

Department of Homeland Security
Reverse Industry Day VI
Managing Performance and Achieving Mission Success
Tuesday, March 26, 2019

SESSION I—Reducing Drivers of Protest

- *Moderator: Maurine Fanguy, Managing Director, Accenture Federal Services*
- *Terry Fitzpatrick, Principal, Deep Water Point*
- *Kitty Klaus, Director, Contracts, Easy Dynamics Corporation*
- *Michael Kleeblatt, Vice President of Business Development, Amyx, Inc.*
- *Debra Morgan, Vice President, IDIQ Center of Excellence, Parsons*

The first session discussed common protest misconceptions and how to effectively work with industry on key factors that contribute to protests. It consisted of role-playing scenarios where panelists highlighted the processes industry goes through to determine if they will protest or not. Participants discussed the reasons for protests, such as the use of multi-award contracts, lack of on-ramp opportunities, the increased use of Governmentwide Acquisition Contracts (GWACs), and an incumbent wanting to extend their contract. In one scenario a company decided to pursue a new mission-critical, \$100 million single-award complex-services contract at Big agency. The company thought it had a chance of winning the award. The decision to protest was difficult, as it put someone's career on the line and was not seen as favorable for the brand that it had established. Ultimately industry had some beliefs and perceptions which impacted its decision to protest, such as believing Lowest Price Technically Acceptable (LPTA) was actually being used, instead of the process described in the solicitation, which was a best value tradeoff process. The company believed some form of conflict of interest may have existed in reference to the contract.

The scenario began with a company meeting. The industry members discussed that Big agency just released a draft Request for Proposal (RFP), and the company just missed out on a multimillion-dollar contract at that agency not too long ago. The company learned that the agency was thinking of doing an industry day, which would help the company with their bid. However, some members of the company had concerns about pursuing the opportunity because the draft RFP did not explain pertinent information that they needed upfront. The company wanted to see sections B, C, L, and M in the solicitation, and they wanted to know if the agency was taking questions. The key takeaway from this scenario was that the company did not feel that they had enough information or time to make a decision on whether to bid on this solicitation. A way for the agency to help prevent this issue would be to provide more information to companies earlier in the process. Industry noted that it would love for the agency to provide the Statement of Work (SOW), instructions, evaluation criteria, and the pricing structure. This information would ensure there is a level playing field and help industry determine if it has the capability to pursue the opportunity.

The scenario's second scene discussed the finalized RFP that was released. As the company stressed, this was a must-win, in order to break into Big agency. However, there were major concerns that came with the RFP. One issue was the lack of information available because the agency never did an industry day before releasing the RFP; it was apparently scrapped due to the large numbers of potential bidders on the contract. Another concern was that there were inconsistencies throughout the RFP. Additionally, since the evaluation criteria were not specific, the company's innovations and strong past performance would be not be evaluated in an advantageous

way for the company. There were five key takeaways from this scene: 1) Industry Days are a key part of the acquisition process because they help industry understand what the agency is trying to do with its upcoming procurement; 2) specific and clear evaluation criteria is important in best value procurements; 3) strong past performance should be considered for a higher rating; 4) the agency should include the draft price range that is listed in the Acquisition Planning and Forecast System (APFS) (industry called it a "competitive range" because it allows them to opt out of the competition upfront if needed); and 5) the agency should include a requirements traceability matrix.

Next came a mock briefing with the Chief Executive Officer (CEO) to discuss the opportunity. The CEO noted that he appreciated everyone putting in long hours and understood the impact that it had on work-life balance. The team discussed the fact that they just received the answers to the questions involving the RFP and that some of their questions were not answered. Additionally, the amended RFP contained inconsistencies, and the evaluation factors were not updated to reflect the changes. The company was concerned because there was no time to change their submission, and 25 other companies were pursuing the opportunity. The key takeaways from the scene were: if there is a large number of questions from many vendors, consider extending the due date; use Track Changes in the amended RFPs; and, industry finds value when the program and procurement offices are on the same page when providing information at Industry Days, tradeshow events, and one-on-one meetings.

The fourth and final scene was the meeting after the company has returned from its debriefing, after an unsuccessful bid. The company viewed the debriefing as unhelpful because it was scripted, and the company was not allowed to ask questions. They discussed the grounds for a protest but worried about potential repercussions. The company perceived that the agency evaluated its proposal using the criteria in the first amendment, and did not conduct the tradeoff process properly. There were three key takeaways from this scene: 1) it takes multiple meetings to decide to protest; 2) the CEO or higher makes the decision to protest; and, 3) the decision is not taken lightly.

SESSION II—Why Industry Values the Contracting Officer’s Representative (COR)

- *Moderator: Rich Keevey, Associate Partner, IBM, and Client Leader, DHS HQ*
- *Ben Edson, CEO and Founder, VariQ, Inc.*
- *Eric Heffernan, Principal, Grant Thornton LLP*
- *Mike Ipsaro, Technical Director and Program Manager, Integrity Management Consulting*
- *Christopher James, Director, Homeland Security Programs, Xcelerate Solutions*

The second session highlighted industry’s interaction with Contracting Officer’s Representatives and shared its key insights on what it values. The first panelist described CORs as the glue between the contracting, program, and payment offices. Valuable COR attributes include a willingness to communicate and possess “soft skills”; organizational and planning skills; an understanding of the contract; and resourcefulness. He added that CORs have regular one-on-one discussions with contractors; set a good operational tempo; help facilitate decision-making from all sides; complete evaluations; and, process invoices in a timely fashion.

The moderator said CORs ask the right questions and leverage the contractor’s strengths (including technical skills) so the best solution is provided to meet mission needs. CORs are consistent, knowledgeable, and at times have an alternate COR for when they are out of the office. When CORs or Contracting Officers (CO) change, contractors will oftentimes change their program managers to best complement the personality of the new COR/CO.

The panelists performed a skit where two key personnel left a contract, and the COR requested a plan for replacements from the contractor within 48 hours:

- A meeting took place with the COR and the contractor team.
- The contractor team was worried about the 48-hour turnaround requested. They asked why this turnaround was important to the COR; the COR expressed that he did not want any delays in deliverables.
- The contractor explained their current process for finding replacements and explained why they would not delay the deliverables despite being down two people.
- The COR worked proactively with the project manager to make sure there were no risks of delays for deliverables and extended the deadline for the plan by an additional day.

The skit demonstrated that with good communication between a COR and a contractor, a cooperative and collaborative relationship could be maintained rather than an adversarial one.

During the question and answer portion of the session, the following were discussed:

- Contractors currently have a war for labor in the job market in D.C., and it has had an impact on government contracts.
- Narrowing the descriptions for key people on a contract makes it much more difficult for contractors to find people to fill those positions.
- Extremely stringent work requirements on a contract (e.g., having to work in a Sensitive Compartmented Information Facility [SCIF] or having to be onsite every day and on weekends, resulting in poor work-life balance) makes it much more difficult to find quality people on a reasonable budget.
- During a lapse in funding, contractors need CORs to tell them which contracts—and which people on a contract—are essential.

SESSION III—What DHS Should Think About During Contract Transitions

- *Moderator: Jim Williams, Partner, Schambach & Williams Consulting*
- *Kira Brooks, CEO, HWC*
- *Troy Holmes, Vice President, Chief Solutions Architect, Sevatec*
- *John Lewington, Business Development Director, Adobe*
- *John Selman, Vice President for National Security, LMI*

The third industry panel of the day offered insights on professional experiences with contract transitions to provide industry perspectives. The moderator, Jim Williams, emphasized the value of effective and continual communications between government and contractor. The panelists detailed several scenarios across different work settings and contracting structures.

The first panelist stated that maintaining continuity of operations in 24/7 national security-operating environments depends on a thorough understanding of each individual's roles and responsibilities with respect to their authority, noting that the transition participants should know how to contact the correct government points of contact. Communications plans are helpful prior to executing transitions. Additionally, he noted that planning time for potential risks or delays for events (e.g., Federal Emergency Management Agency and hurricane season) is also critical to timely transitions.

The second panelist highlighted the importance of efficiently planned Entrance on Duty (EOD) processes, as sometimes they can be time-consuming and ultimately delay the transition. The panelist urged that the new contractor program manager should communicate with the incumbent program manager and have frequent meetings to help with integration.

Another panelist who specializes in technical support of classified information systems said that the handling of classified materials creates unique challenges for EOD and requires special clearances, which can be costly and time-consuming to obtain for the industry workforce. Migrating and transforming classified content to unclassified, when possible, reduces the limited contractor talent pool. The panelist also noted that the use of Commercial Off The Shelf (COTS) items could further reduce costs. When the government engages in discovery with industry (via market research, draft RFPs, Industry Days, etc.) prior to the final RFP being released, it is able to leverage the expertise of the industrial base to look for ways to ensure an effective and efficient transition.

The final panelist reiterated the importance of planning for transitions ahead of time by asking for a transition plan as an evaluation factor in award considerations, and said industry appreciates when the government provides feedback on the plan it submits. Also, emotions can be a big factor in transitions, as contractors sometimes support the same office for years. Knowing this information upfront helps everyone out and mitigates issues down the road.

To conclude, planning, goal alignment with the Contractor Performance Assessment Reporting System (CPARS), communication, emotions, and logistics all play significant roles in successful contract transitions.

APPENDIX A: Industry Perspective on Reducing the Drivers of Protests

The following table provides industry perspective of some of the factors and considerations that may lead companies to protest.

Driver of Protest (Likely a combination of factors)	Key Concept	Recommended Action
Increased use of Governmentwide Acquisition Contracts/Multi-Agency Contracts (GWACs/MACs)	Company fears getting shut out of providing products and services to key customers. Company will protest, simply in hopes of additional companies being added to the vehicle.	In the event of a protest, unless an actual error was made, the government should never add more companies to a vehicle simply to resolve a protest. Doing so further incentivizes industry to continue this practice.
Companies making riskier bid/no bid decisions (due to reduced number of generally available contract opportunities), thus increasing the number of non-competitive bidders	Too many bidders on a single procurement can increase the probability of a protest. May be a sign of broad requirements or lack of meaningful discriminators in evaluation criteria, which can make the evaluation process for government harder to conduct, evaluate, and justify. This contributes to situations where industry develops misperceptions around Lowest Price Technically Acceptable (LPTA) v. Best Value and trade-off decisions.	Conduct outreach before the Request for Proposal (RFP) is released to get feedback upfront. Share information early and throughout the process to improve industry’s ability to make the best bid/no bid decision. Conduct quality debriefs. Employ down-select techniques.
Incumbent protests in hopes of a contract extension and a few additional months of revenue	Likely due to market pressures and desire to protect revenue, regardless of protest merits.	Government should avoid contract extensions when possible to reduce this incentive. Behavior may be difficult to avoid without negative consequences or disincentives.
Incumbent protests out of belief that they were treated unfairly	Company is concerned that conflicts or performance issues that arose during contract execution may have improperly influenced the decision.	A high-quality debrief can provide ample proof that the source selection was properly executed.

Driver of Protest (Likely a combination of factors)	Key Concept	Recommended Action
<p>Industry belief or perception that the government conducted an LPTA evaluation rather than the stated “best value” determination</p> <p>OR</p> <p>Industry belief that there was an improper trade-off decision (the additional advantage of the awardee does not justify the award)</p>	<p>Industry does not feel it received an adequate explanation of decision.</p> <p>Lack of meaningful discriminators in evaluation criteria makes “best value” awards harder to objectively justify on something other than price.</p> <p>If the requirements are broad enough to apply to a relatively large number of bidders, the price tends to inappropriately influence how companies bid. When price is perceived to be the predominant factor, companies often underprice the work in the attempt to win business. This leads to the “race to the bottom” and companies winning work that industry knows cannot be performed at the price offered.</p>	<p>Work with industry early in the process to obtain feedback and input on the draft evaluation criteria and discriminators. Discriminators aid in decision-making, and allows the evaluation process to focus on key areas that ultimately results in the best solution to meet the need.</p> <p>Provide information upfront to allow industry to self-select themselves out of the process when the interest level is high.</p>
<p>Industry belief that there is inconsistency between the evaluation criteria and other sections in the solicitation</p> <p>OR</p> <p>Industry belief that the requirements are vague, leading to a disconnect in the evaluation criteria and actual evaluation</p>	<p>Companies protest because they allege that they would have responded to a solicitation differently based on the information in a poor debrief.</p> <p>Industry believes it’s a red flag if you receive a relatively large number of questions (e.g., 50+) from most of the vendors that are bidding on an RFP. There may be parts of the RFP that industry believes is vague or inconsistent. Stronger bidders may shy away if the RFP is perceived to be flawed.</p>	<p>Ensure continuity or transfer of knowledge in the program office involved in the development of requirements.</p> <p>Release draft sections B, C, L, and M before the final RFP so industry can raise any issues or concerns in advance.</p> <p>Ensure that all questions are answered with adequate time for industry to incorporate changes into its proposals.</p> <p>Use track changes on amendments; provide Q&A through an amendment to incorporate into the solicitation.</p> <p>Conduct effective debriefs.</p> <p>Encourage industry to raise concerns early.</p>
<p>Industry belief that there was a personal or Organizational Conflict of Interest (OCI)</p>	<p>Industry protests out of belief that a competitor/awardee had an unfair advantage, whether perceived or real.</p>	<p>State upfront when there are OCI issues and if they can or cannot be mitigated.</p>

Driver of Protest (Likely a combination of factors)	Key Concept	Recommended Action
Poor debrief	<p>Lack of information, particularly in “best value” evaluations, raises red flags.</p> <p>Some companies protest to learn, not to win. Given the investment, they want to learn how to understand their strengths and weaknesses so they can improve their response to future bids.</p>	<p>Quality debriefs are an important opportunity to change incorrect assumptions that industry may have.</p>
Totality of the investment	<p>A significant investment of time and money may not be a sole driver but is a contributing factor at times.</p>	<p>Improve industry’s bid/no bid decision-making through greater information sharing earlier in the process.</p>
Weighing protest options	<p>A company must weigh the decision to protest against the costs and risk to their brand, reputation, and career. While many companies do not want to “offend” the client, the lack of disincentives weigh in favor of protesting.</p>	<p>Increased transparency on agency-level protest data may provide a disincentive for companies to protest unless they truly feel aggrieved.</p> <p>Companies do look to see who protests at the Government Accountability Office level and consider that information when making teaming decisions.</p>

APPENDIX B: Communication and Outreach Techniques

- Robust Information Sharing:
 - Information sharing in the Acquisition Planning and Forecast System (APFS) can be particularly helpful for small companies to make early presumptions for its bid/no bid decisions.
 - Industry Days (virtual or in-person) that include discussion with the program managers and mission owners/operators are very valuable.
 - As early as possible in the process, share information and thinking on the key aspects of the needs of an organization and any known constraints.
 - Feedback on Requests for Information (RFI) responses can help a company determine if there is interest in their ideas and whether the solution they want to propose will fit with the government's intended approach. Advance knowledge of anticipated dates of an RFI can help company make investment decisions.
 - One-on-one meetings with industry for larger or more complex procurements are useful to help a company understand the mission, culture, scope of work, desired outcomes, requirements, etc. Consider telling industry what criteria you will use to determine which companies you will meet with (e.g., one-on-one meetings will be conducted with respondents of the RFI).
 - Knowing the customer is often an important factor that industry considers when deciding to bid. If the company has not met the customer, it is harder to justify pursuing work. Consider use of "speed dating" sessions or quarterly meetings with industry to attract new companies.
 - Communicate market assumptions with industry through the Federal Business Opportunities (FBO) website, emails, conference calls, webinars, etc.
 - Providing meaningful information upfront allows industry to self-select themselves out upfront, if they are not able to provide a viable solution. This helps reduce non-competitive bidders when interest level is high. Advisory down-selects and similar techniques also help to reduce industry's investment which also reduces the chance companies will protest.

- Here Are Some Techniques To Consider:
 - Include drafts of Section B, C, L, and M before the final RFP is released.
 - Consider the use of oral presentations, technical demonstrations, or other methods of "show me, don't tell me" to help with evaluation discriminators.
 - When considering a multi-phase evaluation, the techniques requiring higher investment and time commitment should be conducted in later (rather than earlier) phases of the process.
 - Consider adding voluntary self-scoring evaluation criteria.
 - Ensure that all questions are answered with adequate time for industry to incorporate changes into its proposals.

APPENDIX C: What DHS Should Think About During Contract Transitions

- **Effective and Timely Communication Considerations:**
 - New roles and responsibilities.
 - Early approval and implementation of a governance structure (i.e., the frameworks, functions, and processes related to decision-making).
 - Engage in a discovery phase with all stakeholders/end users across the various domains prior to the release of an RFP.
 - Create industry reading libraries of “as-is” and “to-be” system documentation.
 - Provide updated documents about the program to include the incumbent’s electronic documents, and provide all accomplishments and deliverables in an easily accessible, shared location.
 - Comment and provide feedback to contractors about the adequacy of their transition plans.
 - Timelines with speed in mind and frequent checkpoints.
 - Communicate the risk assessments and mitigation strategies.

- **Transition Planning Activities:**
 - Require and monitor detailed project plans for key events that are planned during the transition period.
 - Align the procurement timeline and critical program milestones during the transition.
 - Require change management (e.g., transfer of stakeholder relationships) as part of the transition-out plan.
 - Align outgoing provider’s stakeholder communications against incoming provider’s transition-in plan.
 - Implement a Configuration Management (CM) model and work with the integration team to ensure such considerations are complete and addressed. Identify those components in the RFP, and require technology-certified subject matter experts to reduce risk and ensure a successful implementation.
 - Understand the specific requirements and concept of operations which may span multiple networks, users, citizens, etc., and which will be critical to developing completion milestones.
 - With a low-risk transition, ensure that the incoming contractor has a realistic, organized, and efficient approach for transitioning contractor staff.
 - When medium- and high-risk transitions occur, ensure that federal staff do not pressure the incoming contractor about hiring decisions.
 - Let the incumbent contractor know that transitioning out of a program will be an element of their past performance record.

APPENDIX C: What DHS Should Think About During Contract Transitions (Cont.)

- Kickoff Meeting and Other Considerations:
 - Require new program lead's immediate participation and integration after project kickoff to understand cadence and project delivery expectations.
 - Provide during kickoff sessions the complete prioritized backlog of requirements/user stories, with sprint cycle expectations.
 - Provide during kickoff sessions the complete list of artifacts necessary to describe what specific measures are taken to correct deficiencies, to include tasks, resources, milestones, and risks for the entire program.
 - Provide a complete list of tools and environments during kickoff sessions in conjunction with necessary clearance requirements for access to the specific environment and tools.
 - Provide the cleared program manager contractor lead with access to existing systems aligned with deliverables.
 - Require E-QIP completion of critical resources during kickoff session.
 - Industry has a cadre of cleared consulting resources and can support onsite development. However, consider classified and unclassified implications, and move to commercial off the shelf and unclassified artifacts when applicable.