

Recommendation 85: Establish a Market Liaison at each acquisition activity to facilitate communication with industry.

Problem

DoD continually seeks new suppliers to refresh its supplier base and is especially interested in attracting potential new suppliers that offer innovative, state-of-the-art technologies and software. A free flow of communication between government and a variety of potential suppliers is essential to ensure DoD obtains the best products available. This flow of information must be with potential suppliers unfamiliar with government bureaucracy, as well as current suppliers.

Generally, DoD's large and complex buying activities reside on DoD facilities that include a mix of operational units, tenant organizations, and confusing organizational acronyms and symbols. Websites for these operations can be out of date or so information-heavy that locating needed help is difficult. Organization charts, especially with phone numbers, are frequently unavailable.

To facilitate effective dialogue with industry that fosters competition, quickly addresses supplier issues, and attracts new suppliers, DoD needs to establish clear points of entry to make it more accessible to the marketplace and facilitate simple, predictable communications between its acquisition establishment and the marketplace.

Background

DoD has taken a number of steps to address the kinds of communication gaps typical of a large bureaucracy. In the acquisition arena, DoD established specialized responsibilities focused on specific acquisition-related matters or communities such as the following:

- **Small Business Ombudsman for Defense Audit Agencies (10 U.S.C. § 204)**
In general, these ombudsmen “serve as the defense audit agency’s [DCAA and DCMA] primary point of contact and source of information for small business concerns.” The Defense Contract Audit Agency (DCAA) and Defense Contract Management Agency (DCMA) small business ombudsmen are identified through links on their respective home pages. DCAA’s website identifies the ombudsman as a “small business focal point,” DCMA website identifies the ombudsman as the “DCMA Connect Point for Industry/Contractor Concerns.”
- **Memorandum of Agreement: DoD Ombudsman for Foreign Signatories (10 U.S.C. § 2350h)**
This ombudsman “shall assist officials of those foreign governments in understanding and complying with procedures and requirements of the Department of Defense (and, as appropriate, other departments and agencies of the United States) insofar as they relate to any such memorandum of agreement.” This ombudsman’s responsibility resides in DoD with the Defense Pricing and Contracting (DPC) office and can be found on the DPC website under “International Contracting.”
- **Task and Delivery Order Ombudsman (10 U.S.C. § 2304c(f) and 41 U.S.C. § 4106(g))**
This ombudsman is “responsible for reviewing complaints from the contactors on such [task and delivery order] contracts and ensuring that all the contractors are afforded a fair opportunity to be considered for task or delivery orders.” Each agency that awards task or

delivery order contracts must appoint such an ombudsman. To date, it appears few agencies have publicized the availability of this specialized ombudsman. FAR case 2017–020 is in process to develop a standard clause for use in task and delivery order contracts with contact information for these ombudsmen.¹

The Army Materiel Command (AMC) established a much broader acquisition-focused ombudsman at the headquarters and several subordinate commands.² The AMC ombudsmen serve as a point of entry for business inquiries, concerns, and complaints, and supports other AMC activities in industry outreach. The Defense Logistics Agency (DLA) established an industry ombudsman primarily focused exclusively on external outreach and engagement.³ DLA Procurement Technical Assistance Centers also assist industry in engaging with the DoD acquisition establishment, but they are not well suited to answer questions about particular procuring activities or determining the most appropriate contacts for industry at procuring activities they do not work with often.

Discussion

Although there are examples of several different approaches DoD has taken to improve two-way communication with industry, no standard manner exists for industry to approach an unfamiliar DoD acquisition organization or pose a question or suggestion outside the confines of an acquisition. It is ironic that DoD has an ombudsman specifically designated to “assist officials of those foreign governments in understanding and complying with procedures and requirements of the Department of Defense,” but no parallel office exists for U.S. companies unfamiliar with the procedures and requirements.

Businesses have indicated that when they considered offering their commercial products or services to DoD for the first time they found identifying the proper channel for communications with government procuring activities very difficult. Such businesses may have little understanding of the DoD acquisition establishment, how to communicate with the establishment, and no idea where to find information on these topics. This observation is discussed in more detail in the Section 809 Panel’s *Volume 1 Report*, Recommendation 21, Refocus DoD’s small business policies and programs to prioritize mission and advance warfighter capabilities and capacities. The report included the following observations:

Small and large businesses alike express frustration over the lack of clear entry points into the defense market. Companies can spend months or years searching for the appropriate person or office with the authority to initiate the acquisition process.

¹ Federal Acquisition Regulation: Ombudsman for Indefinite Delivery Contracts, Fed. Reg. Vol. 83, No. 212 (Nov. 1, 2018).

² “AMC Business Connections: Ombudsman,” Army Materiel Command, accessed November 30, 2018, <https://www.amc.army.mil/Connect/Business-Connections>.

³ “DLA Strategic Plan 2018–2026, Industry Engagement Plan,” Defense Logistics Agency, accessed November 30, 2018, <http://www.dla.mil/Info/strategicplan/IndustryEngagementPlan/>.

Anecdotal evidence gathered by the Section 809 Panel indicates that the example above is not a unique experience; companies with new technologies unknown to DoD cannot easily introduce their products and services into the defense market, to the detriment of warfighters.⁴

Companies considering doing business with DoD for the first time, may question who in the acquisition establishment might be interested in a particular technology, how to find out what acquisitions are being considered in the future, or how to get cleared to come onto the facility. Companies that become frustrated with the pursuit of the proper DoD contact may feel pressure to hire a consultant simply to help untangle the bureaucracy or may decide not pursue business with DoD.

Incumbent contractors generally understand how their customers are organized and with whom they can communicate when they have questions or concerns. Often, these companies have former DoD personnel on staff who can guide the business through the bureaucracy. Even though communication with their customer may be smooth, familiarity with one DoD procuring activity does not necessarily translate to ease of communication with an unfamiliar acquisition activity.

Often, suppliers have a question or concern about an activity's procurement processes or have a concern with a particular individual or organization's handling of a situation. The contracting officer clearly serves as the point of contact for communication with potential suppliers/offerors during the formal solicitation (FAR 15.2) and source selection phases (FAR 15.3). There needs to be a clear channel to a disinterested party at the senior level of the procuring activity, however, to provide an outlet for those concerns and questions outside the boundaries of the formal solicitation, proposal, and source selection process. Addressing questions early will foster competition and may avoid more complex issues later in a particular procurement.

Recommendation 87 of this report recommends programs and portfolios establish a market intelligence capability. The market intelligence capability would be an important element of an activity's market research responsibilities and would proactively engage in two-way communications to labs, universities, and companies large and small (both existing suppliers and prospective new suppliers) to explain the government's needs and to search for new and innovative technologies, software, or processes for use in a particular program or portfolio of programs. This proactive external search for focused market intelligence is distinct from the more general need for the government to be open and easily accessible to industry in a predictable way, and to be available to assist industry in piercing the often imposing DoD acquisition bureaucracy.

Conclusions

Regardless of size, new potential suppliers, with new technologies, services, or ideas of potential interest to DoD must be able to quickly identify and communicate with the appropriate DoD acquisition contact. Even companies currently doing business with DoD may have questions about doing business with a particular organization. The bureaucracy is complex and often difficult to

⁴ Section 809 Panel, *Advisory Panel on Streamlining and Codifying Acquisition Regulations: Volume 1 of 3*, 21, 178–179 (2018).

penetrate. To be open and welcoming to industry, DoD must create a culture in which communication is simple and predictable.

To address this shortcoming, each DoD acquisition activity should establish a market liaison capability. This procuring activity-focused market liaison would serve as the activity's point of entry for new or existing suppliers with new ideas, products, or services, as well as those with questions or concerns about the activity's acquisition processes. The individuals assigned this responsibility should have sufficient experience, knowledge, and insight into the operation of the procuring activity to meaningfully assist those businesses making an inquiry. The market liaison capability would be widely publicized, standard across all DoD procuring activities, and readily accessible on activity web sites so potential suppliers know there is one easy-to-locate point of entry for anyone seeking information at a particular procuring activity.

Implementation

Legislative Branch

- Revise Title 10 at 10 U.S.C. § XXX to establish the requirement for and responsibilities of the procuring activity Market Liaison.

Executive Branch

- There are no regulatory changes required for this recommendation.

Implications for Other Agencies

- These recommendations will affect all contracting agencies within the government if adopted as governmentwide policy. The FAR, as well as agency supplements, will require changes.

RECOMMENDED REPORT LANGUAGE

SEC. ____. MARKET LIAISON REQUIRED AT EACH DEPARTMENT OF DEFENSE PROCURING ACTIVITY.

This section would amend Chapter 141, title 10, United States Code, by inserting a new section 2387 to establish the requirement for, and responsibilities of, a procuring activity market liaison. This market liaison would serve primarily as the point of entry for companies seeking to do business with the Department of Defense (DoD), particularly companies unfamiliar with the DoD procurement process. The market liaison would also serve to assist industry with inquiries or concerns regarding the activities' acquisition processes.

The committee has long been concerned with the perceived difficulty the Department has in attracting new, innovative businesses to its supplier base, and in particular, companies in the commercial marketplace with state-of-the-art products. DoD procuring activities are often located in large, secured facilities not easily accessible to companies unfamiliar with the acquisition organization and its often-bureaucratic processes. The committee has learned from many companies about their difficulty deciphering the acquisition bureaucracy to find the right office to discuss how they might offer their products and services to satisfy the Department's requirements. The market liaison would serve as a common approach across DoD acquisition activities that industry may go to as a first point of entry or to obtain answers to questions or concerns of a general nature. The committee expects this responsibility to be executed in a manner that makes DoD acquisition more accessible and communications between the DoD activity and marketplace simple and predictable.

1 **SEC. ____ . MARKET LIAISON REQUIRED AT EACH DEPARTMENT OF DEFENSE**
2 **PROCURING ACTIVITY.**

3 (a) REQUIREMENT.—

4 (1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by
5 inserting after section 2386 the following new section:

6 **“§ 2387. Market liaison required at each procuring activity**

7 “(a) REQUIREMENT.—The Secretary of Defense shall require that each procuring activity
8 of the Department of Defense assign an individual within that procuring activity to be the market
9 liaison for that activity.

10 “(b) FUNCTION.—The market liaison for a procuring activity shall serve as the activity’s
11 point of entry for new or existing suppliers with new ideas, products, or services, as well as those
12 with questions or concerns about the activity’s acquisition processes.

13 “(c) QUALIFICATIONS.—An individual assigned as the market liaison for a procuring
14 activity should have sufficient experience, knowledge, and insight into the operation of the
15 procuring activity to meaningfully assist those businesses making an inquiry.

16 “(d) ACCESSIBILITY.—The Secretary of Defense shall ensure that—

17 “(1) the market liaison responsibility is widely publicized;

18 “(2) the market liaison function is standard across all procuring activities; and

19 “(3) the market liaison for a particular procuring activity is readily accessible
20 through the public web sites of that activity

21 (2) CLERICAL AMENDMENT.—The table of sections at the beginning of such
22 chapter is amended by inserting after the item relating to section 2386 the following new
23 item:

“2387. Market liaison required at each procuring activity.”.

1 (b) IMPLEMENTATION DEADLINE.—The Secretary of Defense shall implement section
2 2387 of title 10, United States Code, as added by subsection (a), not later than 180 days after the
3 date of the enactment of this Act.