



# General Guidance On Practices For Marketing To A Government- Owned Entity (GOE)



The Do's and Don'ts of proper practices for governance and procurement integrity when marketing to a Government-Owned Entity (GOE).

## Learning Objectives

Establishing strategic relationships with government clients at the national and regional levels enable you to learn about their changing business needs. Spending time to build relationships is equally as important as learning proper practices for governance and procurement integrity when marketing to a Government-Owned Entity (GOE). At the end of this module, you will be able to:

- Determine First Steps to Doing Business With a Government-Owned Entity (GOE)
- Work with a Procurement Technical Assistance Center (PTAC)
- Align With Procurement Integrity Guidelines
- Know Your Responsibilities When Dealing With A GOE
- Learn General Guidance on Marketing to a Government-Owned Entity (GOE)

This guide will cover topics such as Procurement Integrity, Getting Registered to Do Business, Standards of Ethical Business Conduct, Defining and Identifying a Government-Owned Entity (GOE), information exchange with a GOE as well as marketing and other pre-bid activity. Additional topics include important concepts to incorporate for acceptable techniques when building relationships with government agencies in need of your product or service.

## About FDIC Small Business Resource Efforts

The Federal Deposit Insurance Corporation (FDIC) recognizes the important contributions made by small, veteran, and minority and women-owned businesses to our economy. For that reason, we strive to provide small businesses with opportunities to contract with the FDIC. In furtherance of this goal, the FDIC has initiated the FDIC Small Business Resource Effort to assist the small vendors that provide products, services, and solutions to the FDIC.

The objective of the Small Business Resource Effort is to provide information and the tools small vendors need to become better positioned to compete for contracts and subcontracts at the FDIC. To achieve this objective, the Small Business Resource Effort references outside resources critical for qualified vendors, leverages technology to provide education according to perceived needs, and offers connectivity through resourcing, accessibility, counseling, coaching, and guidance where applicable.

This product was developed by the FDIC Office of Minority and Woman Inclusion (OMWI). OMWI has responsibility for oversight of the Small Business Resource Effort.

## Executive Summary

The Federal Government is the world's largest buyer, spending over \$500 Billion dollars annually on private-sector contractors for anything from armored vehicles to pens and pencils to socks. Approaching a government agency successfully can be difficult and intimidating. Marketing any product or service requires understanding the 5W+H (the what, who, where, when, how and why) of your buyer, and marketing to a Government-Owned Entity (GOE) is no different.

Although Washington, DC is the hub of the Federal Government, major and minor purchases take place both in Washington and at various government locations around the country and world. These locations can be military bases or field offices for various agencies. The more you make the buying process easier for them, the more likely they are to buy from you.

As a general practice, employees who interact with government clients, or who have access to confidential government information, must exercise due care to properly navigate the unique requirements in that environment. Complex laws and regulations that control the government procurement process have been created due to public concern with relationships between industry and the U.S. Government.

Spending time to build relationships is equally as important as learning proper practices for governance and procurement integrity when marketing to a Government-Owned Entity (GOE). General conduct guidelines require each person to behave ethically and lawfully in all business dealings with the U.S. Government. State and local governments may also have applicable procurement rules that must be followed. The key topic areas discussed will help you successfully find government customers, utilize successful marketing strategies, and maintain compliance with rules and regulations.

## First Steps To Doing Business With a Government-Owned Entity

### Get Registered to Do Business

Begin by letting the government know you are ready and able to provide your products or services. By registering in the System for Award Management (SAM - [www.sam.gov](http://www.sam.gov)) and other appropriate places, you are stating that your organization and key personnel meet all general requirements for federal government contracting.

### *What Is The System For Award Management (SAM - [www.sam.gov](http://www.sam.gov))?*

The System for Award Management (SAM - [www.sam.gov](http://www.sam.gov)) combines several federal procurement systems and the Catalog of Federal Domestic Assistance into one new system. SAM is the official U.S. Government system that consolidated the capabilities of Central Contractor Registration (CCR)/Federal Agency Registration (FedReg), ORCA, and EPLS. Furthermore, in order to receive a federal contract or grant, you must be registered in SAM ([www.sam.gov](http://www.sam.gov)).

Both current and prospective government suppliers are required to complete a one-time registration and provide basic information relevant to procurement and financial transactions. This information also helps organizations find you as they prepare contracts.

If you already had an active record in CCR, your record was transferred to SAM. If you have not already done so, it is generally advised to review and update your Entity Record(s) in SAM. You can also search for the Registered Entities of your competition or your own your Entity Record(s) in SAM by typing the DUNS number or business name into the search box. The overarching benefits of SAM include:

- One-stop registration in the federal acquisition process
- Allows businesses to take responsibility for the accuracy of their own business information
- Functions not only as a database but also as a way for payment to be made and received.
- Primary registrant database for the U.S. Federal Government to collect, validate, store, and disseminate data in support of contract and assistance awards.

You are responsible for ensuring the accuracy of your SAM registration and for updating all of your registration information. You need to update information at least once a year. If you don't, your registration will expire and you won't be able to receive contract awards and payments from the government. Registration does not guarantee business with the government, but it is required to receive a contract.

## Know the Federal Supply Codes

As you prepare for registration, you'll no doubt be overwhelmed by the different types of codes used to identify, classify, and inventory the products and services used by the Government. Having knowledge of these codes is necessary if you hope to successfully compete for business with Government Owned Entities (GOE).

### *What Is A Federal Supply Code (FSC)*

When so many goods and services change hands every year, some type of "shorthand" language is needed to keep track of it all. A Federal Supply Code (FSC) is the most general description of items in the Federal Supply System. The FSC is a four-digit code used by government buying offices to classify and identify the products and supplies that the government uses and buys.

You'll need to know which FSCs apply to your organization to find opportunities with government buying offices that utilize services and products in your supply class. You can also do market research based on the Federal Supply Code.

## Learn The Appropriate NAICS Code For Your Business

The NAICS code is one of the most important codes for a small business hoping to do business with both the federal government and commercial enterprises. The Government uses NAICS codes of the products and services they wish to buy when searching for businesses profiled in SAM at [sam.gov](http://sam.gov). When you register in SAM, you will be asked to select the NAICS codes that most appropriately represent your specific type of business.

You can access the NAICS manual at the Small Business Administration's (SBA) web site ([sba.gov](http://sba.gov)). Or you can search for your products and services by keyword at the NAICS web site. The official U.S. Government web site for NAICS codes is located at [census.gov/eos/www/naics/](http://census.gov/eos/www/naics/).

### *What Is The North American Industry Classification System (NAICS)*

The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies to classify business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

The NAICS system was developed under the auspices of the Office of Management and Budget (OMB), and adopted in 1997 to replace the Standard Industrial Classification (SIC) system. The NAICS system was developed jointly by the U.S. Economic Classification Policy Committee (ECPC), Statistics Canada, and Mexico's *Instituto Nacional de Estadística y Geografía*.

The codes provide high level of statistical comparability among business activity across North America. NAICS codes identify products and services by type of industry and are used by the government to evaluate economic performance. The NAICS consists of a six (6) digit number categorized (similar to FSC numbers). The first two digits designate the economic sector, the third digit designates the subsector,

the fourth digit designates the industry group, the fifth digit designates the NAICS industry, and the sixth digit designates the national industry.

## Work with a Procurement Technical Assistance Center (PTAC)

The Procurement Technical Assistance Centers (PTAC) are an excellent source of practical training and individualized counseling to help you hone your government marketing skills, whether you are pursuing prime or sub-contracts. The Procurement Technical Assistance Program (PTAP) was authorized by Congress in 1985 to expand the number of businesses capable of participating in the government marketplace and to provide procurement assistance.

PTACs are a nationwide network of centers devoted to providing practical, hands-on assistance for small businesses seeking government contracts at the federal, state and local level. Funded in part by the Defense Logistics Agency of the U.S. Department of Defense, under its Procurement Technical Assistance Program (PTAP), the PTACs are the bridge between buyer and supplier, offering general counseling services to businesses seeking government contracts.

PTACs provide assistance at every stage, from identifying potential customers and developing a marketing plan to understanding the bid process and complying with applicable regulations. Many PTAC counselors have backgrounds in government acquisitions and virtually all receive ongoing training to keep pace with continually evolving acquisition procedures and policies.

PTACs can help you: Identify contractual opportunities with the government; locate potential marketing opportunities; and prepare proposals, financial, and contractual forms. They offer classes and seminars as well as individual counseling. Finally, they can guide you on quality assurance, production, and/or the resolution of engineering, financial, quality, or production problems.

While most services are free, some PTACs may charge a nominal fee for electronic bid-matching services or for copies of specifications and standards. To locate the PTAC nearest you, go to the Association of Procurement Technical Assistance Centers web site ([aptac-us.org](http://aptac-us.org)), which has easy-to-use listings with up-to-date contact information.

## Align With Procurement Integrity Guidelines

Approaching a government agency successfully can be difficult and intimidating. There are many acceptable and widely used techniques for getting your product or service in front of agency buyers. As you work to develop relationships with government agencies it is important to align with Procurement Integrity Guidelines.

The basic standard for engagement is to determine if a client is a GOE, or if the person you are dealing with is a government official, prior beginning marketing or sales activities. You should contact an ethics/compliance advisor or legal counsel to assist the proper determination of Procurement Integrity

in this regard. Note that The Procurement Integrity (PI) Act prohibits certain activities by contractors and subcontractors during the U.S. Federal procurement process, including:

- Obtaining or disclosing “Contractor Bid or Proposal Information,” which includes cost or pricing data, indirect costs and direct labor rates, and data marked by the submitter as confidential or proprietary.
- Obtaining or disclosing “Source Selection Information,” which includes (i) proposed pricing; (ii) source selection plans; (iii) technical evaluation plans; (iv) technical and cost evaluations of proposals; (v) competitive range determinations; (vi) rankings of proposals; (vii) source selection reports and evaluations; and (viii) data marked “Source Selection Information”; and
- Discussing future employment with an agency employee involved in the procurement unless that employee has properly disqualified himself from participating in the procurement.

## Standards of Ethical Business Conduct

Key attributes of standards of ethical business conduct require that you ensure representatives who deal with the U.S. Government understand the rules established for agency representatives. Your representatives must not attempt to induce Government personnel to engage in prohibited activities or any activity that could create a perception of improper business conduct.

Ensure representatives operate in an atmosphere of openness. Whenever possible, meetings should be scheduled in normal business locations and at normal business hours under circumstances that could not be interpreted to imply concealment.

Any document prepared by or on behalf of your organization provided to a government representative should clearly indicate the preparer’s name (your organization) and include a notice if the document contains proprietary (technical or financial) information.

Once a federal agency issues a final solicitation, your communication with the agency on that procurement, either directly or through third parties (such as consultants or agents) should be limited so as to avoid even an appearance of impropriety. It is therefore recommended that all agency contacts about a specific procurement be coordinated through the designated Contracting Officer unless the solicitation directs otherwise.

## Your Responsibilities When Dealing With A GOE

It is the responsibility of company leadership or your designated representative to determine if a client is a GOE, or if the person you are dealing with is a government official, prior to engaging in marketing or sales activities. It is generally advised to implement policies and guidelines for all employees, including

subsidiary employees, contingent labor, consultants, and others acting on your behalf that address appropriate measures in this regard.

Best practice includes providing training and policy guidelines to your representatives so they understand and can adhere to standards of ethical business conduct in compliance with rules established by GOEs for procuring products and services. Conduct that is improper for employees or designated representatives may not be accomplished through associate contractors, suppliers, consultants, or any other means.

## **Defining and Identifying a Government-Owned Entity (GOE)**

Your first step in marketing to a GOE should be to carefully understanding when your point of interface is a Government-Owned Entity. Ownership alone may not determine the status of a client. In certain circumstances, even if the client is not majority owned by a government entity, it may nevertheless be considered a GOE.

As you would expect, government clients include traditional government agencies, departments and public enterprises, whether regional, national, or local, such as national tax authorities and local municipalities. Complex laws and regulations that control the government procurement process have been created due to public concern with relationships between industry and the U.S. Government.

General conduct guidelines require ethical and lawful business dealings and adherence to applicable procurement rules. Procurement laws and regulations generally have three basic purposes 1) to obtain the best possible products and services at the best value; 2) to promote full and open competition based on specifications and evaluation criteria that allow interested suppliers to respond; and 3) to eliminate waste, fraud, and abuse.

### *Who Are Government Clients?*

Government clients include traditional government agencies, departments, and public enterprises. In addition to traditional government agencies, departments and public enterprises, government clients also include government-owned and government-controlled entities. These entities are often referred to as “Government-Owned Entities (GOEs)” and they include the following:

- public schools, utilities, and organizations licensed to provide public services;
- public international organizations, such as the United Nations or World Health Organization;
- entities subject to public procurement laws and regulations;
- other entities, even those that are privately held and those that are publicly traded, if a government, a public international organization, an entity subject to public procurement laws, or a government official, owns or has the ability to exercise control over such entity; and

- Government-affiliated corporations (e.g., Tennessee Valley Authority), quasi-governmental organizations (e.g., The Smithsonian Institution), and commercial business enterprises operating under a Federal power of attorney as a **Management Operating Contractor (MOC)**.

In assessing whether the client is a GOE, it is generally advised to consider a number of factors, such as:

- Are the client's employee's public officers or civil servants?
- Is control over the current or potential client exercised by a government entity?
- Are the current or potential client's activities financed by a government entity?
- Is the current or potential client subject to the local public procurement rules or entitled to procure products or services under contracts with a government agency?

If the answer to one or more of these questions is yes, it is likely that the client should be treated as a GOE. In addition, under many laws, any officer or employee of any of the above, as well as any private individual or entity acting in an official capacity on behalf of any of the above, are government officials. This means that, to avoid even the appearance of acting unlawfully, extra caution should be taken in all dealings with such persons or their family members.

### *What Are Management And Operating Contractors (MOC)*

A "Management and Operating Contract" is an agreement under which the Government contracts for the operation, maintenance, or support, on its behalf, of a Government-owned or -controlled research, development, special production, testing establishment, or other service wholly or principally devoted to one or more major programs of the contracting Federal agency.

A management and operating contract is characterized both by its purpose and by the special relationship it creates between Government and contractor. Criteria generally applied in identifying a MOC include:

- Government-owned or -controlled facilities must be utilized; for instance—
  - *(1) In the interest of national defense or mobilization readiness;*
  - *(2) To perform the agency's mission adequately; or*
  - *(3) Because private enterprise is unable or unwilling to use its own facilities for the work.*
- Because of the nature of the work, or because it is to be performed in Government facilities, the Government must maintain a special, close relationship with the contractor and the contractor's personnel in various important areas (e.g., safety, security, cost control, site conditions).

- The conduct of the work is wholly or at least substantially separate from the contractor's other business, if any.
- The work is closely related to the agency's mission and is of a long-term or continuing nature, and there is a need—
  - (1) *To ensure its continuity; and*
  - (2) *For special protection covering the orderly transition of personnel and work in the event of a change in contractors.*

However, Management and Operating Contractors are not authorized for functions involving the direction, supervision, or control of government personnel, except for supervision incidental to training.

Functions involving the exercise of police or regulatory powers in the name of the government, other than guard or plant protection services, are also restricted. Functions that determine basic government policies, day-to-day staff, or management of agency elements, or functions authorizing the use and rental of government property are also generally restricted.

## General Guidance on Marketing to a Government-Owned Entity

Marketing to a Government-Owned Entity (GOE) requires situational awareness and significant exchanges of information. Your organization's representatives may participate in this process and, if pursued in accordance with authorized procedures, promote solutions based on your product lines, services, and skills. Be sure that your representatives conduct themselves ethically and lawfully to securing an order.

Misrepresentation in the government environment can lead to civil and criminal penalties for both you and your organization, as well as loss of business privileges, such as the right to bid on business with GOEs, or even to remain in business. Be aware that misrepresentation can be caused by intentional omission of important facts, information, or disclaimers, as well as by intentional misstatements.

Whether pre-bid or post-bid, ensure your communication with a GOE is accurate and complete, and that you have retained appropriate backup documentation. If you are unsure whether a document or certification is accurate and complete, do not submit it until you have established its accuracy and completeness. The following are key areas for diligence in Marketing to a Government-Owned Entity (GOE).

### Information Exchange with a GOE

When exchanging information with a GOE, it is generally advised to consult an ethics advisor or legal counsel before proceeding. Any exchange of information between the GOE and your organization should ensure information is properly received (whether orally, in writing, or electronically) from

authorized sources and under circumstances in which there is no doubt as to your right to receive and possess such information.

Unauthorized possession or use of Government or competitor data or sensitive information cannot be construed as giving an unfair competitive advantage. Overall, when dealing with GOEs it is generally advised to maintain full and open dialogue with care taken to avoid even the appearance of a conflict of interest, particularly as a procurement activity approaches the competition stage.

## **Obtaining and Using Information**

The Government marketplace is a highly competitive environment, where winning or losing a contract often depends on the amount of accurate information you obtain for use in a proposal. Unless you have obtained prior written approval from an authorized government official, it is generally advised not to obtain oral or written information (including any government planning and budgetary document) which has not been released to the general public or is subject to restrictions regarding its use.

Similarly, when engaged in a government bid, it is generally advised not to obtain or seek non-publicly available information regarding competitors' bids or the government decision-making process. This can also apply to information obtained by third parties, such as consultants, subcontractors, and former employees of the government.

If you are uncertain about the status of information, it is your responsibility to resolve concerns before obtaining the information. If you have already received it, seek advice from Counsel or a Contracts Professional prior to copying, using or distributing the information.

## **Working With Outside Organizations**

Oftentimes Government-Owned Entity's (GOE) provide opportunities for Contractor Team Arrangements (CTA) between two or more contractors to work together to meet agency requirements. The CTA is a written agreement between team members detailing the responsibilities of each team member that allows a contractor to meet the government agency needs by providing a total solution combining the supplies and/or services from separate team members.

These organizations are typically involved as consultants, subcontractors, business partners, competitors and/or organizations with former employees of the government. Generally, your risk of being impacted by ethics, legal, and compliance issues increase when you work with outside organizations. Your contract agreements with these entities should address ethics, legal, and compliance issues so that your representatives conduct themselves appropriately when securing an order on your behalf.

You and your organization can be held liable for the misconduct of third parties, such as consultants, who are working with you to pursue public sector opportunities. Furthermore, when Business Partners compete with your organization for government procurements, they do so as independent bidders. However, when your organization is a subcontractor or supplier to another entity on a government bid, you may be subject to "flow-down" provisions for government procurement regulations.

The following are key ethics, legal, and compliance questions to consider when working with outside organizations:

- Did you persuade or attempt to persuade a competitor (including a competing Business Partner) to drop its independent bid and join your organization's bid as a subcontractor, or vice-versa?
- Did your management approve in advance all teaming arrangements with competitors, including competing Business Partners, related to any GOE bid or proposal.
- Did you accept, use, or distribute any information from subcontractors and suppliers without authorization from the owner of the information?
- When teaming with an Outside Organization, are procedures in place to ensure that each entity has arrived at its pricing independently?

## Contingent Fee Relationships

Contingent fee relationships exist when your company pays fees to a third party based on securing business for your company, or a third party pays fees to your company for helping to secure business for them. Because contingent fees may incent improper behavior, the payment or receipt of contingent fees for sales to a Government-Owned Entity (GOE) may be prohibited or restricted by applicable law in some jurisdictions.

For example, applicable law includes, without limitation, Title 13 of the Code of Federal Regulations, Part 124, Subpart #4 (a.k.a 13 CFR 124.4) which restricts the receipt of a fee that is a percentage of the gross contract value for assisting a 8(a) Participant in obtaining one or more 8(a) contracts.

In the government environment, contingent fee relationships are particularly contentious and often increases your risk of being impacted by ethics, legal, and compliance issues. In all cases, if you are uncertain about contingent fees, it is typically your responsibility to resolve any concerns and to seek advice from an ethics advisor, appropriate legal counsel or a contracts professional.

## Marketing and Other Pre-Bid Activity

When in involved in marketing activities prior to a formal solicitation or tender [Request for Proposal (RFP), Request for Interest/Information (RFI) or Invitation for Bids (IFB)], activities you engage in must not circumvent, or appear to circumvent, procurement laws or regulations.

In general, you should provide information such as a Capabilities Statement (about products and services) to aid in defining requirements, developing specifications and justifying proposed expenditures. You may also suggest terms, specifications and evaluation criteria that complement your products and services. However, in all pre-bid activity, make sure to align with Procurement Integrity Guidelines.

On all Marketing and Other Pre-Bid Activity, you should first determine if your company is interested in participating in the resulting procurement and, if so, whether Pre-Bid preparation assistance could

prevent you from bidding. Many GOEs restrict companies that participate in the preparation of a solicitation from subsequently bidding on it.

## Vendor Promotional Training

One often overlooked area of Government-Owned Entity (GOE) interaction includes “vendor promotional training.” This could include non-billable courses, seminars, product announcement meetings, as well as company celebrations and promotional events. Oftentimes, meals and refreshments are provided during events such as executive seminars.

It is important to review prohibitions or limitations applicable to U.S. Federal employees or representatives for these training activities. Some government agencies permit acceptance of this training by employees; other agencies may not. These events including non-billable courses and seminars may be deemed gifts to Federal employees.

Because the standards of conduct prohibit even the indirect acceptance of a gift from a prohibited source, the practice of vendors paying for individual meals, albeit indirectly through contributions to a society whose membership consists almost solely of Government employees, could nonetheless result in violations.

Although there is a commonly adopted exception for food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting, that exception would not permit a vendor to provide meals to employees who are attending their demonstrations. Most agency standards of conduct regulations will not permit a GOE employee to accept meals paid for or subsidized by its vendors.

Note however, when you study applicable guidelines carefully, you will find that the above restrictions on providing gifts primarily apply to a government employee involved in the award or modification phase of a particular procurement for supplies and services and the gift restriction applies to likely contract competitors and their subcontractors.

You should contact an ethics/compliance advisor or legal counsel to assist the proper determination of Procurement Integrity in this regard. As a best practice for Vendor Promotional Training, ensure that the following notice (or Similar) is included in all training announcements to U.S. Federal Client employees or representatives and is also posted at the event:

***Notice to Government Employees and Representatives  
For (your Company) Training and Education***

*(Your Company) conducts marketing presentations, executive briefings, product exhibitions and demonstrations, seminars and other similar sessions to familiarize current and prospective clients with (Your Company)'s products and services. (Your Company)'s established practice is to provide these sessions at no charge.*

*Some government agencies permit acceptance of this training by employees; other agencies may not. You should determine whether your agency's standards of conduct regulations permit you to attend this (Your Company) -sponsored education or training session, as it is not (Your Company)'s intent or desire that you, your organization, or (Your Company) violate any statutes or regulations.*

*Please note that the fair market value for a non-billable (Your Company) education or training session is deemed to be zero, as it is normally provided to commercial clients, government clients and potential clients on a no-charge basis. The offer of (Your Company) training or education made in conjunction with this notice is void where prohibited by U.S. Federal, state or local government statute or regulation.*

## **Securing An Order / Bid Responses**

When you receive a bid request or solicitation from a GOE, carefully review it for unique contract terms and ensure it is reviewed by the appropriate Contracts Professional or Counsel. Your bid response should be carefully written and accurate in every detail. In addition, you should carefully review and acknowledge the listed contract clauses and retain appropriate backup documentation which supports your bid response.

Be sure to place the appropriate security classification and other restrictive legends on all proposal pages containing confidential information, to minimize the potential for disclosure to others. Many GOEs also require that bidders certify to the completeness and accuracy of their bid submissions. Typical certifications include assurances as to the bidder's financial status, compliance with laws, and independence from other bidders in setting bid pricing and terms.

Incomplete or inaccurate certifications can be grounds for significant penalties for the bidder, including exclusion from doing business with the GOE and possibly criminal charges. Ensure that your company's certifications are complete and accurate and include any necessary disclaimers or qualifications.

## **Sole-Source Procurements**

In most circumstances, government agencies are required to allow "full and open competition" for contracts. In certain situations, however, agencies may decide to use what is referred to as "other than full or open competition" (or noncompetitive negotiation) to award a contract. These contracts are known as a "no-bid contract" officially known as a "sole source contract".

A sole source contract implies that there is only one person or company that can provide the contractual services needed, and any attempt to obtain bids would only result in one person or company being available to meet the need. In most jurisdictions, sole-source procurement is only permitted in unique situations, such as public health and safety emergencies, or when the GOEs in-house technical evaluation determines that specific product or services selections should be made.

Although viewed as a competitive advantage (awarded usually, but not always, by a GOE after soliciting and negotiating with only one firm), it is also advisable to consult an ethics/compliance advisor or legal counsel before accepting a sole source contract award. A high level of urgency is often the rationale for sole source contract awards.

Even a legally acceptable sole-source order can create the appearance of favoritism if not handled with sensitivity and good judgment. These contracts are negotiated much more quickly than a typical competitive contract because there is no due-process but on the other hand, they are often fraught with suspicion that the company used illegal or immoral means to exclude competitors.

Good practice include processes to review all sole-source procurements and related marketing activities with your management and an ethics/compliance advisor or legal counsel before proceeding. An appearance of impropriety can expose your company to competitive protests and damaging public criticism. Retain all bid request or solicitation documents that are publicly available and ensure your company has done nothing improper to motivate an exception in the case of a protest action.

### **Post-Bid Activity**

Whether you are working through a normal processes for securing an order with a Bid Response or completing a Sole-Source Procurement, you should not overlook the required Post-Bid Activities. You should retain all bid request or solicitation documents as well as all client contract award documents as a matter of company policy and process.

Furthermore, it is useful and necessary to maintain client contact after submitting a proposal regardless of the final disposition of your service or product offering. Once your company has been excluded from the competition or the contract has been awarded to another bidder, you should to seek a debriefing from the contracting officer regarding your proposal.

Note that some agencies provide a framework for debrief as part of the solicitation and you may not need to request a Freedom of Information Act (FOIA) Action. The Freedom of Information Act (FOIA) gives you the right to access information from federal agencies. A debrief may include feedback on the proposal's weaknesses or deficiencies, the evaluated cost or price, and the ranking of the bidders.

### **Hiring Government Client Employees**

Former government employees and contractors are often seen a great asset and a valued addition to your company. However, hiring Government-Owned Entity (GOE) employees or their family members, even as consultants or marketing assistants, may pose a conflict of interest.

In the case of employees who are currently working for the government, it is generally advised require the candidate to obtain government clearance before discussing employment prospects with your company. Before engaging in any such hiring activities, even preliminary discussions, be sure that you have obtained prior review and signoff from an ethics advisor or legal counsel, your management and Human Resources.

If you choose to proceed, note that the government may require these employees to disqualify themselves from all matters involving your company. In any event, you may not initiate or continue any employment discussions if the person is working on a current solicitation or is designated to work on a pending solicitation.

## Lobbying A Government-Owned Entity (GOE)

Lobbying is the act of attempting to influence decisions made by officials in the government, most often legislators or members of regulatory agencies. There are many forms of Lobbying done by many different types of people and organized groups, including individual's corporations, fellow legislators, or advocacy groups (interest groups).

Professional lobbyists are people whose business is to influence legislation on behalf of a group or individual who hires them. These individuals may be engaged via a contract for service, a retainer, and/or through a contingent fee relationship. Just remember - contingent fee relationships are particularly contentious and often increases your risk of being impacted by ethics, legal, and compliance issues.

Be aware that lobbying can include normal marketing and sales activities, in addition to legislative lobbying. If you participate in programs that engage in lobbying activities, you are responsible for knowing and complying with the relevant lobbying laws and reporting requirements. Accordingly, ensure you follow Procurement Integrity Guidelines and seek the input of an ethics advisor or legal counsel when needed.

## Reporting and Communications

Unlike private sector business activities, there is a higher degree of integrity and confidentiality required for reporting and communications to/with Government-Owned Entities. In government reporting and communications, there are so many rules and regulations that need to be met, it's easy to be confused on how to do what's required. Still, it is your responsibility to distinguish between classified and unclassified communications and to be knowledgeable of guidelines for communication, especially with external or public inquiries. Additional requirements apply if classified documents are involved.

There are prescribed standards for the receipt and proper handling of certain information from a Government-Owned Entity (GOE). It is also advised to retain all Reporting and Communications documents as well as all client contact information for as a matter of company policy and process. In all cases it is generally advised to seek advice from an ethics advisor or legal counsel prior to posting any notices related to your activities with a particular Government-Owned Entity (GOE).

## Key Takeaways from This Module

- You are responsible for ensuring the accuracy of your registration and for updating information in The System for Award Management (SAM - [www.sam.gov](http://www.sam.gov))
- The North American Industry Classification System (NAICS) identify products and services by type of industry and are used by the government to evaluate economic performance. The Government also uses NAICS codes of the products and services they wish to buy when searching for businesses profiled in SAM at [www.sam.gov](http://www.sam.gov)
- The Procurement Technical Assistance Centers (PTAC) are an excellent source of practical training and individualized counseling to help you hone your government marketing skills, whether you are pursuing prime or subcontracts.
- As you work to develop relationships with government agencies it is important to align with Procurement Integrity Guidelines.
- Your first step in marketing to a GOE should be to carefully understanding when your point of interface is a Government-Owned Entity.
- When exchanging confidential information with a GOE or for potential conflicts of interest, it is generally advised to consult an ethics advisor or legal counsel before proceeding.
- GOE's often provide opportunities for Contractor Team Arrangements (CTA) between two or more contractors to work together to meet agency requirements.
- Because contingent fees may incent improper behavior, the payment or receipt of contingent fees for sales to a Government-Owned Entity (GOE) may be prohibited or restricted by applicable law in some jurisdictions.
- Although viewed as a competitive advantage (awarded usually, but not always, by a GOE after soliciting and negotiating with only one firm), it is also advisable to consult an ethics/compliance advisor or legal counsel before accepting a sole source contract award.
- Always ask for a debrief as part of an unsuccessful solicitation.
- Unlike private sector business activities, there is a higher degree of integrity and confidentiality required for reporting and communications to/with Government-Owned Entities.

## Sources and Citations

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