

ALERT

# Proposed FAR Rule to Clarify Permitted and Encouraged Communication Between Government and Industry

November 29, 2016

**WHAT:** The FAR Council issued a proposed rule amending FAR 1.102-2(a)(4), to continue the Office of Federal Procurement Policy's (OFPP) campaign to address misconceptions regarding communication during the acquisition process. The proposed rule will specifically state that Government acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry, to the extent those exchanges are consistent with existing laws and regulations, and promote a fair competitive environment.

**WHEN:** The proposed rule was issued November 29, 2016 and contractors are encouraged to submit comments by January 30, 2017.

**WHAT DOES IT MEAN FOR INDUSTRY:** The FAR Council is reaching out to industry for comment in order to continue the conversation initiated by OFPP's two "myth-busting" memoranda, with a goal of increasing productive exchanges between industry and Government. This is industry's chance to shape the types of communications it can have with the Government regarding procurement matters. The FAR Council specifically seeks input on the following issues:

- Which phase(s) of the Federal acquisition process would benefit from more exchanges with industry and what specific policies or procedures would enhance communication during these phases?
- Is there a current FAR policy that may inhibit communication? How could this policy be revised to remove barriers to communication?

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## Practice Areas

Government Contracts

- Might it be beneficial to encourage, or require, contracting officers to conduct discussions with offerors after establishing the competitive range for contracts of a high dollar threshold? If so, what would be the appropriate dollar threshold?

Contractors should view this as an opportunity to have their voices heard on persistent communication “gaps” that have at times led to frustration and less than ideal procurements.