

**DEPARTMENT OF THE ARMY**  
**ARMY CONTRACTING COMMAND-ORLANDO**  
12211 SCIENCE DRIVE  
ORLANDO, FL 32826-3224

**ACC-ORL**

17 May 2016

**ACQUISITION INSTRUCTION (AI) 016B**

**SUBJECT:** Communication with Industry

1. **PURPOSE.** The purpose of this instruction is to provide policy and guidance that will encourage and enhance communication between Government and Industry. It provides a variety of methods to actively engage Industry in the communication process in order to benefit from Industry's knowledge of available products and technology.

2. **SCOPE.** This instruction applies to all personnel who communicate with Industry on behalf of the Army Contracting Command (ACC)-Orlando. This AI supersedes AI 016A dated 29 May 2014.

3. **REFERENCES.**

- a. Federal Acquisition Regulation ([FAR Subpart 3.104](#)), Procurement Integrity
- b. [FAR Part 9.5](#), Organizational and Consultant Conflicts of Interest
- c. [FAR Subpart 15.201](#), Exchanges with Industry before Receipt of Proposals
- d. [FAR Subpart 15.306](#), Exchanges With Offerors After Receipt of Proposals
- e. [FAR Subpart 52.215-1\(e\)](#), Instructions to Offerors -- Competitive Acquisition
- f. [Procurement Integrity Act](#), as codified at 41 U.S.C. 423
- g. Joint Ethics Regulation (JER), Department of Defense ([DOD 5500.7-R](#))
- h. [Army Regulation \(AR\) 25-55](#), The Department of the Army Freedom of Information Act Program
- i. [Memorandum, Office of Management and Budget, dated 2 February 2011](#), Subject: "Myth-Busting": Addressing Misconceptions to Improve Communication with Industry During the Acquisition Process

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j. [Memorandum, Office of Management and Budget, dated 7 May 2012, Subject: "Myth-Busting 2": Addressing Misconceptions and Further Improving Communication During the Acquisition Process](#)

k. [Memorandum, Office of Management and Budget, dated 4 December 2014, Subject: Transforming the Marketplace: Simplifying Federal Procurement to Improve Performance, Drive Innovation, and Increase Savings](#)

### **4. DEFINITIONS.**

a. Contractor Bid or Proposal Information: Any of the following information submitted to a Federal Agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

(1) Cost or pricing data;

(2) Indirect Costs and direct labor rates;

(3) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with (IAW) applicable law or regulation;

(4) Information marked by the contractor as "contractor bid or proposal information" IAW applicable law or regulation; and

(5) Offeror's information marked IAW reference 3f concerning restriction on disclosure and use of data.

b. Data: Recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software.

c. Ethics Counselors: Attorneys within the PEO STRI Office of Chief Counsel, specifically appointed to provide ethics counsel to employees on the Federal Standards of ethical conduct, political activities, outside employment and activities and post-employment matters.

d. For Official Use Only (FOUO): FOUO is a designation that is applied to unclassified information which is exempt from mandatory release to the public under the Freedom of Information Act (FOIA) (See reference h for more details). The FOIA specifies nine categories of information which can be withheld from release if requested by a member of the public. Unauthorized disclosure of this information would adversely impact the conduct of Federal programs or other programs or operations essential to the national or homeland security interest.

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e. **Inside Information:** Information about an acquisition, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated, which is known by Government employees but not the general public. Examples of inside information are market research data, financial information on projections, significant new technological developments, information on the development of the overall strategy for managing the acquisition, significant actions by regulatory bodies and disputes with contractors.

f. **Market Research:** Collecting and analyzing information about capabilities within the market to satisfy agency needs. Market research activities can include seeking information via Sources Sought solicitations to Industry, Requests for Information, White Papers, Oral Presentations, Demonstrations, Pre-solicitation Conferences, Industry Days, One-on-one meetings, etc.

(1) **Request For Information (RFI):** Used when the Government does not presently intend to award a contract, but needs to obtain price, delivery and other market information, or capabilities for planning purposes. Responses to these notices are NOT offers and cannot be accepted by the Government to form a binding contract. (Note: Contractors cannot be excluded if they do not provide a response.) There is no required format for RFIs.

(2) **Sources Sought Notice (SSN):** An effective way to inform offerors that the Government has a need, help define or verify requirements and ascertain feasibility of socioeconomic goals. A SSN provides Industry insight into the Government's acquisition plans and fosters competition in the marketplace.

g. **Office of Small Business Programs (OSBP):** This office is responsible for ensuring internal stakeholders, who could affect the activity's small business program, are properly trained and that training is provided to small businesses to ensure their understanding of doing business with ACC-Orlando. The OSBP also reviews all market research and ensures strategies have considered small businesses to the fullest extent.

h. **Procurement Sensitive Information:** Any information which, if lost, misused, disclosed, or subject to unauthorized access or modification, could adversely affect the procurement process. Procurement sensitive information also includes information designated "sensitive" or subject to other controls, safeguards, or protections IAW adopted security information handling procedures.

i. **Program Office/Requiring Activity (RA):** The requiring activity is responsible for identifying and defining requirements to ensure they are within the mission of the agency.

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j. Source Selection Information (SSI): Any of the following information prepared for use by an agency for the purpose of evaluating a bid or proposal to enter into an agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

(1) Bid prices submitted in response to an agency invitation for bids or lists of those bid prices before bid opening;

(2) Proposed costs or prices submitted in response to an agency solicitation or lists of those proposed prices before bid opening;

(3) Acquisition plans;

(4) Source selection plans;

(5) Independent Government cost estimates;

(6) Technical Evaluation Plans;

(7) Technical evaluations of proposals;

(8) Cost or pricing evaluations of proposals;

(9) Competitive range determinations identifying proposals that have a reasonable chance of being selected for award of a contract;

(10) Ranking of bids, proposals, or competitors;

(11) Reports and evaluations of source selection panels, boards, or advisory councils;

(12) Other information marked as "Source Selection Information – See FAR 2.101 and 3.104" based on a case-by-case determination by the head of the agency or the Contracting Officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates; and

(13) Names of individuals directly involved in evaluating proposals or making recommendations/reviews/decisions regarding evaluations.

k. Unauthorized Commitment: An agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government.

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### **5. POLICY.**

a. IAW reference 3c, the Government is encouraged to promote early exchanges of information about future acquisitions with Industry. An early exchange of information among Industry and the RA, Contracting Officer, and other participants in the acquisition process can identify and resolve concerns regarding the acquisition strategy, including:

(1) Proposed contract type, terms and conditions, and acquisition planning schedules;

(2) The feasibility of the requirement, including performance requirements, statements of work, and data requirements;

(3) The suitability of the proposal instructions and evaluation criteria, including the approach for assessing past performance information;

(4) The availability of reference documents; and

(5) Any other Industry concerns or questions.

b. This dialogue also assists Industry in better understanding the Government's requirements. Events such as Industry Day(s) also promote communication because it provides prime contractors and subcontractors, especially small businesses, with opportunities to develop relationships and teaming agreements that can benefit contract performance.

c. ACC-Orlando shall take full advantage of the flexibility allowed within the FAR to conduct early, frequent and productive communications with our Industry counterparts, while treating each business fairly and impartially. Actively engaging Industry early in the process offers the best opportunity to execute our programs successfully by taking advantage of Industry's knowledge of available products and technology. ACC-Orlando's overarching goal is to improve its acquisition processes by fostering productive exchanges of ideas with Industry that will lead to creative and cost effective solutions to meet requirements.

d. All Government employees shall conduct themselves in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment toward none. Employees shall avoid any situations involving conflicts of interest, safeguard all procurement sensitive and proprietary information and report any suspected violations to their Supervisor, Contracting Officer and/or Ethics Counselor (as appropriate).

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### **6. RESPONSIBILITIES.**

a. Contracting Officers: Responsible for ensuring performance of all necessary actions for effective contracting. Contracting Officers are required to safeguard the interest of the Government and all its contractual relationships. Additionally, Contracting Officers shall:

(1) Ensure that vendors and potential vendors receive impartial, fair, and equitable treatment;

(2) Facilitate timely discovery and disclosure of improper conduct in connection with Government procurements and contracts;

(3) Promptly report suspect activity to the Ethics Counselor and ensure corrective measures are promptly instituted and carried out; and

(4) Act as Business Advisors for assigned programs.

b. Program Office/RA: Coordinate closely with the Contracting Officer to get the best results from acquisitions and to manage their assigned programs to receive the high-quality products and services for which the Government is paying. Further responsibilities include the following:

(1) Translating the contract need(s) into an actionable requirement for contract award that can be well managed, with measurable outcomes throughout the contract performance; and

(2) Conducting market research to ascertain if the product/service is commercially available and to identify Industry interest and capabilities.

c. ACC-Orlando Employees: Shall be proactive and engage Industry to discuss and improve procurement actions which provide better value to the taxpayer. Employees are encouraged to coordinate with the Contracting Officer and/or Contract Specialist before contacting Industry.

d. Ethics Counselor: Shall assist employees in implementing and administering the agency's ethics program and provide ethics advice to employees specifically as they apply to acquisition matters.

e. Legal Counsel: Shall provide legal oversight and guidance to the employees.

f. ACC-Orlando Ombudsman: Fosters communication with Industry by hearing concerns about specific issues in acquisitions, communicating these concerns to senior management personnel responsible for oversight and assisting in the resolution of the concerns.

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g. OSBP: Serves as the principal advisor to the acquisition workforce on all matters pertaining to small business and other social-economic business programs. Responsibilities also include aiding, counseling and assisting small businesses by providing them advice concerning acquisition procedures, information regarding proposed acquisitions and instructions on preparation of proposals and bids.

### **7. PROCESS.**

a. The acquisition workforce strives to obtain the “best value” in the products and services we procure for the Soldier. To accomplish that goal, it is clear that we need to involve our industry counterparts in identifying creative, cost effective solutions to meet our training needs. This strategic partnering benefits all parties as tremendous value is gained through a mutual understanding of the existing business and technological challenges along with the solutions available to meet those challenges. Enclosure 1 depicts the information release terminology and process flow.

b. The Government has an obligation to buy the goods and services the Army needs at a fair and equitable price to the taxpayer. Communication with Industry is an essential element in conducting market research. Market Research can significantly shape the acquisition and present a wide array of potential approaches and solutions to meet the Army’s need.

c. Early contact with Industry not only benefits the Government, but helps Industry plan and make informed business decisions while providing the Government with the most current, technologically achievable and cost effective solutions to meet its needs. Early discussion of technical and functional objectives, estimated contract value, estimated contract duration, anticipated small business set-aside requirements and anticipated contract structure are among the key points to communicate with Industry. Everyone benefits from a mutual understanding of the requirements, potential contracting strategies and solutions available to meet the need.

d. The advantages of early communication are clear. The Government benefits by keeping abreast of technology trends, new commercial products and Industry capabilities. Keeping Industry abreast of agency mission needs and potential future requirements offers Industry the opportunity to align its resources with agency future plans. Industry is able to achieve a greater understanding of Government requirements, including proposal requirements and contract terms and conditions. Competition may be enhanced, new businesses may be attracted to this market and subcontracting opportunities expanded. Industry will be able to plan and make informed business decisions regarding its participation in the acquisition. Improved Requests for Proposal (RFP) should reduce schedule delays in awarding contracts due to mutual understanding of all requirements, contract terms and conditions.

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e. It is critical the Government communicates with Industry fairly and impartially, consistent with all procurement integrity requirements. Early communication with Industry is specifically encouraged to conduct market research and to discuss general information about agency mission, needs and future requirements. RAs are reminded certain information is protected under FAR 3.104 or FAR 24.2 may be considered proprietary and may not be disclosed IAW reference 3f.

f. ACC-Orlando promotes the release of stand-alone requirements documents (example: draft Statements of Work (SOW), Statements of Objective (SOO), Performance Work Statements (PWS), Contract Data Requirements Lists (CDRLs), Technical Requirements Documents or Performance Specifications) for Industry review and comment. ACC-Orlando encourages the RAs and Industry to communicate during the development of acquisition documents. However, once the focus of those discussions narrows to specific requirements, it is important the RA involve the Contracting Officer in on-going discussions to ensure equal information is available for all interested parties. It is important to remember communication with Industry should not stop once a specific requirement is discussed.

g. ACC-Orlando considers the issuance of a draft RFP a formal process because it includes contract sections L, Instructions to Offeror and Section M, Evaluation Factors for Award. Our internal policy is to fully staff, through legal review, all draft RFPs; thus, draft RFP documents are treated IAW FAR 15.201(f). Therefore, upon issuance of the draft RFP, the Contracting Officer is the only point of contact for communication between the Government and Industry.

h. The following table depicts the responsibility for the various acquisition actions:

<b>Acquisition Action</b>	<b>Responsibility</b>
Market Research	Program Office/RA
Draft Requirements Documents	Program Office/RA
Draft RFP	Contracting Officer
RFP	Contracting Officer

i. It is also important to be aware of the information that Government may not exchange with Industry:

- (1) Contractor bid or proposal information;
- (2) Specific weights of evaluation factors and subfactors; although general information regarding the relative weights of factors and sub-factors may be disclosed;
- (3) Names of the source selection authority, panel chairpersons and evaluation team members;
- (4) Proposal evaluation plan details, including worksheet forms; and

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(5) Any information for which release is inconsistent with procurement integrity.

j. Finally, the communication process does not stop with contract award. Communicating with unsuccessful offerors is another critical part of the communication process. An effective debriefing provides valuable feedback to the unsuccessful offeror to help them improve future proposal submissions.

k. The following two sections discuss various communication methods that may be used throughout the acquisition process. The first section discusses the different methods that are appropriate for use prior to the release of the RFP; the second section discusses post RFP communication with Industry.

### **(1) Pre-RFP Release Communications:**

(a) Industry Day – Market Research: There are multiple types of Industry Days that may be held. To encourage early exchanges of ideas, the RAs may hold an Industry Day for the purposes of conducting market research. Based on level of complexity of the acquisition, multiple industry day sessions may be needed to ensure the Government has adequately defined the requirement. Conducting on-going market research helps keep the Government current with conditions in the marketplace and will provide a way to attract and identify new entrants into the field that may be able to meet requirements. Early market research also serves as a tool to allow Industry to gain insight into the agency needs and potential future requirements. This enables businesses to make informed decisions about their business strategies and capabilities to meet emerging Government needs. Site visits are often conducted during the market research phase and may afford prospective offerors with the opportunity to physically inspect the worksite or property to potentially be furnished by the Government. Site visits to suppliers of products and discussions with other users can help RAs get a better feel for the realities of the industry than they could get by relying solely on media such as advertising brochures.

(i) This type of Industry Day is a more structured meeting, likely led by the RA, briefing Industry and conducting discussions via an open forum of questions and answers. Individual one-on-one meetings with a particular company are encouraged to gain insight into a firm's technological expertise, capabilities and business practices; and

(ii) It is important to note if the discussion focuses on any specific acquisition requirement, it is essential any information discussed that would be necessary for proposal preparation be made available to all potential offerors as soon as practicable in order to avoid creating an unfair competitive advantage.

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(b) Industry Day – Pre Solicitation Conference: Another type of Industry Day is also referred to as a Pre-Solicitation Conference. This is a more official meeting that requires the Contracting Officer's participation, primarily because the Government is usually providing written documentation to potential offerors and a more formal process is required to ensure all offerors are treated fairly and impartially. The purpose of this conference is to promote a full understanding of the Government's specific acquisition requirement and to enhance the Government's ability to obtain quality supplies and services. Typically, at this time, a draft RFP is provided to Industry for comment which would include draft sections B (Contract Line Item Number structures), L, and M and a SOW/PWS/SOO. Depending on the judgment of the Contracting Officer, other aspects of the acquisition may be discussed, such as the acquisition strategy, acquisition schedule, budget estimates, small business participation, and subcontracting opportunities. Draft RFPs are an important aspect of early communications with Industry because it provides a preview of the Government's acquisition strategy for Industry comment. The Government's intention is to address applicable Industry comments prior to issuance of the final RFP.

One of the most important aspects of this conference is the exchange of information. This means that in addition to sharing information about the acquisition, the Government should encourage questions from Industry, carefully consider their input and provide a formal response to all attendees. The Contracting Officer should contemplate providing draft documents in advance of the conference to allow sufficient time for Industry review. Allowing sufficient time for Industry to review documents and provide comments and ask questions during the conference increases the effectiveness of the process reducing misunderstandings of proposal requirements; and

(c) Portfolio Discussions: This forum is similar to an Industry Day in purpose, but less formal and structured. The meetings may be scheduled at the RA's discretion as luncheons, breakfast meetings, etc. In order to avoid the perception of providing an unfair competitive advantage, the RA should not invite the same companies all the time, but make an effort to reach out to a wide range of potential contractors, being especially careful to include a variety of small businesses. Further, if a luncheon, breakfast meeting, etc. is held, all parties should pay their own way. One of the key distinctions between portfolio discussions and an Industry day is that the RA invites a company to participate in this meeting, rather than an interested company responding to a general announcement. Other key elements remain the same, with only general future requirements under discussion. The meeting is essentially an informal discussion about general Government requirements, technology trends, Industry capabilities and general business practices. There should be no discussion of specific acquisition requirements.

(d) One-on-One Meetings with Industry: Meeting with Industry counterparts individually is encouraged when doing so furthers the Government's overall goal of obtaining quality supplies and services at reasonable prices. Individual companies may provide demonstrations of proprietary technology or existing products which will provide the Government a better understanding of products available in the marketplace.

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Special care must be used to ensure that procurement integrity guidelines are followed and the appearance of impropriety is avoided. One-on-one meeting may take place following an Industry Day or can be individually scheduled. In accordance with FAR 15.201(c)(4), RAs will inform the Contracting Officer of one-on-one meetings with vendors and Industry representatives and invite the Contracting Officer to participate in the one-on-one meetings or discussions that may substantially involve potential contract terms and/or conditions. There are advantages to one-on-one discussions with potential offerors; as companies may be reluctant to ask questions or provide input in front of competitors. This type of venue may provide a more robust exchange of information. The Contracting Officer should certainly be involved at this stage as his/her expertise is necessary to avoid creating the appearance of impropriety and to ensure no unfair competitive advantage is provided to any offeror.

(e) RFI: RFIs are notices published into the Federal Business Opportunities website. In addition, RFIs for procurements conducted under PEO STRI Omnibus Contract II (STOC II) will also be posted on STRI Business Opportunities Portal (STRIBOP). A RFI will provide a broad statement of need, briefly describe the Government's intention regarding the program or acquisition approach and might describe key events in the acquisition program schedule. The announcement should request Industry comments on how the Government's needs could be satisfied, alternative approaches, technology availability, risk assessment and identification of possible cost drives along with suggestions on ways to enhance or sustain competition. If you are conducting an acquisition under STOC II, consult the STOC II Guide for specific procedures (posted on STRIBOP). Although the Government may issue RFIs at any time to gather general information, it may be particularly useful to utilize a SSN to perform market research prior to beginning the formal acquisition process.

(f) Training and Simulation Industry Symposium (TSIS): TSIS provides an opportunity for all interested Industry members to hear the latest requirements and learn about procurement opportunities from the Army, Marine Corps, Navy and Air Force. Presentations will identify near term and mid-term requirements and acquisition strategies. The TSIS forum provides numerous opportunities for companies to network with key Government and other Industry partners in the training and simulation business. This is a formal multi-agency symposium, conducted over several days. TSIS is a conference sponsored by a non-Federal entity, consequently, official conference attendance must be approved in advance.

(g) OSBP: The OSBP remains the primary focal point for small businesses looking for information specific as to how to do business with ACC-Orlando, identifying contracting opportunities, or providing an overview of the small business program. The OSBP also provides small businesses with latest policy and regulatory changes affecting small business, information on specific preference programs and identifies subcontracting opportunities and Small Business Liaison Officer points of contact.

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### **(2) Post-RFP Release Communications:**

(a) Once the Government's requirement has been released to Industry through a formal solicitation the focal point of any exchange with potential offerors is the Contracting Officer. Government ethics regulations, the Competition in Contracting Act and the Procurement Integrity Act prohibit preferential treatment of one contractor over another and require that Government personnel adhere to the highest standards of conduct and avoid even an appearance of a conflict of interest. Government personnel involved in an acquisition are to: treat all vendors and potential vendors fairly and impartially; conduct business with integrity, fairness and openness; avoid unauthorized commitments; and understand one's ethical responsibilities.

(i) ACC-Orlando has an Ombudsman that acts as an advocate for Industry to facilitate the resolution of concerns from interested parties, potential offerors or offerors. The Ombudsman supports the acquisition personnel in the resolution of issues related to specific acquisitions. However, before consulting with the Ombudsman, interested parties must address their concerns, issues, disagreements and/or recommendations to the Contracting Officer for resolution. The existence of the Ombudsman does not affect the authority of the Program Manager (PM), Contracting Officer, or Source Selection Authority. As requested, the Ombudsman will maintain strict confidentiality as to the source of the concern. The Ombudsman does not participate in the evaluation process or the adjudication of protests or formal contract disputes. The Ombudsman has no authority to render a decision that binds the agency; and

(ii) When the Government enters the formal portion of the acquisition process it does not mean that we cannot or should not communicate with Industry. However, once the Government's requirements have been communicated to Industry through the RFP, the Government must take special steps to make sure all information not protected under FAR 3.104 or FAR 24.2, is provided to all potential offerors.

(b) Pre-Proposal Conference: A pre-proposal conference may be held to brief prospective offerors after a solicitation has been issued, but before offers are submitted. Generally, the Government uses these conferences in complex competitive acquisitions to clarify complicated specifications and requirements. The necessity for this type of conference may be reduced if extensive exchanges with Industry have been conducted in the pre-solicitation phase. The Contracting Officer, in concert with other team members, will decide if a pre-proposal conference is required and make the necessary arrangements. Notice of the conference may be in the solicitation; however, if not included, shall be given adequate notice. It is beneficial if time is allowed to submit questions in advance of the conference. The Contracting Officer must ensure that all offerors are provided the same information and should make a record of the conference, including all questions and responses and provide a copy of the record to all prospective offerors. It is important to notify attendees that remarks and explanations at the conference does not qualify the terms of the solicitation and terms of the solicitation

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and specifications remain unchanged unless the solicitation is amended in writing.

(c) Site Visits: While site visits are often conducted during market research or in conjunction with pre-proposal conferences, the purpose of a site visit remains to allow prospective offerors to physically inspect the worksite or property to be furnished by the Government. Site visits conducted after the release of the RFP must be controlled by the Contracting Officer under the same guidelines as the pre-proposal conference.

(d) One-on-One Meetings: To facilitate communication with Industry, one-on-one meetings can be held at the discretion of the PCO to promote questions and may likely increase the number of quality proposals submitted. As in the pre-solicitation phase, these meetings and any responses to offerors must be carefully controlled by the Contracting Officer to ensure fair and equitable treatment to all offerors and prevent release of confidential business strategy or information protected IAW reference 3a.

(e) RFP Question & Answer (Q&A) and Document Revision: Allow Industry to continue to submit questions while the final solicitation is posted but be sure to include a cut-off date so that any questions that cause amendments to the solicitation can be incorporated into the offeror's proposal. This is also controlled by the Contracting Officer.

(f) Procurement Administrative Lead Time (PALT) Updates with Industry: Monthly forum (schedule posted on FEDBIZOPPS) where information regarding ACC-Orlando procurements is provided to interested Industry partners in attendance. The intent of the updates are to better communicate the status of ongoing procurements within ACC-Orlando. Each PALT update session provides Industry the opportunity to request updates on specific procurements of interest in a Q&A type forum. There is no formal agenda, but rather an open Q&A session. Industry representatives are responsible for requesting an update on specific procurements of interest. The information provided by the Government is limited to status updates pertaining to specific procurements. The Government representatives must ensure that they do not provide any procurement sensitive information that would violate the integrity of the source selection process.

(g) Exchanges with Offerors After Receipt of Proposals: Contracting Officers are required to conduct all exchanges with offerors after the receipt of proposals IAW reference 3d. The table below highlights the three types of exchanges that may occur between the Government and offerors after receipt of proposals.

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	Clarifications	Communications	Negotiations/Discussions
<b>When They Occur</b>	Limited exchanges between the Government and offerors when award WITHOUT discussions is contemplated.	When award WITH discussions is contemplated - prior to establishing the competitive range.  May only be held with those offerors (other than offerors under <u>FAR 15.306 (b)(1)(i)</u> ) whose exclusion from the competitive range is uncertain.	After establishing the competitive range  <b>Note:</b> The term “negotiations” applies to both competitive and non-competitive acquisitions. In competitive acquisitions, negotiations are also called discussions.
<b>Scope of the Exchanges</b>	Most limited of the three types of exchanges	Limited; similar to fact finding	Most detailed and extensive
<b>Purpose</b>	To clarify certain aspects of proposals	To enhance the Government’s understanding of the proposal, by addressing issues that must be explored to allow a reasonable interpretation of the offeror’s proposal to determine whether a proposal should be placed in the competitive range.	To allow the offeror an opportunity to revise its proposal, so that the Government obtains the best value based on the requirement and applicable evaluation factors.
<b>Examples of Topics of Exchanges</b>	<ul style="list-style-type: none"> <li>• Relevance of an offeror’s past performance</li> <li>• Adverse past performance information</li> <li>• Resolution of minor or clerical errors.</li> </ul>	<ul style="list-style-type: none"> <li>• Ambiguities or other concerns (e.g., perceived deficiencies, weaknesses, errors, omissions, or mistakes)</li> <li>• Relevance of an offeror’s past performance</li> <li>• Adverse past performance information</li> </ul>	Examples of potential discussion topics include the identification of all evaluated deficiencies, significant weaknesses, weaknesses, and any adverse past performance information to which the offeror has not yet had an opportunity to respond.
<b>Are Resultant Proposal Revisions Allowed?</b>	No	No	Yes

(h) Debriefing: The purpose of a debriefing is to help the contractor understand its weaknesses or deficiencies to enable the company to improve proposal responses for future acquisitions. A successful debriefing will explain the rationale for the contract award decision and instill confidence in the offeror that it was treated fairly. It is imperative the Government displays that it fully understood the offeror’s proposal and evaluated the proposal IAW the established criteria; otherwise, the offeror will have little

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confidence in the conduct of the procurement. Although the Contracting Officer is in charge of the debriefing, it is essential that the appropriate technical personnel attend along with the legal advisor if the debriefed offeror will have their attorney in attendance. When the offeror's attorney is not expected to attend, the government legal advisor should coordinate with the PARC prior to not attending the subject debriefing. Effective debriefings will benefit the Government as it helps to create a more competitive marketplace in the future; thus ensuring the Government will have stronger competitors from which to choose. Comprehensive debriefings may be the most effective deterrent to the misunderstandings that generate protests.

(i) Debriefings are divided into two categories: pre-award debriefings or post-award debriefings. The major distinction between the two types of debriefings is in the data that can be given at the time the debriefing is requested and the rules involving a post-award debriefing request. Pre-award debriefings may occur at the point in which offerors are notified they are no longer in the running to win the award. This may occur after the initial proposal review for responsiveness or after competitive range selection; and

(ii) There are specific rules and guidelines to be followed when providing debriefings which are defined in FAR 15.505 and 15.506.

### **(3) Post-Award Phase:**

(a) The post-award phase begins with contract administration; a wide variety of functions are performed to ensure the satisfactory performance of the contract and to protect the Government's interests.

(b) The primary purpose of contract administration is to ensure the Government receives the products or services contracted for, at an acceptable level of quality, in the time period specified. However, strong administration practices not only assure the Government is receiving all that it bargained for, but assures the scope of the contract is adhered to for the benefit of both parties. Both Government and contractor personnel must understand their rights and obligations under the contract and how to resolve potential issues to the mutual benefit of both parties;

(c) The Contracting Officer and the Program Office/RA each have significant contract administration responsibilities. While the Contracting Officer has the overall formal responsibility for monitoring the contract, he/she relies heavily on the Program Office/RA for program management and technical management oversight; and

(d) Frequent and direct communication between the Government and contractor is essential to ensure that contract performance is monitored and issues are discussed and resolved as early as possible. Communication among all parties, at all levels, is key to assuring successful contract performance.

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8. **GOAL.** The goal is to facilitate communication and encourage productive interactions between the Government and Industry, not only to ensure the Government clearly understands the marketplace, but also to incorporate insight and creative solutions from Industry.

9. **PROPONENT.** The proponents for this AI are the ACC-Orlando Deputy Directors. The proponents will review this instruction annually.

Encl

A handwritten signature in black ink, appearing to read 'J. A. Giunta, Jr.', with a stylized flourish at the end.

JOSEPH A. GIUNTA, JR.  
Principal Assistant Responsible  
for Contracting

# Information Release Terminology and Process Flow

