EFFECTIVE COMMUNICATIONS IN GOVERNMENT CONTRACTING

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Why are Effective Communications so Important?

- They can be used to educate and persuade
- They can break down barriers/build trust
- They can help resolve issues before they become problems
- They can help convey both explicit and implicit messages
- Contracting parties must communicate effectively in order to achieve optimum results
- They create a record
General Rules for Communication

• Be respectful and professional
• Avoid spelling and grammatical mistakes
• Keep communications simple
Phases of Communications

- Pre-proposal
- Proposal
- Post-award
Pre-proposal Phase

- Public marketing materials (*i.e.*, brochures, placemats, “leave behinds”)
  - Corporate capabilities
    - Technical
    - Financial
    - Management
- List of available contract vehicles
- Contract Performance Reports
- Points of contact (technical and contractual)
- Known Problems and Pitfalls
- Best Practices
Pre-proposal Phase (cont’d)

• Developing White Papers/Unsolicited proposals
  • Contractors frequently try to raise interest in their technical solutions by submitting to Government customers “white papers” or “unsolicited” proposals.
  • Known Problems and Pitfalls
  • Best Practices
Pre-proposal Phase (cont’d)

• Answering Requests for information
  • To fulfill their market research requirements, Government agencies often issue formal request for certain information to help develop procurements.
    – Commercial vs. Noncommercial
    – Small Business vs. Large Business
    – Technical Capabilities/Past Performance
    – Pricing
    – Contract Type

• Known Problems and Pitfalls

• Best Practices
Pre-proposal Phase (cont’d)

• Pre-proposal industry conferences
  • To fulfill their market research obligations and/or refine their procurement approach, Government agencies routinely host pre-proposal conferences to discuss drafts or final solicitations
  • Known problems and pitfalls
  • Best practices
Pre-proposal Phase (cont’d)

• One-on-one meetings
  • To fulfill their market research obligations or to refine their procurement approach, Government agencies are permitted to hold one-on-one meetings with contractors.
    – Meetings held prior to release of solicitation are permitted and encouraged by the FAR and recent OFPP statements (“Mythbuster Memos”)
• Known problems and pitfalls
• Best practices
Pre-proposal Phase (cont’d)

• Submitting Solicitation Clarification Questions
  • Contractors are fully permitted to ask the Government questions concerning the form and content of a solicitation.
    – Clarify ambiguities/inconsistencies
    – Clarify technical requirements
    – Clarify format requirements (e.g., page number limitations)
    – Evaluation criteria
    – Validate contract terms and conditions (Sections H and I)

• Known Problems and Pitfalls
• Best Practices
Proposal Phase

• Drafting Proposal cover letters
  • Offerors routinely transmit their proposals under a cover letter to “introduce,” “summarize,” or “explain” their proposals
• Known Problems and Pitfalls
• Best Practices
Proposal Phase (cont’d)

• Writing the Proposal
  • Written proposals are nearly always required to be submitted by Contractors to obtain contract awards under a Government contract.
    – Content of proposal controlled by the terms of the Government’s solicitation
      o Technical
      o Pricing
      o Management
      o Past performance

• Known Problems and Pitfalls
• Best Practices
Proposal Phase (cont’d)

• Responding to Agency Questions about Proposal Submission
  • Contractors are often asked by the Government to explain or reconsider the original content of their proposals in communications prior to contract award.
    – Purpose and specific impact of “communication” governed by FAR Part 15
      o Clarifications
      o Communications
      o Discussions
• Known Problems and Pitfalls
• Best Practices
Post-award Phase

• Requesting and Participating in a Contract award/debriefing
  • All offerors are permitted to ask the Government for a “debriefing” upon being notified of a contract award.
    – Information permitted to be shared in brief is governed by the FAR
    – Debrief may be telephonic, in person, or simply written

• Known Problems and Pitfalls

• Best Practices
Post-award Phase (cont’d)

• Participating in a Contract “Kick-Off” meeting
  • Most contracts require that the Government and winning contractor meet shortly after award to discuss contract administration issues.
    – Government contract authority
    – Program management issues
    – Use of e-mail
    – Schedule/Milestones
    – Contract “clean up” issues

• Known Problems and Pitfalls

• Best Practices
Post-award Phase (cont’d)

• Making a Request for Approval
  • Many contracts require that a contractor seek prior Government approval before it can take certain actions (e.g., beginning new work) or incurring certain costs (e.g., travel).
  • Known Problems and Pitfalls
  • Best Practices
Post-award Phase (cont’d)

• Submitting Requests for Deviations and Waivers
  • Contractors are bound by the terms of the contract that was awarded to them.
  • At times, a contractor may seek relief from contract terms by submitting to the Government a written request for a “waiver” or “deviation.”
• Known Problems and Pitfalls
• Best Practices
Post-award Phase (cont’d)

• Status reports and time sheets
  • Most services contracts require that contractors submit to the Government “status reports” and/or time sheets that are used as a basis for payment.
    – Status reports generally offered to explain completed performance, issues identified, and estimates to completion
    – Time sheets submitted to reflect actual time worked

• Known Problems and Pitfalls
• Best Practices
Post-award Phase (cont’d)

• Submitting a Change Notice
  • Contractors who believe the Government has directed them to do something beyond the scope of their contract may not get paid for the additional work required if they do not submit a written notice to the Government in accordance with the terms of their contract.

• Known Problems and Pitfalls

• Best Practices
Post-award Phase (cont’d)

• Submitting Requests for Equitable Adjustment or Certified Claims
  • To obtain contractual and/or monetary relief resulting from a “disagreement” in the terms of a Government contract, contractors often are required to seek such relief in the form of a request for an equitable adjustment or, as a means to commence a more formal dispute resolution process, a “certified” claim.

• Known Problems and Pitfalls
• Best Practices
All Phases

• The Perils of Sending E-mail
  • Never send an important email without having a second pair of eyes review a draft
  • Never send an e-mail when you are upset
  • Remember that once you press “Send” you have lost control of that message
  • If message contains proprietary information, place legend in subject line
  • When possible, properly “secure” all email communications to the Government
Thank you

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