September 21, 2018

Regulatory Secretariat Division (MVCB)

General Services Administration

ATTN: Lois Mandell

1800 F Street NW, Second floor

Washington, DC 20405

Subject: Use of Acquisition 360 To Encourage Vendor Feedback (FAR Case 2017–014)

Dear Lois,

The Coalition for Government Procurement (“the Coalition”) appreciates the opportunity to provide comments in response to the advance notice of proposed rulemaking (ANPRM) to amend the Federal Acquisition Regulation (FAR) to encourage vendor feedback on Federal contracts and solicitations through the Acquisition 360 Survey.

The Coalition for Government Procurement (“the Coalition”) is a non-profit association of firms selling commercial services and products to the Federal Government. Our members collectively account for a significant percentage of the sales generated through the GSA contracts, including the Multiple Award Schedule (“MAS”) program. Coalition members are also responsible for many of the commercial item solutions purchased annually by the Federal Government. Coalition members include small, medium, and large business concerns. The Coalition is proud to have worked with Government officials for more than 35 years towards the mutual goal of common sense acquisition.

## Implementation through Policy and Other Guidance

The Coalition supports the Government’s efforts to seek industry feedback on the acquisition process, and to use the information to strengthen the contracting process and improve vendor engagement. The advance notice proposes establishing a standard process (i.e., the Acquisition 360 Survey) in the FAR to obtain such feedback voluntarily following contract award. We do not believe, however, that an amendment to the FAR is necessary to achieve this objective. Seeking industry input on aspects of the pre-award acquisition and debriefings process is highly valuable as a tool to improve the acquisition process. The Coalition views this as an acquisition management and training related initiative, rather than a process for acquiring goods and services that would need to be established in the FAR. Therefore, we recommend that OMB and agencies work together to further implement the Acquisition 360 survey by developing guidance for the acquisition workforce via memoranda and other sources, rather than providing direction through regulation in the FAR. Implementation through agency policy and guidance would allow acquisition leadership the flexibility to modify how industry input is collected and evaluated over time without being restricted to a certain approach dictated in the FAR.

## Maintaining Respondents Anonymity

The Coalition appreciates the FAR Council’s focus on the importance of anonymity for offerors who choose to complete the Acquisition 360 survey. Maintaining the anonymity of survey respondents will be key to the Government’s ability to gather reliable and actionable feedback from industry. Inevitably, given the facts and circumstances of an individual procurement, it may not be difficult for contracting officers to decipher the source of the feedback. Therefore, rather than having survey responses collected directly by the entity that issued the solicitation, it may be preferable to have a higher-level government resource receive the responses to identify tends, best practices and areas for improvement to share government-wide. This “data clearinghouse” could also be responsible for developing government-wide guidance in areas identified for improvement, as in the case of the “Myth-busting 3: Further Improving Industry Communication with Effective Debriefings” memorandum described in the ANPM. Given the importance of maintaining anonymity to the effectiveness of this initiative moving forward, we encourage the FAR Council to continue to engage in a dialogue with all stakeholders to explore potential solutions.

## Cost-Benefit Analysis

We recommend that the Government complete a cost-benefit analysis (CBA) for this proposal. Through this CBA, the Government would be able to quantify the benefits of collecting this feedback for Government, industry and taxpayers. Furthermore, a CBA would quantify the benefits of maintaining anonymity among respondents, which would justify the costs for the “data clearinghouse” described in the previous section of these comments.

## Feedback on ANPRM Questions

The advance notice includes a request for comment on a list of questions. The following are some of the responses received from members.

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| **Question** | **Industry Feedback** | |
| *(1) What are the benefits to industry in providing actual and potential offerors with increased opportunity to submit feedback on how well the Government is performing its pre- and post-award activities? What are the benefits to the Government?* | Currently, for competitive reasons, there may be disincentives to competitors providing more fulsome input to the acquisition process on specific opportunities. While the Government has many industry-government forums and conferences, input at these meetings may be more generalized, as many in industry are reluctant to voice concerns, provide feedback or otherwise disclose their thinking in open, public settings – especially when it pertains to a specific procurement. The Acquisition 360 process will give industry a forum to provide specific feedback on a non-attribution basis (and presumably not to be shared outside the government) on an actual procurement which should offer more meaningful insights to the Government as to what went well and what didn’t in a given procurement. | For Industry, it is a chance to help reduce instances of negative outliers – of contracting shops or specific personnel that might be shown to be particularly out of line with the rest of the Government in terms of the elements of the survey. More than anything else, procurement (and the rules behind it) should be used as consistently as possible to help maintain a competitive landscape that is level for all – and based on the regulations and requirements, not on the vagaries of the person or shop behind them.  Likewise, for Government, identifying and addressing such situations should result in better competition, as competitors have less opportunity to exploit the differences in approaches by the various personnel/shops.  There is of course also positive feedback that would come from such a survey – identifying best practices and personnel, and finding ways to replicate their approaches beyond just their shop and Agency. |
| *(2) Is the approach discussed in this advance notice of proposed rulemaking the most effective way to elicit feedback about the Government's pre-award activities? If not, how might effectiveness be improved? What is the best way the Government can obtain honest and open feedback on the contract administration process?* | To improve the pre-award activities, we recommend that the requirements development survey be completed prior to release of the final RFP as part of the pre-solicitation process with a slight modification to the fourth question to read:  “With the clarity of the draft requirements?” While the questionnaire, as written, would be valuable in evaluating the government’s definition of requirements after the fact, we recommend adding a comment box for industry to provide input when the draft requirements are released as well. This would allow industry to provide input that may be valuable in enabling government to improve the success of the instant procurement as well as potentially reducing pre-award challenges based on lack of clarity in requirements.  In comparison to the standard opportunity to submit questions in response to a draft solicitation, survey responses would be anonymous and would not be shared with other contractors.  We believe that the government should be prepared to consider the feedback in the appropriate context, as responses from unsuccessful offerors are likely to be quite different from those of the awardees, and it may be difficult for the government to ascertain what truly was done well in a given procurement. | It seems to be a very good start, although the quality and types of responses will vary greatly by the situation of the responder, specifically:  - an awardee will presumably respond more favorably, or not at all.  - an offeror not awarded will presumably respond more honestly, with a lean toward being more critical, and is most likely to take the time to respond.  - a subcontractor may have limited visibility but may still have important feedback.  - outsiders (non-bidders) may have wildly different responses depending on their agenda.  Given this, the Government should find a way to know if a respondent was an awardee, a losing bidder, a subcontractor or an outsider – while still maintaining anonymity for the respondent.    Doing so will be critical for identifying where single contractors may have been treated unfairly (in their favor or not), where patterns exist, and where noise (in the form of random surveys) are skewing the usefulness of the data. The Government should also keep track of how many interested parties do NOT respond as a way to judge some degree of content. |
| [*(3) Approximately, how long would you estimate it will take to complete the survey at https://www.acquisition.gov/​360? What is a reasonable estimate of an organization's costs to complete the survey and what are the elements of this cost (e.g., personnel involved and time to complete)?*](https://www.acquisition.gov/360) | Generally, this is a short survey that should take no longer than a half hour to complete. However, that may increase depending upon the size of the RFP, the number of proposal participants, and the desire to provide more meaningful comments and input. The cost burden should be relatively insignificant for this voluntary activity. | It might take an hour or two to decide upon responses, and 15 minutes to submit. Given that this survey is voluntary, it seems like a viable, reasonable approach. |
| *(4) How would you quantify or otherwise describe the benefits or burdens of this type of feedback mechanism to actual and potential offerors?* | The FAR makes this a voluntary activity for both industry and the government. We recommend that the FAR provide more specific requirements for the government to consolidate, analyze and transform its processes/practices in response to feedback collected. It may also be desirable to make the Acquisition 360 process mandatory for the Government to include in certain competitive solicitations that require a scope of work and for which a debrief is mandatory. Industry may feel less inclined to respond if there are no teeth to the requirement for the agency to use this data to modify their processes. Furthermore, if industry feels the feedback is not truly being evaluated, considered, and the lessons learned being applied to future solicitations, industry will cease participating in the process. | Very occasionally, an industry participant in an acquisition may feel as though the procurement process and personnel are working against them. The issues may not rise to the necessity of a formal protest yet may still be real and impactful. This feedback mechanism may help, over time, to reduce the impact of non-regulatory, non-requirement factors. It can do this in two ways:  1. Identifying particularly bad experiences, allowing the Government to directly address them, and  2. Identifying particularly good experiences, allowing the Government to learn and replicate them.  So, the benefits to offerors is that they help the Government see across solicitations – to provide a bird’s eye view of the process, with an eye toward identifying the outliers – both positive and negative – and taking relevant action. |
| *(5) Should any of the information provided by industry be available for industry review? How should the FAR Council work proactively with industry to consider changes based on any data submitted?* | For the reasons stated in response to Question 1 above, we feel industry will be more forthcoming and more eager to participate if they are assured their comments will not be shared with industry but are being considered by the government. Furthermore, we believe the value of this effort will be in an agency’s ability to review feedback from multiple offerors across multiple proposals, to identify trends, strengths and weaknesses, and to formulate a set of lessons learned that will inform and guide an agency in future procurements. We recommend that agencies be required to provide an annual report that aggregates the results and describes changes that they will make in response to trend data. | The information gleaned from these surveys could be shared but in very careful ways. For instance, we recommend NOT specifying any Government personnel, procurement shops or even agencies when providing broad information, as it may influence the bidding pools in future opportunities in unforeseen ways. Conversely, the Government may indicate specifics like “Shop X has won the highest grades for 2019” as a way to highlight excellence in transparency and the other elements of the survey.  We believe the best way to use and share information from these surveys is through actions resulting from them. Upon evaluation of the results, the Government might take some course of action, things like:  - Highlighting a particular best practice by a particular shop for sharing by other shops  - Proposing a change to a regulation (or a new regulation)  - Changing the processes in a particular shop.  In each of these cases, the action could be explained as being “as a result of survey responses….” And then the merits of the action could be debated. Otherwise, there would simply be frustration to see that the results point to particular trends, concerns or highlights and not have any action connected with those particulars. |
| *(6) Is there different information which should be collected on the survey based on the type of company or the type of acquisition?* | Recommend that this be required for competitive solicitations requiring a scope of work and for which a debrief is mandatory. It could be optional for others, but we would recommend the survey not be used for procurements below the simplified acquisition threshold. | We’ve already recommended that the bidder type (winning, losing or non-) be captured, as this will color their responses significantly.  We also recommend leaving the possibility of more questions open, in the form of (say) 3 “pool specific” questions that could be added to the survey for particular company/acquisition types. The questions may come later; the key is to create the structure now and allow for future edits/additions.  For instance, if an acquisition is for vehicles and is a small business set-aside, then the survey might tack on the 3 question module for vehicles, and the 2 question module for small business set-asides. Over time, modules might exist by  - By Industry  - By FAR type contracts & clauses  - By Agency  - By Geography  - By Duration  - Etc.  Over time, it is also important to review the effectiveness of each module and potentially change or remove it. Thus the recommendation for a limited number (like 3) questions to be associated with each module. |
| *(7) Would you view the voluntary opportunity to provide input as burden? If so, are there modifications which would decrease the burden associated with the Government collecting this information?* | No. Industry is constantly seeking ways to increase meaningful communication with the government related to its acquisition processes, and we believe this survey would be widely viewed as a useful tool that is well worth whatever insignificant burden it may place on industry to actually complete it. However, as stated above, industry may be less likely to provide input if there is no clear mandate for the government to consider, use and act on the feedback received. Agencies should be required to identify to industry on an annual basis industry-identified best practices and areas in need of improvements that are being addressed. We believe that if industry knows that they will see a “feedback to the feedback” communication, they will be more inclined to provide thoughtful, balanced input (rather than a simple airing of grievances by unsuccessful offerors). | It is not a burden if the survey provides a way to provide constructive feedback and that feedback is used appropriately to improve the acquisition process.  Like with the ‘module’ concept above, the Government may consider different versions of the base survey that coincide with the complexity of the acquisition – or put another way, the Government might consider a smaller survey for smaller efforts. In theory, this will help with response rates for smaller efforts, and may help identify areas for acquisition improvement before they creep into larger efforts. |
| [*(8) Would you be more likely to complete the survey if it were available as a hyperlinked button within each solicitation page of https://www.fedbizopps.gov?*](https://www.fedbizopps.gov/) | Yes. | No, not necessarily.  A “survey monkey” like link may be better, provided in or with the solicitation, thus exposing it only to those exposed to the solicitation. That might be provided on FedBizOpps, it might not.  Ideally, the survey would be unique to the solicitation and thus have a unique link each time. It would be built from a menu of established standard questions, just as FAR clauses are chosen to build a complete solicitation Ts&Cs section. But the combination of questions might be unique, and the link would always be unique. |
| *(9) What measures would help assure you that answers would remain anonymous? For example: Should the solicitation number itself and/or the specific Product Service Code (PSC) be stripped from the data agencies review? Should there be a time delay in agencies receiving survey responses? Should the Government discard survey submissions when two or fewer responses are received for a solicitation or would you prefer that the Government reviews data from all responses?* | The solicitation number will be important for the Government to actually understand comments and feedback, and to aggregate the data from similar solicitations to identify trends. The Government could remind contractors to provide constructive feedback designed to help the process and that while the survey may be submitted anonymously, if there are a limited number of bidders, it may be possible for the Government to discern the company providing feedback. We do believe it will be valuable to assure industry that their specific ratings and comments will not be shared outside of government. We believe that the government would benefit from considering and analyzing all feedback, regardless of the number of offerors in a given procurement. | That is an important and difficult question. As noted above, we believe that the Government needs certain information about both the solicitation and the survey respondent to effectively act, yet, should preserve anonymity to ensure candid responses.  To that end, the tabulation and reporting should probably be done with a neutral Government group (maybe be a part of the FedBizOpps or USASpend groups) and have data released to Agencies and Industry in ways that are protective of the other group. When releasing to Agencies, it might be good to remove the solicitation numbers and look for larger patterns first – what shops scored higher, and why? What personnel scored higher, and why? Likewise, when information is released to industry, it should aggregate scores without identifying specific low-scoring agencies.  We do not see the value in delaying how/when agencies receive their responses, however, if they are handled by a neutral Government group as recommended above, there would necessarily be a delay as the data is assembled and interpreted. We do not believe Agencies, particularly the procurement shops, should be directly receiving the data.  We do see the value in the Government reviewing all survey responses, at least from bidders. If a solicitation only had two bidders, there may be some non-protestable issue with the procurement process or personnel that would only come out in such a survey that can explain the reason only two bidders participated. |
| *(10) What recommendations would you advise to ensure data quality? Similar to the example above, should the Government discard survey submissions when a minimal number are received for a particular solicitation or contracting office or would you view this effort more as a forum to provide comments?* | Same comment as above. We would view this as a valuable forum to provide comments and would not discard survey submissions due to minimal input received. | We believe the usefulness and fidelity of the data will have to come from some knowledge of the respondent – did they win, lose, or not bid at all? While we believe that all survey responses from bidders should be considered (and in some cases from non-bidders), but we understand that in the capable hands of survey experts, a higher number of correlating surveys will provide a higher degree of confidence in a trend.  The hope is that from these surveys comes action. We understand that the Government has limited resources and therefore must target such action. To that end, we hope that the surveys an both ferret out the areas where action will either make a small change that improves acquisitions for many, or will make a big change, even if it only improves acquisitions for a few. To that end, we don’t believe that any process or rule should discard any surveys, except maybe from non-bidders. |

The Coalition appreciates the opportunity to respond to the “Use of Acquisition 360 To Encourage Vendor Feedback” advance notice of proposed rulemaking. If you have any questions, feel free to contact me at 202-331-0975 or rwaldron@thecgp.org.

Sincerely,



Roger Waldron

President