

**Acquisition Policy
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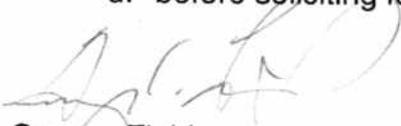
Date: June 21, 2010
To: Chief of the Contracting Office (COCO)
Acquisition Personnel
From: Office of the Senior Procurement Executive
Subject: Market Research Guide

Summary: Acquisition strategy and planning is a pre-solicitation activity and is probably the most important part of the entire source selection process, because it involves up-front planning for source selection and is the foundation for how the contract will be executed after award. During the selection pre-solicitation phase, needs are determined and market research is conducted. Market research is critical in gaining a complete understanding of the requirements. It is especially critical in Performance Based (PBA) where proposals received may vary widely in their proposed solutions.

Contracting Officer shall ensure that legitimate needs are identified and that tradeoffs are evaluated prior to acquiring items to meet those needs.

FAR 10.1, requires agencies conduct market research in certain situations, specifically:

- a. before soliciting for any requirement (i.e., product or service) where the estimated cost exceeds the simplified acquisition threshold;
- b. when developing a new requirements document (e.g., specifications for a product or a Performance Work Statement for a service) for an acquisition;
- c. before soliciting for any requirement under the simplified acquisition threshold, if the agency does not have sufficient knowledge about the item or service and the cost for doing the market research can be justified; and
- d. before soliciting for any requirement that could result in a bundled contract.


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Attachment



Market Research Guide

*U.S. Department of Transportation
Office of the Secretary
Office of the Senior Procurement Executive*

May 2010

Introduction

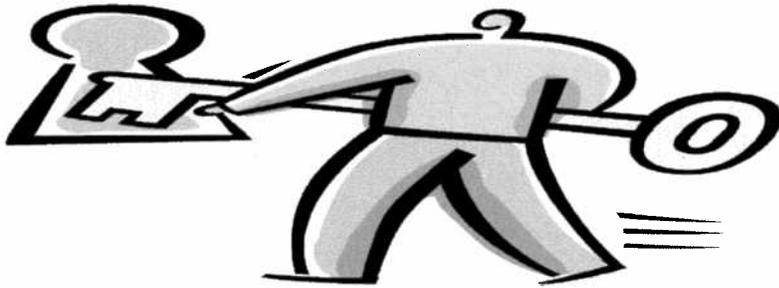
The Office of the Senior Procurement Executive created this Guidance for use by the DOT acquisition workforce responsible for defining Agency requirements. As you well know, acquisition strategy and planning is a pre-solicitation activity and is probably the most important part of the entire source selection process, because it involves up-front planning for source selection and is the foundation for how the contract will be executed after award is made. In accordance with FAR 6.101, “Contracting Officers shall provide for full and open competition.” The Contracting Officer is trained in performing best value procurements. With best value, we trade off technical and other non-price factors against the price. The acquisition process ensures that best value is received by the Department. Any pre-selection of a product undermines best value procurement and does not ensure that the Department is getting the best product. In order to affect this, all procurements are advertised on a website and any vendor who wants to bid can notify the acquisitions office and get on the source list. Because maximum competition is desired solicitations shall include the minimum requirements. During the pre-solicitation phase, needs are determined and market research is conducted. After the need is established, the acquisition team should begin to collect and analyze information about the ability of the marketplace to satisfy the need. This process is termed ***market research*** and involves a thorough examination of the marketplace by the acquisition team to develop a shared understanding and to identify possible public and private sector solutions to the acquisition. Market research is critical in gaining a complete understanding of the requirements. This step is especially critical in Performance Based Acquisition (PBA) where the proposals received may vary widely in their proposed solutions.

Remember: Agencies are required to ensure that legitimate needs are identified and that trade-offs are evaluated prior to acquiring items to meet those needs. Agencies are required to conduct market research appropriate to the agency circumstances before:

- Developing new requirements documents for an acquisition.
- Soliciting offers for acquisitions with an estimated value in excess of the simplified acquisition threshold.
- Soliciting offers for acquisitions with an estimated value less than the simplified acquisition threshold when adequate information does not exist and the circumstances justify its cost.

Note: Market research is intended to improve the procurement process not to inhibit it. *How much market research is done will depend on the size, complexity, and criticality of the project, as well as your current knowledge of the marketplace.*

What is Market Research?



Market research is the collection and analysis of information about capabilities within the marketplace to satisfy agency needs. This process involves collecting and analyzing information on commercial capabilities, processes, pricing, incentives, warranties, and delivery and other standard terms and conditions. The goal of market research is to help the acquisition team become *informed consumers*. Information derived from market research helps the acquisition team develop the optimum strategy for meeting the requirements.

Why Perform Market Research?

It Is Required!!

FAR Part 10, agencies *must* conduct market research in certain situations, specifically:

- a. before soliciting for any requirement (i.e., product or service) where the estimated cost exceeds the simplified acquisition threshold (currently \$100,000);
- b. when developing a new requirements document (e.g., specifications for a product or a Performance Work Statement for a service) for an acquisition;
- c. before soliciting for any requirement under the simplified acquisition threshold, if the agency does not have sufficient knowledge about the item or service and the cost for doing the market research can be justified; and
- d. Before soliciting for any requirement that could result in a bundled contract.

Fairness in Government Procurement

- The Government contracting process must be fair and impartial to all proposed vendors. No vendor should have more information on procurement than another vendor—we cannot use specifications that tailor procurement to a specific product unless that is the only product that will meet our needs (which is rare). The

overall effect on such a sole source procurement is that the Secretary will likely spend more money for a product.

- No vendor should have more information on procurement than another vendor that would give them a competitive advantage in the acquisition process. The Contracting Officer's job is to ensure that all sources have the same information. When you are testing a vendor regarding possible requirements. That would give them more information than other possible vendors and may require the Contracting Officer to exclude them from the source list.

What are the Benefits?



Market research improves the Government's understanding of current industry practices, including best practices, industry capabilities, innovative approaches, service levels, and performance strategies and measures. It helps determine the target marketplace for acquiring a solution. It examines private and public sector participants and solutions and obtains information useful in structuring the acquisition strategy. Benefits include:

- Assist in defining the requirements
- Identify potential sources who can meet agency needs as well as determine if the need must be met by a required source;
- Identify commercial practices associated with the item the agencies need;
- Provides a rough estimate of the cost of the requirement;
- Determine if and how federal laws or regulation affect the purchase.

Who Is Responsible for Market Research?

The Team!!

Market research should address the business and technical considerations of a requirement, and requires the participation of *all acquisition team members appropriate to their area of expertise*. Therefore market research should be lead by the person most familiar with the technical aspects of the requirements. Generally, this person is the Project Officer or another person within the office that originates the requirement. At a minimum the following individuals should be involved in the market research:

- ✓ Contracting Officer,
- ✓ End User,
- ✓ Technical Personnel,
- ✓ Legal Counsel,
- ✓ Cost Analyst,
- ✓ Small Business Analyst.

Depending on what you are purchasing, seek guidance from individuals from other Operating Administrations or federal agencies.

Market research provides the acquisition team information about commercial availability and industry practices and capabilities. It significantly expands potential solution, it provides insight on best approach, allows the team to establish an acquisition strategy, maximize effective competition, solicits solutions-not compliance; helps develop a market research document, captures best practice, empowers competitors, justifies your acquisition strategy and structures shared goals and objectives. Market Research is critical in preparing your solicitation, especially in performance-based acquisitions where offerors may present very different solutions to the same problem. In addition to traditional market research in FAR Part 10, consider the use of private sector sources by:

- Contacting knowledgeable individuals in government and industry, which could lead to agency presentations;
- Review results of recent research for similar items;
- Issue sources sought notice at FedBizOpps.gov;
- Conduct one-on-one meetings with potential offerors (any one-on-one meeting with potential offerors should include the contracting officer);
- Conduct pre-proposal conferences;
- Issue draft RFP;
- Perform site visits;
- Attend demonstration at trade fairs, conferences and other events and or trade shows;

Contact with potential suppliers is part of market research *prior* to solicitation release and does not violate the Procurement Integrity Act. In fact, FAR 15.201(a) promotes the exchange of information among all interested parties. When market research is conducted prior to the development of the Performance Work Statement (PWS) or solicitation, disclosure of procurement-sensitive information is not an issue because requirements have not been identified. FAR 15.201(f) states “*General information* about agency mission needs and future requirements may be disclosed at any time.” Even once the requirements have been defined (but before the solicitation has been issued), the regulations do not prohibit contact with potential suppliers; they only require impartiality and adherence to the standards of procurement integrity described in FAR 3.104. After issuance of the solicitation the contracting officer is the point of contact for all potential offerors. The objective is to gather as much information as possible to make the most efficient and effective decisions.

When meeting with industry, focus on:

- Commercial and industry best practices,
- Performance metrics and measures,
- Innovative delivery methods for the required services, and
- Incentive programs that providers have found effective.

When conducting meetings make it meaningful, use open ended questions such as if you were the government how would you approach...., what is the Government doing that drives industry crazy! The intent is to learn. Ask questions and explore advantages and disadvantages of various approaches. Market Research *should not* be used to validate acquisition approach/concept- But should be used to craft it!

When to perform Market Research?

Market research is a continual process that begins as soon as you have a requirement. Early in the acquisition process, market research is used to compare program needs to the capabilities of the commercial market place in order to determine: the availability of products to meet the requirements; the ability of suppliers to modify their items or services to meet your requirements; or the program's ability to modify its requirements to allow the purchase of commercial items or services. You may conduct additional market research either simultaneously or later in the acquisition process to identify: potential sources; performance standards; and the appropriate contract terms and conditions that you will use.

How much Market Research Is Enough?

It depends. How much market research is needed will depend on the size, complexity and criticality of your project, as well as your knowledge of the marketplace. Therefore tailor market research to your specific acquisition needs. To use resources wisely, weigh the total estimated cost of the purchase against the administrative cost of your time and effort to perform market research. For example: for relative low dollar purchases of items or services that you have purchased in the past, you may only need to survey the marketplace for information about current costs, item availability, current sources, etc. Finding answers to these questions may be as simple as searching the internet.

What Techniques are used to do Market Research?

1. Research the Internet. Use standard search engines to find potential vendors to point you in the direction of additional sources of information (e.g. trade associations, publication, etc).

Is the product or service available through existing Government contracts? View the following:

- a. GSA Advantage! www.gsaadvantage.gov or GSA schedules
- b. E-Library at <http://www/gsaelibrary.gsa.gov/elib/eLibrary.jsp>.
- c. Industry Trade Publications at www.webwire.com/IndustryList.asp

2. Talk to coworkers and end users, and contact other federal agencies. Have others in the agency purchased the item? If so, they may be able to provide information about the current status of the market.
3. Contact manufacturers for certain information (e.g., the product distribution network, characteristics of the product, product availability, other similar products they offer etc). Request vendors send you relevant literature. Involve the contracting officer in this process.
4. Contact potential vendors who can provide the product or service. Conduct one-on-one meetings, request vendors send catalogs, capability statements and product literature. Request vendors provide references of suppliers currently using the product or service or have used it in the past.
5. Document what you have learned. Documentation is an important building block to justify a decision of a particular strategy. Therefore, specific and complete documentation is necessary for historical purposes and identifying the advancement of an established path.
6. Any other sources you can gather together consistent with the acquisition requirement.

KEEP THE FOLLOWING IN MIND

- Absolutely no vendor should receive a “competitive advantage”. No vendor should receive information that others have not or will not receive, nor should any vendor receive any “special consideration” when the actual acquisition is conducted. If vendors ask why you are requesting information, simply tell them you are conducting market research.
- Under no circumstances are you allowed to release acquisition budgets, independent Government cost estimates, acquisition schedule, acquisition strategies, or data that is proprietary to a contractor.
- As a general rule, any information that is in the public domain can be disclosed. Public DOT documents, such as the Strategic Plan can provide a wealth of information for industry to learn about DOT, its programs, and its initiatives.
- The general rule in federal acquisition is to conduct business in a manner that is above reproach with no vendor receiving preferential treatment.
- Ratification occurs when a Government representative who is not authorized enters into an agreement on behalf of the Government. Ratifications affect the integrity of the Government procurement process and should be avoided. Be careful to ensure you are not entering into an agreement on behalf of the Government or that the vendor construes you are doing so.

NOTE: The strategy for market research and the techniques to be used MUST be discussed and coordinated with the contracting officer.

I've Completed Market Research--Now What?



Record your results. Documenting the results of the market survey is a critical aspect of the process. FAR Part 10 states that agencies “should document the results of market research in a manner appropriate to the size and complexity of the acquisition.” The type and amount of information you keep should also be based on how you expect it will be used in the future: is this a one-time only, unique requirement, or is it recurring?

The documentation serves several purposes. First, it provides a historical record of the market research effort and provides evidence that proper market research was done for the acquisition. Second, it may be used in the future by other market research teams investigating similar products. Third, it will be used by the contracting officer working on the solicitation for your acquisition to further determine appropriate contract terms and conditions. To that end, project officers must submit all of their market research documentation to the contracting officer when they submit the requisition to the contracting office.

Note: Acquisition Flexibilities for Emergencies

FAR Part 18 provides a single reference to acquisition flexibilities that may be used to facilitate and expedite the acquisition of supplies and services during emergency situations. To view, visit www.whitehouse.gov/omb/procurement/guides/emergency_acquisitions_guide.

Market Research Tools

- Federal Procurement Data System: (FPDS) (<https://www.fpds.gov/>)
- Past Performance: <http://cps.od.nih.gov/>
- Catalogs and Publications
- Commercial Search Engines

- Seven Steps to Performance Based Contracting (<http://acquisition.gov/SevenSteps>)
- Dunn & Bradstreet: (<http://www.dnb.com/>)

- On-Line Services (not all inclusive)
 - GSA Advantage (<http://www.gsa.gov/Portal/gsa/ep/home.do?tabId=o>)
 - Thomas Register of American (www.thomasregister.com)
 - Thomas Regional Electronic (www.thomasregional.com)
 - National Association of Purchasing Management (www.napm.org)

TechSavy (www.techsavy.com)

CommerceNet: (<http://commerce.net>)

Small Business Administration office of Government Contracting
(<http://www.sbaonline.sba.gov/GC/>)

BizWeb (www.bizweb.com) Hoover's on-line MasterList Plus provides list of companies by name to non-subscribers (<http://hoovers.com>)

Computer and Electronics "Street Prices" updated daily (www.pricewatch.com)

- Contract Directory (www.contractdirectory.gov)
- Other Federal Agencies

References

NASA Market Research Guide (www.hq.nasa.gov/office/procurement/market.html) Appendix C pages 23 to 30.

US Navy Market Research Modules (www.acqui-ref.navy.mil/tools/marketresearch/)
See Module 2 under “Resources” and “Computer Based Resources”

The George Washington University contracting program, Performance Based Acquisition
(www.esi-intl.com)

FAR 7 – Acquisition Planning

FAR 10 – Market Research

FAR 12 – Commercial Items

FAR 15- Source Selection Process

For suggestions on how to improve this guide, useful websites and lessons learned, email Lenita.Ahmadi@dot.gov.

