep the loans performing. It is a win-win arrangement for both, because both are in pursuit of the same outcomes.

Market research was clearly worth the effort for these two programs and served as an important key in developing a performance-based acquisition.

Conclusion

Market research is an extremely effective acquisition tool, especially when used by program management or the acquisition team *before* attempting to describe the agency's requirement. Market research can be used to align an agency acquisition with the commercial marketplace and to support the development of the requirement into a performance-based approach. It can help a program manager tap the commercial marketplace, and (with the help of the acquisition team) craft a procurement that will lead to a partnership with a contractor as "bought into" and as "incentivized" to the performance-based goals and objectives as is the program office. Market research is the first step to a performance-based partnership with a high performing contractor. The "prize" is no less than the development of a performance-based acquisition strategy that sets a scenario for success for agency programs and program managers. ✧

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Endnotes

¹ We plan to discuss the use of a statement of objectives in an upcoming *Advisory*. (Footnote on page 1.)

² For more basics, see our April 1998 *Advisory*, "Market Research — Now More Important Than Ever." (Footnote on page 1.)

³ See FAR Subpart 2.1 for the definitions. (Footnote on page 3.)

⁴ FAR 15.201(a) (Footnote on page 3.)

⁵ FAR 3.104 (Footnote on page 3.)

⁶ What are they measuring, why is it important, and where should the bar be set? (Footnote on page 5.)

⁷ How does the contractor assure that its objectives and the customer's objectives are shared? (Footnote on page 5.)

⁸ <http://www.govexec.com/top200/2000top/index.htm> (Footnote on page 5.)