

AFIT/GCM/LSL/97S-13

AN EXAMINATION OF THE EFFECTS OF
THE FEDERAL ACQUISITION
STREAMLINING ACT OF 1994 ON THE
POST-AWARD DEBRIEFING
PROCESS AND BID PROTEST FREQUENCY

THESIS

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THESIS

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David R. Thomas

Soli Deo Gloria

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Abstract

One of the major tenets of acquisition reform is that government agencies should be as open and forthcoming as possible in dealing with potential contractors. Increased communication is seen as one of the keys to improve the acquisition process. An important vehicle for government-contractor communication is the post-award debriefing. A post-award debriefing is a meeting with government procurement personnel at the request of an unsuccessful offeror. In the meeting, the government representatives explain why the unsuccessful offeror did not receive the contract.

A widely held belief in government acquisition circles is that many protests have been filed simply because unsuccessful offerors have not been fully informed of the facts surrounding the contract award decision. Acquisition reform legislation has attempted to address this problem by mandating more timely and complete post-award debriefings that provide substantive information concerning the basis for the award. The theory is that more information in the post-award debriefing will lead to fewer protests by unsuccessful offerors.

The primary objective of this research is to determine whether changes to the post-award debriefing process mandated by the Federal Acquisition Streamlining Act of 1994 (FASA) have indeed resulted in fewer bid protests. In addition, other potential effects of acquisition reform legislation on the post-award debriefing process will be investigated.

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AND BID PROTEST FREQUENCY

I. Introduction

Background

One of the major tenets of acquisition reform is that government agencies should be as open and forthcoming as possible in dealing with potential contractors (Nash and Cibinic, 1994: 33). An important vehicle for government-contractor communication is the post-award debriefing. A post-award debriefing is a meeting with government procurement personnel at the request of an unsuccessful offeror. In the meeting, the government representatives explain why the unsuccessful offeror did not receive the contract.

While it has been recognized that unsuccessful offerors (or “disappointed bidders”) should have reasonable access to the reasons for agency award decisions, agencies have not always been forthcoming in providing useful post-award debriefing information (Adelson, 1996: 6). This situation came about in large measure because of the rather restrictive debriefing guidance in the Federal Acquisition Regulation (FAR). Consequently, unsuccessful offerors sought relief through the procurement protest process.

Procurement protests play a vital role in assuring fairness and, to the extent possible, maximum competition in the federal acquisition process (Bid Protests at GAO:

A Descriptive Guide, 1996: 1). They provide a type of "policing function" to ensure that government contracting agencies stay within prescribed laws and regulations when awarding contracts for goods and services. Nash and Cibinic point out that over the years, however, protests have evolved from a relatively simple investigative mechanism into full-fledged litigation, complete with all the trappings of procedural due process (Nash and Cibinic, 1994: 33). As the process has grown more complex, it also has grown more costly. These costs include not only the expense of litigating protests in the various forums but also the costs of agencies' attempts to avoid protests through elaborately devised procurement techniques (Nash and Cibinic, 1994: 33).

A widely held belief in government acquisition circles is that many protests have been filed simply because unsuccessful offerors have not been fully informed of the facts surrounding source selection decisions—the reasoning behind the decision to award a contract to a particular offeror. This belief was supported by a survey by the American Bar Association (ABA) in which respondents indicated that their lack of knowledge of the significant facts of an award often leads to a decision to protest (The Protest Experience, 1989: 79). Acquisition reform legislation has attempted to address this problem by mandating more timely and complete post-award debriefings that provide substantive information concerning the basis for the award. As Allen and others quote from the Report of the Senate Committee on Governmental Affairs:

The inability to obtain sufficient information in debriefing, in particular a meaningful explanation of the basis for the award decision, leads many firms to file protests in order to obtain that information. The primary purpose of mandating meaningful debriefings as part of the acquisition streamlining effort is to eliminate the filing of protests as a means to discover the propriety of an award decision. (Allen and others, 1997: 25)

Post-award debriefings are not appropriate for all contract awards. They apply to negotiated procurements only. In the federal government, there are two basic methods of acquiring goods and services: sealed bidding and competitive negotiations. Sealed bidding (previously called formal advertising) is the process of selecting contractors on the basis of price alone through publicly opened bids (Cibinic and Nash, 1986: 387). Competitive negotiation procedures, on the other hand, are much less formal but much more complex. Contract award under competitive negotiations is not necessarily made to the lowest offeror. Government procurement personnel have much greater discretion in source selection and often “trade off” price against other factors, such as technical merit or managerial competence, when deciding who gets the award (Cibinic and Nash, 1989: 524). As a result, unsuccessful offerors may not have a full understanding of the basis for the award, and may therefore request a post-award debriefing in order to gain insight into the agency source selection decision.

Unsuccessful offerors do not always request a post-award debriefing, however, or, if they do, they may not get all the information they want. As a consequence, some unsuccessful offerors may file a protest in an attempt to get the award overturned in their favor. Unsuccessful offerors have many forums in which to lodge protests: the General Accounting Office (GAO), a federal district court, the Court of Federal Claims, or the awarding agency itself (Fausti, 1997: 10). Protests based on improprieties in the solicitation must be filed “prior to bid opening or the due date for receipt of proposals” (Federal Contracts Report, 1995: 2). Most other protests must be filed within 14 calendar days of “the date when the basis of the protest is known or should have been known, whichever is earlier” (Federal Contracts Report, 1995: 2). Once a protest has been filed,

agencies must ordinarily suspend contract award or stop work on awarded contracts. In post-award protests, agencies can continue performance if “urgent and compelling circumstances” warrant (Fausti, 1997: 12). In any case, protests are a burden to both the protester and the agency in terms legal and administrative expenses.

The ABA has confirmed that some protests would not have been filed if a meaningful post-award debriefing had been held (The Protest Experience, 1989: 79). Before the Federal Acquisition Streamlining Act of 1994 (FASA), government contracting officers followed the strict guidance for debriefing unsuccessful offerors contained in Part 15 of the Federal Acquisition Regulation. The general belief concerning these debriefings was that they were *pro forma* and provided little information of real value to the disappointed bidder. One of the tenets of acquisition reform was that disappointed bidders should have reasonable access to the reasons for agency decisions in source selection (Section 800 Report, 1993: 42). The belief was that precipitous protests could be avoided by providing unsuccessful offerors more complete and timely information on source selection decisions. This would, in turn, shorten the procurement cycle and save time and expense for both parties.

Research Objective

The primary objective of this research is to determine whether FASA changes in the post-award debriefing process have resulted in fewer protests. There are other aspects of the post-award debriefing process that also warrant investigation. Some view the post-award debriefing as a tool to help contractors prepare better proposals. Another research objective, then, to determine if the debriefing process has motivated contractors to

produce better, more competitive proposals. The research will also involve a comparison of the post-award debriefing process before and after FASA changes in an attempt to document the evolution of the process and the effectiveness of the FASA changes.

Contractors having experience with both pre- and post-FASA debriefings will be interviewed to gain their perspective on the changes in the process and to help determine whether the changes have had their intended effects. The research will be augmented by an examination of government post-award debriefing documentation and interviews with key government personnel. The research will be conducted at Air Force Materiel Command, Aeronautical Systems Center (ASC).

Investigative Questions

The following investigative questions have been developed to guide this research:

- (1) How does the new post-award debriefing process differ from the old, pre-FASA process?
- (2) How do government and contractor personnel view the differences between the old and new debriefing processes?
- (3) Has the new, expanded post-award debriefing process helped contractors to develop better proposals for future procurements?
- (4) What has been the impact of the new debriefing process on the likelihood of a debriefed offeror's pursuing a protest?
- (5) What, if anything, can be done to improve the debriefing process?

Scope and Limitations

This research will focus on the post-award debriefing process at Air Force Materiel Command, Aeronautical Systems Center (ASC). It will document the changes in the process as a result of the Federal Acquisition Streamlining Act of 1994 and will attempt to determine the effects of those changes in such areas as proposal quality and likelihood of protest.

This study will not involve quantitative analysis. The purpose is not to provide a broad statistical analysis of the numbers of pre- and post-FASA protest actions. Instead, this study is a qualitative study based on interviews with government and industry personnel and on analysis of government file documentation. A primary purpose is to determine if the expanded debriefing process has reduced the likelihood protest. Care will be taken to assure a reasonable degree of reliability and validity of the findings, but broad, generalizable conclusions are not necessarily the goal. Perhaps this research can serve as the basis for a future researcher to develop a quantitative study of the effectiveness of the post-award debriefing process.

Summary

This chapter described the general issues concerning bid protest and the post-award debriefing process. It provided background in which to frame the research problem and stated the research objective, investigative questions, and scope and limitations of the study. The next chapter will examine the literature describing bid protests and debriefings, and the laws and regulations that have affected these processes. Chapter III, Methodology, will explain in detail the data collection and analysis

techniques employed in this research. Chapter IV will include an analysis of the data and Chapter V will draw conclusions and suggest areas for future study.

II. Literature Review

Introduction

This chapter provides an overview of the bid protest and post-award debriefing processes, and a review of the literature in these areas. It begins by defining bid protest and discussing the laws and regulations that affect the bid protest process, including the Truth in Negotiations Act, the Federal Acquisition Streamlining Act of 1994, and the Federal Acquisition Regulation. The post-award debriefing process is then defined and discussed, with a focus on the historical problems that FASA was designed, in part, to eliminate. Next comes a look at why contractors protest, with an important historical reason being the lack of communication during the post-award debrief. The FASA changes affecting post-award debriefings are then discussed and examined. The chapter concludes with a review of past research into the post-award debriefing process.

What is a Protest?

Questions often arise concerning the government's actions in the course of awarding a contract. A procurement protest (or "bid protest") occurs when a bidder or offeror formally objects to procurement actions or decisions by government personnel. The Federal Acquisition Regulation (FAR) defines a protest as "a written objection by an interested party to any of the following:

- (a) A solicitation or other request by an agency for offers for a contract for the procurement of property or services.
- (b) The cancellation of the solicitation or other request.

(c) An award or proposed award of the contract.

(d) A termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.” (FAR 33.101).

An “interested party” refers to an actual or prospective bidder with a direct economic interest in the procurement (FAR 33.101). The General Accounting Office says that an interested party is normally the party that would be in line for award if the protest were “sustained,” or granted (Bid Protests at GAO: Descriptive Guide, 1996: 4).

The protest serves as a means of ensuring that the government conducts procurements in accordance with statutory and regulatory procedures, from establishment of requirements and publication of a solicitation through proposal evaluation, negotiation, and contract award. Congress has recognized the important role of bid protests in helping to promote integrity and competition in government procurement. In adopting the Competition in Contracting Act in 1984, Congress stated that formal protest proceedings were essential because:

...a strong enforcement mechanism is necessary to ensure the mandate for competition is enforced and that vendors wrongly excluded from competing for government contracts receive equitable relief. (Section 800 Report, 1993: 40)

The numerous laws and regulations that govern the federal procurement process are designed to ensure that procurements by the federal government are conducted fairly, honestly, and with the maxim amount of competition possible under the circumstances. Two laws that have had a major impact on the procurement process, including the protest process, were the Competition in Contracting Act of 1984 (CICA) and the Federal

Acquisition Streamlining Act of 1994 (FASA). The impact of both acts on the protest process in particular will be considered in turn.

The Competition in Contracting Act

The enactment of the Competition in Contracting Act of 1984 brought major changes in the protest process. The CICA requirement for “full and open competition” became a critical factor in awarding government contracts. To enforce the CICA mandate for competition and other procurement requirements, Congress for the first time provided express statutory authority for the General Accounting Office (GAO) to review bid protests. In addition to providing statutory authority, Congress also made other major changes to the GAO bid protest process itself. First, CICA imposed a specific time limit of ninety days for GAO to render a decision. Second, CICA stipulated that an agency may not award a contract--or must suspend contract performance until the protest is resolved--if the protest was filed before award or within ten calendar days after award. (This so-called “stay” provision could be lifted if the contracting officer determined in writing that one of three exceptions applied.) Third, CICA authorized the GAO to declare an “interested party” to be entitled to recover protest costs, including bid or proposal preparation costs and reasonable attorney fees. CICA defined an interested party as “an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.” Last, CICA established a sixty-day maximum time for agencies to implement a GAO recommendation, or report to the GAO why the recommendation was not implemented (The Protest Experience, 1989: 4-5).

While CICA for the first time provided a statutory basis for the GAO to decide protests, there were other protest-related provisions of CICA that generated some controversy. One was the stay provision referred to above. Under CICA, a protest to the GAO could stop contracting agencies from awarding the contract, or from continuing contract performance if the contract had already been awarded. Agencies could override a pre-award suspension upon a written finding that “urgent and compelling circumstances” would not permit waiting for the GAO’s decision. Post award stays could be lifted if the agencies made a determination that continued performance of the contract was “in the best interests of the United States” (Pachter, 1985: 4). Once an agency determination had been made, the GAO was not authorized to overturn it.

Another controversial aspect of CICA with respect to bid protests was the provision allowing the GAO to order an agency to reimburse a disappointed bidder’s attorney’s fees, protest costs, and bid and proposal (B&P) costs, if the GAO determined that the bidder had been unreasonably excluded from the procurement. The agency was to pay the costs out of its current account for the procurement of goods and services. (Fiedelman, 1996: 68).

CICA had been enacted because Congress had perceived that federal agencies were not doing a good job of exploiting the competitive forces of the private sector. The intent of CICA was to promote full and open competition by relying in part on private enforcement of procurement laws and regulations. Competition statistics indicate that CICA had its intended effect. In FY 1983, the year before CICA became law, 40 percent of federal procurement dollars were competitively awarded. By FY 1993, nine years after CICA, almost 70 percent of all procurements stemmed from competition

(Pegnato, 1995: 69). Not intended, however, was the proliferation of procurements challenged by protests. The data show that in the ten-year period from 1984 through 1993, the number of protests increased by 77 percent (Pegnato, 1995: 71). Many of these protests were considered by both sides to be frivolous. In the years immediately following the passage of CICA, protest proliferation was referred to as the “twenty-two cent injunction,” where any disappointed bidder with a twenty-two cent stamp could stop an agency from awarding a contract, or could bring contract performance to a halt (Pachter, 1985: 4). Federal agencies complained about the expense and disruption that these protests were inflicting upon the government contracting community. It appeared that, in an attempt to stop perceived agency abuses of the procurement process, Congress had now created a situation where contractors had become a major source of the abuse (Gabig, 1988: 22).

The Federal Acquisition Streamlining Act

The Federal Acquisition Streamlining Act of 1994 is considered by many to be the most sweeping legislation in federal government contracting since the passage of CICA. FASA affected broad range acquisition and procurement issues. The changes in FASA were designed to reflect a fundamental shift toward the application of commercial practices to public sector procurement. Based largely on the recommendations contained in the Report of the Acquisition Law Advisory Panel to the United States Congress (the “Section 800 Panel”), FASA repealed, or substantially modified, over 225 provisions of law affecting the federal procurement process (Lumer, 1994: 1).

Like CICA, FASA also had a major impact on the bid protest process. For example, FASA now requires agencies to suspend contract performance if the agency receives a protest notice from the GAO either ten calendar days after contract award, or five calendar days after the “offered” date of a “required” debriefing, whichever is later (Allen and others, 1997: 89). Perhaps the biggest impact, however, has been in the area of post-award debriefing of unsuccessful offerors. Under competitive negotiation procedures, contract award is often determined by factors other than price alone. There is no public bid opening as in sealed bidding, and there is usually a lengthy period of proposal evaluation and negotiation before award is made. Given that award is not always based solely on price, unsuccessful offerors may not understand fully why they did not receive the award. The reason may not be simply that the price was too high, but that technical, management, and/or other factors may have been deficient. Only by requesting a post-award debriefing from the contracting officer can the unsuccessful offerors learn the reasons why their proposals were not selected. (Cooper, 1995:3-4)

What is a Post-Award Debriefing?

A post-award debriefing is a meeting between the contracting officer and an unsuccessful offeror after a contract has been awarded. According to FAR 15.1006, the contracting officer must provide a debriefing if he or she receives a written request from an unsuccessful offeror within three days of the notice of contract award. The U. S. Army Debriefing Handbook lists the following purposes of a debriefing:

- (a) To explain the rationale for the contract award decision.
- (b) To assure the unsuccessful offeror that it received fair treatment.

(c) To assure the offeror that all proposals were evaluated in accordance with the solicitation and applicable laws and regulations.

(d) To identify weaknesses in the offeror's proposal so that the offeror can prepare better proposals in the future.

(e) To reduce misunderstandings and protests. (AMC Pamphlet 715-3: 2)

In addition, FAR 15.1006(e) makes it clear that debriefings do not involve point-by-point comparisons with other offerors' proposals, nor do they involve the release of trade secrets or other privileged or confidential information.

Debriefing Problems

CICA did not disturb the long-standing FAR requirement that contracting officers provide, upon written request from an unsuccessful offeror, a post-award debriefing.

Debriefings were intended to give contractors insight into the proposal evaluation process so that future proposals could be more competitive. This concept of using the debriefing as a tool to promote better proposals was recognized in *Motorola, Inc.*, where the Comptroller General stated that the "function of a debriefing is not to justify or defend a selection decision but to assist offerors in preparing future proposals" (*Motorola*, 1989).

In practice, however, debriefings had an almost opposite effect, as the following quote from Rand L. Allen and others in the Acquisition Streamlining Institute Course Manual illustrates:

For many years, offerors have complained generally that debriefings were not serving their intended purpose. Ideally, a debriefing should inform an offeror why it lost the competition, in order to improve that company's proposals in subsequent procurements and thereby further full and open competition. However, Government personnel in debriefings increasingly had become less willing to divulge significant information about the procurements, usually guided by the fear of revealing proprietary or source selection sensitive information. Companies had been left with little option other than bid protests to discover the

basis of an award decision. This became a self-fulfilling prophecy. (Allen and others: 1997: 27)

The problem with debriefings in the days before FASA, then, was that they provided little or no useful information to the disappointed bidder. The entire FAR guidance on debriefings was contained in one short paragraph under FAR 15.1003(b):

Debriefing information shall include the Government's evaluation of the significant weak or deficient factors in the proposal; however, point-by-point comparisons with other offerors' proposals shall not be made. Debriefing shall not reveal the relative merits or technical standing of competitors or the evaluation scoring. Moreover, debriefing shall not reveal any information not releasable under the Freedom of Information Act....

The FAR provided more information concerning what not to say in a debriefing, rather than what to say. Consequently, as Allen claims, contracting officers were reluctant to be open and frank, fearing that the more information they gave, the better the chance of violating a regulation or of divulging sensitive or proprietary information and triggering a protest. Furthermore, Cooper points out that the effects of procurement legislation often put contracting officers between a rock and a hard place. For example, CICA required contracting officers to maintain open communication channels with industry in order to understand the capabilities of the private sector and to promote full and open competition. On the other hand, procurement integrity laws such as the Ethics Reform Act of 1989 forced contracting officers to restrict the flow of sensitive procurement information to maintain the integrity of the procurement process. As Cooper notes, the steep penalties for violating the procurement integrity laws had a "chilling effect on the flow of information between government and industry" (Cooper, 1995: 2). Under such conditions, it is not surprising that contracting officers often erred

on the side of caution in debriefings by choosing not to divulge much specific information.

Why Do Unsuccessful Offerors Protest?

There are many reasons why unsuccessful offerors protest. While most protests arise over objections to the rejection of a bid or proposal, other reasons for protest include alleged restrictive or defective specifications, omission of a required provision, or ambiguous evaluation criteria in the solicitation (Bid Protests at GAO: A Descriptive Guide, 1996: 4). The cancellation of a solicitation or termination of a contract can also precipitate a protest.

Lieberman has categorized and documented the results of protests filed in different forums over a three-year period. He grouped protests into the following major categories and sub-categories based on greatest likelihood of the protest's being sustained:

- (1) Improper actions in evaluation and negotiation of proposals
 - (a) Failure to follow evaluation criteria in the solicitation
 - (b) Failure to conduct discussions properly
 - (c) Unreasonable cost realism analysis
 - (d) Improper exclusion from competitive range
 - (e) Improper cost/technical tradeoff
 - (f) Improper award based on initial proposals without discussion
- (2) Improper actions involving solicitations or requirements
 - (a) Defect in solicitation

(b) Improper action involving change in requirements or amendment or cancellation of solicitation

(c) Failure to provide bidder with amendment to solicitation

(3) Improper restrictions on competition

(a) Improper restrictions on competition—general

(b) Improper sole source award

Other categories included improper actions involving small business awards and improper acceptance of nonconforming proposals or nonresponsive bids (Lieberman, 1995: 11-19).

Lieberman categorized protest results based on greatest likelihood of the protester's receiving relief, but the overall sustainment rate is quite low. The GAO, for instance, grants relief in only 12-13 percent of the protests it hears (Lieberman, 1995: 23). Many cases, however, are settled, dismissed, or withdrawn before a decision is reached. Lieberman cites the Protester Effectiveness Rate (PER), used by GAO, that includes these cases in the overall sustainment rate. According to Lieberman, the PER has averaged 29.8% over the ten-year period from 1985 through 1994 (Lieberman, 1995: 5-6). Even so, given that the total number of protests received by GAO exceeds 2,500 annually (Metzger and Golden, 1997: viii) the number of adjudicated cases is still quite high. This number represents a great cost to both government and industry, and underscores the fact that government agencies must pay special attention to those areas most likely to precipitate a protest.

While Lieberman lists the "official" reasons for protest by unsuccessful offerors, there are probably many other unstated factors that play a role in a contractor's decision

to protest, such as financial health of the firm, the size of the defense budget, political considerations within DOD, overall economic conditions, etc. Cooper interviewed a defense industry executive who posited two underlying reasons for filing protests: (1) to gain the contract (presumably through legal maneuvering), or (2) to correct perceived inequities. He says that perceived inequities usually result from poor communication at the post-award debriefing. Cooper quotes the executive, "In many cases, we discover that what we perceived as an unfair practice was in fact good business poorly communicated" (Cooper, 1995: 5).

The American Bar Association stresses the importance of communication in avoiding protests. It cites as a critical factor in the decision to protest the availability of timely and accurate information: "To the extent a protester can obtain timely information concerning whether it is in line for award and can establish that its offer was treated fairly, protests may be avoided" (The Protest Experience, 1989: 79).

Government "Protest Avoidance"

Nash and Cibinic argue that some agencies base their procurement actions more on protest avoidance strategies than on good business practices (Nash and Cibinic, 1994:33). As Nash and Cibinic point out, such strategies rarely work and often end up costing the agencies more in the long run. They recommend that contracting agencies, rather than being guided by a fear of protests, should put the government's best interests first. They suggest that agency representatives be as open and forthcoming as possible in discussions and debriefings: "Many protests are based upon suspicion engendered by a failure of the agency to respond frankly to the protester's concern" (Nash and Cibinic,

1994: 33). Nash and Cibinic believe that taking time to answer the protester's questions and to fully explain the procurement rules and regulations "will not do away with protests but will undoubtedly eliminate some" (Nash and Cibinic, 1994: 33).

FASA Expands Scope of Debriefing

The theory behind post-award debriefing is that communication between the government and the unsuccessful offeror should reduce the number of protests. FASA emphasizes the role that communication between government and industry plays in helping to avoid protests. Under FASA, the scope of the post-award debriefing was expanded. The government must now provide more information to unsuccessful offerors. In the course manual on acquisition streamlining by Federal Publications, Inc., Allen and others state the following:

The new debriefing rules require the Government to disclose much more information not only on how the Government evaluators viewed proposals but also on the evaluation process itself. The intent of the new rules is to provide businesses information to help them do better in the future and also to stave off future protests. (Allen and others, 1997: 15)

According to FAR 15.1006(d), debriefing information shall include at a minimum:

- (1) The Government's evaluation of the significant weaknesses or deficiencies in the offeror's proposal, if applicable;
- (2) The overall evaluated cost or price and technical rating, if applicable, of the successful offeror and the debriefed offeror;
- (3) The overall ranking of all offerors when any ranking was developed by the agency during the source selection;
- (4) A summary of the rationale for award;

(5) For acquisitions of commercial end items, the make and model of the item to be delivered by the successful offeror; and

(6) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.

The FASA changes are significant for two important reasons. First, the government must present the overall evaluated cost and technical ratings of both the successful offeror and the debriefed offeror. In the past, only the unsuccessful offeror's technical ranking and cost evaluation was provided. Under the expanded debriefing, the successful offeror's technical and cost evaluations are also provided. The offeror being debriefed now has a basis for comparing its proposal with the winning proposal (Pickarz, 1995: 3).

The second important change focuses on the source selection decision itself. Previously, in explaining their source selection decisions, contracting officers simply provided general statements to the effect that the winning proposal offered the overall best value in meeting the government's requirements. Such statements offered unsuccessful offerors little, if any, insight into the strengths and weaknesses of their proposals. The new rules force contracting officers to be more specific in explaining why the winning proposal was selected.

Pickarz suggests that the best way to explain the source selection decision is to make the source selection decision document available to the unsuccessful offeror at the post-award debriefing (Pickarz, 1995:3). Although the FAR does not specifically define "source selection decision document," FAR 15.612(d)(2) contains the following guidance:

The supporting documentation prepared for the selection decision shall show the relative strengths, weaknesses, and risks in terms of the evaluation factors. The supporting documentation shall include the basis and reasons for the decision.

Nash and Cibinic point out that almost all agencies require some type of formal documentation supporting the source selection decision (Nash and Cibinic, 1993: 507).

They state that guidance on the content and format of the documentation is limited, but cite the guidance in a General Services Administration (GSA) Handbook, *Source*

Selection Procedures, as being typical:

The selection statement should stand alone and cover the following basic points:

- (1) A description of the acquisition.
- (2) The names of the offerors.
- (3) The competitive ranking of the proposals.
- (4) A summation of the strengths and weaknesses of each proposal and offeror.
- (5) Reasons why the firm selected provides the greatest probability of satisfying the Government's requirements. (Nash and Cibinic, 1993: 507)

By providing the source selection decision document to the unsuccessful offeror at the post-award debriefing, the contracting officer will answer the obvious question of why the winning contractor was selected. According to Pickarz, however, another purpose is also served: maintaining good relations with the supplier base. Because of the intense time, effort, and expense required in proposal preparation and negotiation, losing contractors must not be left feeling that they were treated unfairly and unprofessionally. Taking care not to divulge proprietary information, contracting officers must be as fair and open as possible in the post-award debriefing (Pickarz, 1995: 4).

Previous Research and Focus of Current Study

Although much has been written about the debriefing process, there has been very little actual research in the area of post-award debriefings. Two recent master's theses, summarized below, have researched the debriefing process from similar perspectives within different defense agencies.

In 1994, Nutbrown reviewed Army regulations covering debriefings, investigated the then current debriefing process, and recommended steps to improve the process within Army Material Command. He recommended, among other things, that debriefings be held in a timely fashion, that all government evaluators attend debriefings (not just contracting officers), and that the source selection decision document be made available (Nutbrown, 1994: 125). His research was conducted largely before the full implementation of FASA.

Cooper's research into the debriefing process a year later included FASA changes. He examined the process from the standpoint of a Navy installation contracting officer. Among his recommendations were to release all information an unsuccessful offeror would normally receive under protest discovery procedures and to implement a training program for conducting post-award debriefings (Cooper, 1995: 55-56).

Neither of the above papers focused on the main subject of this research: the effect of acquisition reform on the post-award debriefing process. Has the new process resulted in more competitive proposals from industry? Has it decreased the likelihood of protest? Finding answers to these questions and other questions related to the new post-award debriefing process is the primary focus of this research effort.

Summary

This chapter reviewed the literature on protests in general and the post-award debriefing process in particular. It provided background information to place the study within the appropriate context. The protest and post-award debriefing processes were defined and described in detail. In addition, the impact of important legislation on these processes was discussed, along with an analysis of the changes that resulted in the expanded post-award debriefing process. The discussion included insight into some of the problems in the post-award debriefing process that specific legislation was intended to eliminate. The review included an examination of the reasons why unsuccessful offerors protest agency award decisions, and also discussed the emphasis and results of previous research in the area of post-award debriefing.

The literature review suggests that previous research into post-award debriefing has been process-oriented. That is, it has focused on how post-award debriefings have been conducted. Process is also an important aspect of this study, but the primary focus is the impact of the expanded post-award debriefing process on contractor behavior. How have the FASA changes affected unsuccessful offerors? Has the impact been positive? Have unsuccessful offerors gained information to allow them to develop better, more competitive proposals for future procurements? Have unsuccessful offerors decided not to protest based on information obtained during a post-award debriefing?

The existing research has not addressed these areas. The next chapter focuses on the research methodology that will be employed in an attempt to answer such questions.

III. Methodology

Introduction

The impetus for this study was acquisition reform, specifically the Federal Acquisition Streamlining Act of 1994 (FASA), which, among other things, directed changes in the post-award debriefing process. The overall purpose of the research was to determine whether the expanded post-award debriefing process plays a significant role in a contractor's decision not to protest. As discussed in the literature review, this research was a qualitative study. This chapter will define qualitative research, describe qualitative research "design," and discuss the methodological approach for the current study.

What is Qualitative Research?

Strauss and Corbin define qualitative research as "any kind of research that produces findings not arrived at by means of statistical procedures or other means of quantification" (Strauss and Corbin, 1990: 17). They stress that qualitative research is not the quantifying of qualitative data gathered by means of interview or observation. Qualitative research is, rather, a "nonmathematical analytical procedure" that results in findings from data gathered through a variety of means, including interview, observation, document analysis, etc. (Strauss and Corbin, 1990: 18).

Creswell says that qualitative research is inductive, building on abstractions, concepts, hypotheses, and theories (Creswell, 1994: 145). He adds that qualitative researchers are more concerned with process than with products, and that they put great emphasis on discerning meaning—how people make sense of the world and their experiences (Creswell, 1994: 145). Finally, Creswell believes that, because of the

primacy of process and meaning, qualitative research is by necessity descriptive and interpretive—understanding comes about through words or pictures (Creswell, 1994: 145).

Deciding whether certain problems are more suited for a quantitative or qualitative approach is a debatable proposition, according to Creswell (Creswell, 1994: 10). He points out that the nature of the problem and the amount of existing information are important factors. He provides the following guidelines in helping to decide on a particular approach:

For quantitative studies the problem evolves from the literature, so a substantial body of literature exists on which the researcher can build. Variables are known, and theories may exist that need to be tested and verified. For qualitative studies the research problem needs to be explored because little information exists on the topic. The variables are largely unknown, and the researcher wants to focus on the context that may shape the understanding of the phenomenon being studied. In many qualitative studies a theory base does not guide the study because those available are inadequate, incomplete, or simply missing. (Creswell, 1994: 10)

Marshall and Rossman also provide some guidelines for the types of research that are especially appropriate for qualitative studies:

- research that cannot be done experimentally for practical or ethical reasons
- research that delves in depth into complexities and processes
- research for which relevant variables have yet to be identified
- research that seeks to explore where and why policy and practice do not work
- research on unknown societies or innovative systems
- research on informal or unstructured linkages and processes in organizations

- research on real, as opposed to stated, organizational goals

(Marshall and Rossman, 1989: 46).

Two areas listed above seem to describe in general terms the purpose of the current study. This research will delve into “complexities and processes” and will examine “policy and practice” as they relate to post-award debriefings. Further support for the qualitative nature of this study comes from Michael Quinn Patton in his book, Qualitative Evaluation and Research Methods. Patton says the qualitative research approach is especially appropriate for studies that focus on the effects of changing policies or programs. Qualitative research is also an effective process to use at major transition points, where change is introduced and the expected outcome, as well as any unintended consequences, needs to be monitored (Patton, 1990: 12).

Finally, Bryman illustrates the nature of qualitative research in a series of questions: What prompted the phenomenon? What did people think of it? How did they react to it? How did it develop? What was the outcome? What did people think of the outcome? The emphasis is on process, which Bryman describes as “the unfolding of events in time” (Bryman, 1989: 137).

The above analysis indicates that a qualitative research method is appropriate for this study. The literature review revealed that, while the post-award debriefing process itself has been studied, no previous research has been done to determine whether the expanded debriefing process has influenced the likelihood of contractor protest. The implementation of FASA has produced a situation of changing policies within DOD. The impact of these changes is of primary importance to DOD managers and policy makers.

In the case of changing post-award debriefing policy and procedures, qualitative research is the proper approach for an in-depth and detailed analysis that attempts to determine the effects of policy changes on contractor behavior. The question now is, what is the appropriate qualitative research design?

Qualitative Research Design

According to Creswell, one of the characteristics of a qualitative research problem is that the concept is “immature” because of a lack of previous research (Creswell, 1994: 146). By its very nature, then, qualitative research is exploratory. Therefore, unlike in the world of quantitative research, there is no consensus on the precise procedures for data collection and analysis of qualitative research (Creswell, 1994: 143).

The foregoing is not to imply that qualitative research is whimsical and haphazard, but rather that there is no standard approach. Marshall and Rossman recognize a wide variation in qualitative research methods:

...the approaches vary, depending on how intrusive the researcher is required to be in the gathering of data, whether these data document nonverbal or verbal behaviour or both, whether it is appropriate to question the participants as to how they view their worlds, and how the data can be fruitfully analysed. (Marshall and Rossman, 1989: 10-11)

Marshall and Rossman believe that qualitative research design must be flexible enough to allow researchers the freedom to explore but structured enough to convince readers that the researchers know what they are doing (Marshall and Rossman, 1989: 45).

Patton says there are no “rigid rules,” no “recipe or formula” to follow when deciding upon a research method (Patton, 1990: 13). He states that just as in art where there is “no single, ideal standard,” the “art of evaluation includes creating a design and

gathering information that is appropriate for a specific situation and particular decision-making context” (Patton, 1990: 13). Patton echoes Marshall and Rossman when he says that qualitative designs must not be rigid as the word “design” implies, but must maintain openness and flexibility to permit exploration of the subject under study (Patton, 1989: 196).

Choosing a qualitative research design, then, appears to involve just as much art as science. There is no particular method or design that is necessarily more appropriate than another. The choice depends on a variety of factors: the purpose of the study, the political context, the money and time available, and the interests and abilities of the researcher (Patton, 1990: 196). No method is inherently superior to another, but each method can produce a different twist on the data. The challenge, according to Patton, is to determine what information is needed and then to use the approach that is most likely to produce that information (Patton, 1990: 196).

“Methodological Mix” and Triangulation

Patton says that a study may use more than one type of data collection strategy. In fact, he stresses that the reliability and validity of the study are enhanced through multiple methods of data collection (Patton, 1990: 186-187). To strengthen any study design and to more adequately address the question of causation, Patton recommends the use of triangulation, which he describes as a “combination of methodologies in the study of the same phenomena or programs” (Patton, 1990: 187). Triangulation can be achieved by combining different kinds of qualitative methods, such as observation and interviewing or interviewing and document analysis, or by “borrowing and combining

parts from pure methodological approaches, thus creating mixed methodological strategies” (Patton, 1990: 188).

What are the “pure methodological approaches” to which Patton refers?

Silverman describes four broad types: observation, interviewing, textual analysis, and discourse analysis (Silverman, 1993: 9). Yin discusses five different qualitative strategies: experiment, survey, archival analysis, history, and case study (Yin, 1989: 17). In Designing Qualitative Research, Marshall and Rossman list 14 different techniques for data collection, such as observation, interview, questionnaire, etc., stating that each approach is best suited to yield a particular type of information. The researcher must pick the “most practical, efficient, and feasible” method or methods (Marshall and Rossman, 1989: 108).

Sample Size

One of the major differences between quantitative and qualitative research is the process of determining sample size. Quantitative studies are typically based on relatively large samples that are selected randomly. Random (or probability) sampling is vitally important in statistical analysis because the sample results will be used to infer the characteristics of the population from which the sample was drawn (McClave and Benson, 1994: 167). The purpose of probability sampling, then, is generalization of results. Specific characteristics of the sampled data are not of primary importance.

The purpose of qualitative sampling, on the other hand, is to select “information-rich” cases for in-depth study (Patton, 1990: 169). Patton refers to this approach as “purposeful sampling”—the selection of specific cases that will provide insight into the

concepts and help to answer the questions under investigation (Patton, 1990: 169). To find information-rich cases, Patton suggests simply asking the right questions of the right people (Patton, 1990: 176). The best subjects for study will surface as more and more people recommend particular cases, programs, people, or processes.

The question arises, How big should the sample be? Patton answers this question forthrightly:

There are no rules for sample size in qualitative inquiry (author's emphasis). Sample size depends on what you want to know, the purpose of the inquiry, what's at stake, what will be useful, what will have credibility, and what can be done with available time and resources. (Patton, 1990: 184)

Sources of Evidence

Yin discusses six sources of evidence for collecting qualitative research data, including documentation (Yin, 1989: 85). Documentation exists in many forms, such as letters, memorandums, reports, news articles, announcements, etc. The primary form of documentation relevant to this research is what Yin calls "administrative documents"—proposals, progress reports, and other internal documents (Yin, 1989: 85). Yin also discusses the use of interviews as a source of evidence (Yin, 1989: 85).

Patton talks about the fact that program files and documents vary greatly in quality and may be incomplete and inaccurate (Patton, 1989: 245). Nevertheless, document analysis can be a rich source of information to augment findings from other data collection methods such as observation or interviews, and to provide a direction for further research (Patton, 1989: 245). Patton writes the following:

Program documents provide valuable information because of what the evaluator can learn directly by reading them; but they also provide stimulus for generating questions that can only be pursued through direct observation and interviewing.

Thus program records and documents serve a dual purpose: (1) they are a basic source of information about program decisions and background, or activities and processes, and (2) they can give the evaluator ideas about important questions to pursue through more direct observations and interviewing. (Patton, 1989: 233)

Summary of Qualitative Research

In summary, qualitative research design does not follow a specific pattern or approach. The design will depend heavily on the purpose of the researcher, the subject under study, the conditions under which the study is being conducted, and the time and resources available. No design is perfect, as Patton points out (Patton, 1990: 162). Trade-offs and sacrifices will always be necessary because of naturally imposed limits, the greatest of these limitations perhaps being the ability of the human mind to “grasp the complex nature of social reality” (Patton, 1990: 162).

Selected Approach

It was determined that a mixed methodology of document analysis and interviews was the best approach for this study. The combination of document analysis and interviews was necessary to help identify differences in approach between pre-FASA and post-FASA debriefings. The specific approach for each method of data collection is discussed below.

Document Analysis

Patton says it is very important at the beginning of a research project to negotiate access to pertinent program documents and records and to respect the confidentiality of the information (Patton, 1989: 233). The Staff Summary Sheet (AF Form 1768) at Appendix A indicates that approval was obtained to review and copy information relevant to this study. Because a large body of documentation was collected that is classified as

government "source selection sensitive," a condition for access to the data was that all copies must be destroyed after completion of the research.

The primary documents selected for analysis were the post-award debriefing memorandums prepared by the contracting officer. The research plan called for comparison of pre-FASA and post-FASA debriefing memorandums, using the FASA codification date of 1 October 1994 as the demarcation between pre- and post-FASA periods. During the course of the research, however, it was discovered that Air Force policy for expanding the debriefing process actually began before FASA became effective. A policy letter issued by the Assistant Secretary of the Air Force on 13 October 1993, based largely on ASC recommendations, directed major changes in the conduct of post-award debriefings (see Appendix B). The changes, though not exactly the same, were very similar to the FASA changes that became law one year later. The major difference was that the Air Force policy did not specifically address whether release of overall cost and technical ratings of the successful offeror was permissible. To eliminate the effect of the Air Force policy on the post-award debriefing documentation, no debriefing memorandums between the period of October 1993 and October 1994 were selected for analysis. For the purposes of this research, the pre-FASA period is defined as that period before October 1993. The post-FASA period covers the time after October 1994.

The post-award debriefing memorandums were collected at the Aeronautical Systems Center Source Selection Support Office (ASC/SYG). This office is responsible for managing the large-dollar (over \$5 million), "formal" source selections. Because of their high value, only a relatively small number of these source selections are conducted

each year. When the source selections are completed, most documentation is sent to government archives for long-term storage. Consequently, the data directly available, though considered acceptable for this study, was limited in amount. To augment the amount of data, the files at the Operational Contracting Division (ASC/PKW) served as a valuable back-up resource. Source selections at ASC/PKW are smaller and less formal, typically ranging from \$100,000 to \$5 million. The smaller dollar value had no impact on the quality of the information in the post-award debriefing documentation.

Personal/Telephone Interviews

According to Cooper and Emory, personal interviewing is an excellent method of collecting data (Cooper and Emory, 1995: 270). This technique can provide the researcher with information of great depth and detail. In addition, personal interviews allow the researcher to take steps to improve the quality of the data by noting specific conditions, probing with additional questions, and obtaining more information through observation (Cooper and Emory, 1995: 271). Disadvantages of personal interviews include introduction of bias through inappropriate facial or body language, word emphasis, or tone of voice (Cooper and Emory, 1995: 278).

Successful personal interviews depend on three broad conditions:

- (1) The availability of the required information from the respondent.
- (2) The respondent's understanding of his or her role.
- (3) Adequate motivation on the part of the respondent.

(Cooper and Emory, 1995: 271)

All three conditions are largely under the control of the researcher. Screening questions can be used to determine the respondent's knowledge of and information about the topic. The researcher should also take time to explain the purpose of the research, the kind and extent of information sought, and the form and detail of the answers. Last, the researcher can help ensure respondent cooperation by being friendly, courteous, and confident (Cooper and Emory, 1995: 271-272).

Time, cost, and geographic constraints can make personal interviewing difficult (Cooper and Emory, 1995: 278). Because of their convenience and low costs, telephone interviews have become a popular mode of data collection for business and social research (Cooper and Emory, 1995: 279).

Telephone interviews obviously do not permit the degree of rapport that can be achieved through personal interviews. Research has shown that telephone interviews result in less detailed responses, and they are generally less rewarding and enjoyable to the respondents (Cooper and Emory, 1995: 281). Also, time constraints and lack of visual aids may affect the quality of the responses (Cooper and Emory, 1995: 281). These disadvantages may be offset by the fact that telephone interviews are quicker than personal interviews, and they may reduce interviewer bias (Cooper and Emory, 1995: 280).

Since this is a qualitative study, the questions were not designed to elicit responses that can be easily quantified and tabulated. All questions were open-ended. In other words, they allowed for a free choice of words rather than for a choice among specified alternatives (Cooper and Emory, 1995: 311). Respondents answered based on their subjective opinions and evaluations of the post-award debriefing process. Silverman

refers to this approach as *interactionism*, the attempt to generate data that provide an “authentic insight into people’s experiences” (Silverman, 1995: 91).

The reliability and validity of open-ended interviews has been questioned because of the lack of structure and standardization (Silverman, 1995: 95). To increase reliability and validity, the interviews were of the type Patton calls the “standardized open-ended interview” (Patton, 1990: 289). Patton says the basic purpose of the standardized open-ended interview is to “minimize interviewer effects by asking the same question of each respondent” (Patton, 1989: 285). The systematic nature of the standardized open-ended interview reduces the necessity for interviewer judgment and also helps reduce time by focusing the parties on the subject at hand (Patton, 1989: 285).

In keeping with this form of interview, the wording and sequence of the questions was determined in advance. All interview participants were asked the same questions in the same order. Questions, as stated earlier, were completely open-ended. All interviews were limited to no more than thirty minutes each. Government respondents were pre-screened to determine their knowledge of and experience with the post-award debriefing process. An attempt was made to interview government personnel who had conducted debriefings both before and after FASA implementation. Likewise, contractor personnel having both pre-FASA and post-FASA debriefing experience were sought to the extent possible and practical. Interview questions are listed in Appendix C.

Summary of Selected Approach

The combination of document analysis and personal/telephone interview was considered to be the best approach for this study, given the time and funding constraints.

The selected methodology was designed to provide a framework for the qualitative analysis of the central research question: What has been the effect of the expanded post-award debriefing process on the likelihood of protest? In other words, Are contractors less likely to file a protest under the new debriefing process than they were under the old debriefing process? The next chapter discusses the collection of data to answer this and other research questions.

IV. Data Collection and Analysis

Introduction

A total of 16 post-award debriefing documents were analyzed, eight dated before FASA and eight dated after FASA. Most of the acquisitions were fixed-price supply, but there were some service efforts. The dollar values of the actions ranged from \$1 million to over \$100 million. Ten companies were large businesses and six were small businesses.

To augment the document analysis, 13 interviews were conducted during the period 16 June 1997 through 20 June 1997. Eight government and five industry representatives participated. Four government interviews were personal interviews and four were conducted by telephone. All contractor interviews were telephone interviews. Both government and industry participants were asked the same questions, with only the necessary changes being made. Government and industry participants are listed in Appendix D.

All participants were apprised of the academic nature of this project and were assured of confidentiality and non-attribution. Most participants were aware of the Air Force policy on post-award debriefings that was issued in October 1993. Not all could recall, however, whether they had participated in debriefings during the period from October 1993 to October 1994, when FASA became effective. Consequently, it was not possible to eliminate potential effects of the Air Force policy during that one-year period. The interview question most likely to be affected was question 3.

Results of Document Analysis

Post-award debriefing documents were analyzed by comparing, to the extent possible, the process and content of both the old, pre-FASA debriefings and the new, post-FASA debriefings. The results of the analysis indicated three major areas of difference between the old and new processes:

- (1) Comparison of overall cost and technical ratings of debriefed offeror and successful offeror.
- (2) Summary of the rationale for the award.
- (3) Opportunity for questions and answers.

Each area of difference is discussed in the following sections.

Comparison of Cost and Technical Ratings

It is evident from an examination of the debriefing documents that the old process did not compare the overall cost and technical ratings of the debriefed offeror and the successful offeror. This fact does not come as a surprise because the FAR at that time did not require the contracting officer to address the winning offer in any fashion. In fact, comparison of offers was strictly forbidden. FAR 15.1003(b) contained the following statement: "Debriefing shall not reveal the relative merits or technical standing of competitors or the evaluation scoring."

On the other hand, the FAR now encourages a comparison of the overall cost and technical ratings of the winning proposal and the debriefed offeror's proposal. FAR 15.1006(d)(2) states that, at a minimum, the debriefing shall include the "...overall cost or price and technical rating, if applicable, of the successful offeror and the debriefed offeror...." Post-award debriefing documents under the new process indicated a gradual

approach toward providing information on the winning proposal. Of the eight post-FASA debriefing records examined, two did not include information on the successful offeror. These two were dated within the first six months after FASA implementation. The six remaining records dated more than six months after FASA, however, clearly provided the cost and technical ratings of the winner. Apparently, it took some time for all government personnel to learn what was acceptable in the new process and to overcome the inertia of the old way. It is interesting to note that one of the debriefed offerors who did not receive information on the winning proposal requested the information during the question-and-answer period. The offeror was told that release would have to be cleared "through legal." No record was found indicating whether the information was subsequently provided.

Summary of Rationale for Award

A similar pattern is evident concerning release of the summary of the rationale for award. No pre-FASA records included award rationale because this information was not allowed by FAR before the implementation of FASA. Of the eight post-FASA records, three included the source selection decision memorandum and two included a summary of the basis for the award. One record indicated that, as a result of a request by the debriefed offeror, the information would be provided. The remaining two records under the new process were silent on award rationale. These documents were dated within the first five months of FASA.

Opportunity for Questions and Answers

Perhaps the most notable difference between the old and new processes was in the willingness of government personnel to entertain questions from the debriefed offerors. Even though FAR did not specifically prohibit questions under the old process, none of the debriefing files from the period before FASA contained any record of a question-and-answer period. Neither did any of the debriefing scripts from this period indicate a willingness on the part of government personnel to address questions. By contrast, all eight records in the post-FASA period indicated in some fashion, either through scripts, briefing charts, or actual question-and-answer lists, that questions were permitted and, in some cases, actively encouraged.

As mentioned above, FAR did not specifically prohibit questions in post-award debriefings prior to FASA, but neither did it specifically allow them. Findings in the literature review suggested that debriefings before FASA were largely *pro forma*, with little or no useful information provided. Questions were no doubt asked during debriefings and, as long as they pertained to the debriefed offeror's proposal, they were probably answered. The climate surrounding post-award debriefings in that period, however, did not encourage risk taking by government personnel. As a consequence, no contracting officer before FASA was likely to encourage questions of any kind during a debriefing, much less actually record them. The new process, on the other hand, encourages questions. FAR 15.1006(d)(6) now allows "(r)easonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed." The phrase "reasonable responses to relevant questions" is susceptible to a wide range of

interpretation, but the post-FASA climate would seem to favor more openness and less risk aversion.

Summary of Document Analysis

Document analysis provided a good basis for understanding the debriefing process in general, and in assessing the differences between the old and new debriefing processes. Major differences in three areas were evident: (1) a comparison of the unsuccessful offeror's cost and technical ratings with those of the successful offeror; (2) a summary of the rationale for award; and (3) an opportunity for questions and answers.

The analysis was not sufficient, however, to answer the primary questions of this study. There was no information in the documentation to determine, for example, if unsuccessful offerors are less likely to protest because of the new debriefing process. Also, it could not be determined in the post-award records whether the new process enables unsuccessful offerors to develop more competitive proposals for future procurements. In addition, document analysis alone did not provide enough information to recommend improvements in the current debriefing process. The answers to these primary questions depended on the interview findings.

Interview Results

Question 1: The Federal Acquisition Streamlining Act of 1994 (FASA) directed many changes to the government acquisition process, among them the expansion of the post-award debriefing process.

a. Have you conducted or participated in a post-award debriefing of an unsuccessful offeror?

All participants, both government and industry, answered "yes" to this question.

b. Has your participation included experience both before and after FASA?

All participants answered “yes.”

Question 2: FASA requires that post-award debriefings address significant weak or deficient factors in the unsuccessful offeror’s proposal.

a. In your opinion, do the current debriefings clearly identify proposal weaknesses and deficiencies?

Most government participants answered “yes” to this question. Some gave qualified responses, saying that the government identifies proposal weaknesses and deficiencies to the extent it can without resorting to technical leveling. Others said the answer depends on who does the debriefing. In too many cases, the old perspective still prevails—the government is reluctant to be frank and forthcoming. One respondent said, “Changing the law has not changed the mindset.” Another said there is too much “gaming” or rigging of the technical evaluation process to make favored companies look good and less favored companies look bad. In these situations, the contracting officer has a difficult time clearly identifying and explaining proposal weaknesses and deficiencies to an unsuccessful offeror.

Most industry participants also answered “yes.” One said he is reasonably satisfied that proposal weaknesses and deficiencies are addressed, but believes the process “is all subjective anyway.” Another answered clearly “no.” He said acquisition reform has improved the process, but there is still so much fear of protest that government personnel adopt a too conservative approach. They do not address proposal weaknesses and deficiencies to the extent the law now allows.

b. Comparing the process before and after FASA, do you see a difference in the way debriefings have been conducted in this area?

All government participants except one answered “yes” to this question. The consensus was that the government is now much more likely to elaborate on the weaknesses and deficiencies and to provide detailed information on the ratings. Before FASA, only a minimal amount of information was provided. Often, in pre-FASA debriefings, the only explanation was that “you just weren’t good enough in this area.” The lone government dissenter on this question said that the government has not changed its approach—it is still clinging to its pre-FASA ways.

Most industry participants said the government has made a noticeable improvement in identifying and explaining weaknesses and deficiencies. The government is much more open and forthcoming in divulging award criteria and in explaining where the unsuccessful offeror “missed the mark” in comparison to the winning proposal. One respondent said that, while the government has made positive changes in this area, the color ratings are too broad to allow intelligent distinctions.

Question 3: FASA requires disclosure of the overall evaluated cost and technical ratings of the successful offeror and the unsuccessful offeror.

a. In your opinion, do debriefings clearly show the overall cost and technical ratings of the successful offeror?

Government participants generally believed that most debriefings now show the overall cost and technical ratings of the successful and unsuccessful offerors. Some questioned the value of the color codes, however. They said the codes are too “top level”—i.e., color coding does not really convey much information. When both winner and loser are coded the same in a particular area, it is very difficult to give the loser a

good explanation of why he lost. Too much detail runs the risk of technical leveling or of divulging proprietary information.

Most industry participants answered “yes” or “qualified yes.” Two said the overall ratings are too broad to be helpful—that more detail is needed. One suggested a price breakout by line item. Another said it is frustrating to study the RFP, interpret what the government wants, build the proposal based on customer need, and then lose to someone who has interpreted the requirement another way. He said this situation leaves him wondering if he bid properly, if he just made a mistake, or if the successful offeror “bent the rules” in some fashion. A detailed explanation of the cost and technical ratings would be helpful in these cases.

b. Comparing the process before and after FASA, do you see a difference in the way debriefings have been conducted in this area?

Government participants said there is a big difference. Before FASA, the successful offeror’s cost and technical ratings were not provided and the winning proposal was not discussed at all. Now, the government provides the successful offeror’s ratings and is willing to discuss the merits of the winning proposal within the “appropriate bounds.” The post-FASA government approach is much more helpful and “user friendly” in discussing the successful offeror’s cost and technical ratings. One government respondent said there is now a sincere desire on the part of the government to be as open and frank as possible in order to help unsuccessful offerors prepare better proposals in future procurements.

Industry respondents were clearly divided in this area. Some saw a big change from the old process. One commented that the new process provides a sense of relative

standing—there is something to compare his proposal against. Others said there is not much difference from the old process. Technical issues may be more open, but cost issues are still not truly discussed. One respondent said he has quit going to debriefings because they are “worthless.” The color codes of the successful offeror provide little useful information, and the selection decision is too often a “political call.”

Question 4: FASA requires disclosure of the overall ranking of all offerors and a summary of the rationale for award.

- a. In your opinion, do debriefings clearly provide the overall rankings of the offers and a summary of the rationale for award?

Many government participants pointed out that the specific FASA requirement is to show the overall ranking of all offerors when any ranking was developed by the agency. It is Air Force policy not to rank offerors, therefore no overall ranking is required. One respondent said that there are only two categories of offerors in an Air Force debriefing: “winner and loser.” Some said the number of offerors is divulged but not the names. Others said that all unsuccessful offerors are listed in alphabetical order, but no information about them is provided to the offeror being debriefed. One maintained that rankings should be used because it is important that the debriefed offeror know his relative position among all the offerors.

Nearly all government participants indicated that some form of award rationale is provided to the debriefed offeror. Most said the source selection decision document is almost always used, but sometimes a redacted summary is provided. One said award rationale has always been provided, but under the new rules more detail is necessary. Another commented that the quality and usefulness of the source selection decision document has suffered because of the possibility of release of the information.

Some industry participants said they have seen rankings in Air Force debriefings, but others said the offerors were listed but not ranked. Nearly all said rankings would be helpful in determining how close they were to winning. Knowing their relative position would help them decide whether they are competitive enough to pursue other, similar contracts.

All industry respondents said that the government should reveal as much as possible about the reasoning behind the award decision. Two expressed clear dissatisfaction with the quality of the award rationale they had received. One said government personnel are reluctant to disclose source selection decision documents because of a fear of protest, and that redacted summaries normally do not provide enough information to be of any value. Another respondent said that, on three different occasions, he was rated technically acceptable and had a lower price than the successful offeror, but lost all three awards. He said he was never given a good explanation of why he lost, so he just assumed the government wanted someone else.

b. Comparing the process before and after FASA, do you see a difference in the way debriefings have been conducted in this area?

Most government participants saw a major difference, especially in the release of award rationale. One commented that, under the old process, the source selection decision document was treated as a highly sensitive, almost classified document. Now we freely distribute it at post-award debriefings. Another said the government is much more willing today to discuss the whole source selection process.

Industry participants generally thought the new process is better. One commented that there has been a “progressive change for the better,” especially in providing award

rationale. In the current environment, debriefings provide “pertinent information” on the selection decision. Another said there is little, if any, difference in this area. Contracting officers still defer to their legal counsel—there is too much “We’ll have to look into that and get back to you.”

Question 5: FASA requires reasonable responses to relevant questions concerning the conformity of selection procedures to the solicitation, regulations, and other applicable authorities.

a. In your opinion, do Air Force personnel allow relevant questions and provide reasonable answers during the post-award debriefing?

Generally, government personnel said they encourage questions and try as best they can to answer them. Overall, they expressed concern that the words “relevant” and “reasonable” are subject to a wide range of interpretation. One said generic questions about the RFP source selection procedures, evaluation criteria, etc., are allowed and addressed, but specific questions on the successful offeror’s proposal and other offerors’ proposals are not allowed. Another commented that contractors are using “reasonable responses to relevant questions” as a means to “see how far they can push the process to get what they need.”

For the most part, industry participants agreed that government personnel try to respond reasonably to relevant questions. Again, the interpretation of “reasonable” and “relevant” was an issue. One industry representative said questions are allowed but reasonable answers are not always provided because of fear of “giving too much information or the wrong information.” Another said some relevant questions are not answered, but reasonable answers are given for those questions the government “chooses to answer.” Another responded that the government is probably as “candid and open as it

can be.” There are specific areas, such as “cost issues and proprietary data,” that are “difficult to address.”

b. Comparing the process before and after FASA, do you see a difference in the way debriefings have been conducted in this area?

Government personnel said this area represents a big change from the old process. In the pre-FASA era, there was a “strained atmosphere” and a “set agenda.” The debriefed offeror could ask questions about his proposal only. Now, the process is more open and relaxed. Questions about the successful offeror’s proposal can be asked, as well as questions about the selection process in general. Most government participants said they encourage questions under the new rules. Some expressed concern that they had gone too far in answering unsuccessful offerors’ questions. One said some “discipline” needs to be added to the process “to keep things from getting out of line” where questions and answers are concerned. According to one participant, the contractors’ approach now is “nothing ventured, nothing gained”—an apparent reference to the perceived boldness of industry questions.

Industry responses to this question were mixed. Two participants said there is now a genuine desire and attempt by the government to address relevant questions. Another said there is little difference—the government’s freedom to answer questions in debriefings has always been “bound by laws and regulations.” One said there is no difference. The intent to answer forthrightly might be present, but the actual answer is too often “circumscribed by fear.”

Question 6: What, in your opinion, is the biggest difference between the old debriefing process and the new debriefing process?

The general consensus of government personnel was that the new process is much more open and relaxed. One said the whole atmosphere is now "less adversarial." Another said debriefings before FASA were "short but not sweet." There was nothing much to discuss beyond the unsuccessful offeror's proposal, and even then the discussion was not always open and honest. Government personnel dreaded the debriefings, and the contractors often left feeling "dissatisfied and disgruntled." Now, the government often travels to the unsuccessful offeror's facility for the debriefing, as an "olive branch" to the loser. Most government participants said they put much more effort into debriefings now than before. Debriefings are considered to be a much more important part of the job.

Most industry participants agreed that the major difference is openness on the part of the government to discuss more areas of the source selection, especially the successful offeror's proposal. One respondent said he attended debriefings in the past "just in case" there was some useful information. Now he attends because he knows that substantive issues beyond his proposal will be addressed. Debriefings are much more useful and worthwhile today.

Question 7: Overall, are you satisfied that the current post-award debriefing process provides as much information as possible, given that government personnel must conform to applicable authorities and not divulge confidential or proprietary information?

Five government participants indicated satisfaction with the current process of debriefing. Typical comments were that debriefings provide the "most information possible" or the "right amount" of information. One said perhaps too much information is now being released, especially cost information. Another expressed concern that more

information might have a “deleterious effect” on full and open competition. In other words, companies might fear the release of proprietary data, trade secrets, or other sensitive information, and become reluctant to bid.

Most industry participants indicated a strong preference for the new process over the old process. They generally agreed that the new process provides as much information as possible under the circumstances. One said the process must be informative, but the government needs to be careful not to compromise the “competitive advantage”, i.e., confidential and proprietary information, trade secrets, etc. Another respondent said he is not satisfied—government personnel are still overly conservative. “Fear of retribution” on the part of government personnel “defeats the purpose of FASA.”

Question 8: Do you believe the current process provides information that leads to the development of more responsive and competitive proposals?

Government personnel were divided on this question. Three said the current process leads to better proposals, especially when there are recurring source selections for similar efforts. Two others said the process does not necessarily produce better proposals because most debriefing issues and questions are focused on the source selection process itself, and not on how to improve the unsuccessful offeror’s proposal. One response was that industry proposal writers already do such an excellent job that there is “not much learning curve in this process.” Another participant said the process is too flawed to produce better proposals. Government personnel are “not honest enough” in explaining proposal deficiencies to allow improvement.

Three industry participants answered “yes” to this question. More information leads to better proposals. Two had qualified responses. One said the government is

moving in the right direction, but needs to provide more information on the successful offeror. He said the government is probably reluctant to reveal too much information for fear of “exposing a possible mismatch between the RFP requirements and the evaluation of the successful offeror.” Another respondent said the real key to improving proposals is to get as much information on the requirement as early as possible in the process.

Question 9: Compared to the old process before FASA, do you believe information provided in the current post-award debriefing process has reduced the likelihood of protest by an unsuccessful offeror?

Again, government personnel were divided on this question. Four said the likelihood of protest has definitely been reduced because companies now have a better understanding of the rationale for award—they do not need to protest simply to gain more information. One respondent said the new debriefings have had “no impact” on protests. Two other respondents expressed the belief that protests have not been reduced because more information only “fuels the fire” of a company bent on protesting. Another said the likelihood of protest has probably increased because of the openness of the debriefings. Now that the government has “opened up the gates,” allowing questions on “process and procedure,” contractors are taking advantage of the situation. They are using the additional information against us in their protests.

Industry responses were generally positive—a better understanding of the award decision leads to a reduced likelihood of protest. One respondent said that, “absent procedural problems,” an unsuccessful offeror will not protest if he has a clear understanding of why he lost. For this reason, it is important for government personnel to put themselves “in the shoes of the loser” when preparing a debriefing. Another industry participant said the new process forces the government personnel to do a better job of

evaluating proposals, because mistakes will eventually “come to light.” As the new process becomes more ingrained, protests should “go down markedly.” In the words of another respondent, the new process is a “two-edged sword.” The candid nature of the debriefing has probably kept some from protesting, but may have “stoked the protest fires” of others.

Question 10: Do you have any specific recommendations as to how the current debriefing process can be improved?

Most government participants said the current process is acceptable. Some cautioned against making it “too objective.” The strength of the process lies in its subjectivity, i.e., in the ability of the source selection authority to make value judgments. One respondent said that injecting “more honesty into the proposal evaluation process” will improve debriefings by allowing a more realistic assessment of unsuccessful offerors’ proposals. Another recommendation was to avoid going too far in providing information on the successful offeror and risking a damaging reaction to the process. Yet another recommendation was to provide contractors with some type of training or workshop on how the government does source selections. Perhaps the training could be incorporated into an AFMC “road show” for industry.

Industry participants stated a general preference for including relative rankings of all offerors. Rankings give companies a better idea of how they fared against their peers and whether they should pursue contracts that are similar in nature. Some said the government should hold “industry day” workshops that focus on the particulars of proposal evaluation, especially in the area of program management. Another said the government should engage in “role playing” when preparing for a debriefing.

Government personnel would act in the role of a losing contractor in a post-award debriefing. Role playing would help the government determine if the information in the debriefing will answer an unsuccessful offeror's questions. A final recommendation was for the government to "examine FASA more closely." A closer look at FASA would show the government that it must continue to move away from playing "close to the vest" and toward releasing more information. Now is not the time for the government to "rest on its laurels" and stop improving the process.

Summary

This chapter described the data collection and analysis procedures used in the course of this research project. The primary methods of data collection were document analysis and interviews. Results of the data analysis were presented.

Document analysis pinpointed three major areas of difference between the old and new debriefing processes: 1) comparison of overall cost and technical ratings of debriefed offeror and successful offeror; 2) summary of the rationale for the award, and 3) opportunity for questions and answers. The new debriefing process was clearly superior in all three areas.

Interview results indicated a wide range of beliefs and perceptions concerning the differences between the old and new processes and the effectiveness of the new process. Most interview participants considered the current practice of debriefings to be better than the old one in the majority of the areas that were compared. There was a wide range of opinion in many areas, however.

Overall, the new debriefing process appears to be much less formal and rigid and much more dynamic and wide-ranging. The next chapter will present specific conclusions and recommendations from the findings, along with suggested areas for further research.

V. Conclusions and Recommendations

Introduction

As Patton observes, the purpose of qualitative inquiry is to produce findings (Patton, 1990: 371). Data collection is not an end in itself. It culminates in analyzing and interpreting the data, presenting the findings, and drawing conclusions (Patton, 1990: 371). The previous chapter was concerned with data collection and analysis. The focus of this chapter is on conclusions from the data and making recommendations.

Patton also observes that there are no formulas for determining the significance of the data, no “agreed-on canons for qualitative analysis, in the sense of shared ground rules for drawing conclusions and verifying their sturdiness” (Patton, 1990: 372). The goal of data analysis, according to Patton, is to “fairly represent the data and communicate what the data reveal given the purpose of the study” (Patton, 1990: 372).

A final quote from Patton would appear to be relevant to this research project:

It is important to understand that the interpretive explanation of qualitative analysis does not yield knowledge in the same sense as a quantitative explanation. The emphasis is on illumination, understanding, and extrapolation rather than causal determination, prediction, and generalization. (Patton, 1990: 424)

Review of Research Objectives and Purpose of the Study

As discussed in the Literature Review, bid protests are expensive, burdensome, and time-consuming for both government and industry. One of the major reasons behind acquisition reform was to find ways to reduce the number of protests in government acquisition. A suggested approach was to expand the post-award debriefing process to give unsuccessful offerors more information and insight into the government source

selection process. A primary objective of this research was to determine whether FASA changes in the post-award debriefing process have resulted in fewer bid protests by unsuccessful offerors. Another major objective was to determine if the new debriefing process has motivated contractors to produce better proposals. Better proposals help streamline the acquisition process by reducing government evaluation time. They also strengthen the industrial base by stimulating competition for government contracts.

Another purpose of this study was to examine the current post-award debriefing process, noting differences from the old process as indicated by government and industry personnel having experience with debriefings before and after FASA. A final purpose was to make recommendations, based on the findings, to improve the debriefing process.

As discussed above, this chapter will present the research conclusions based on findings from the document analysis and the results of the interviews. Conclusions will be in the form of answers to the investigative questions listed in Chapter I. In addition, this chapter will provide recommendations for improving the post-award debriefing process and also suggest related areas for future research.

Investigative Question 1

How does the new post-award debriefing process differ from the old, pre-FASA process?

Document analysis indicated three major areas of difference: (1) comparison of overall cost and technical ratings of the debriefed offeror and the successful offeror; (2) summary of the rationale for the award; and (3) opportunity for questions and answers. The new, post-FASA process, as evidenced by debriefing memorandums at Aeronautical Systems center, appears to be much more open and “user friendly” than the

old process, though government personnel apparently needed some time to adapt to the new debriefing requirements. Debriefing memorandums dated more than six to nine months after FASA, however, indicate that government personnel were more fully complying with FASA changes. Based on the debriefing charts, scripts, and question-and-answer lists, the biggest difference between the old and new processes appeared to be the opportunity for unsuccessful offerors to ask "relevant" questions about the source selection procedures.

Investigative Question 2

How do government and contractor personnel view the differences between the old and new debriefing processes?

Government and industry participants generally believed the new process is better than the old one. The findings indicate that government personnel now view the post-award debriefing as a much more important part of their job. Contractors, for the most part, appear to view the new process as more worthwhile. Almost all participants agreed that discussion of proposal weaknesses/deficiencies and cost/technical ratings is better now than before. There was also general agreement that award rationale is more useful and informative. Government and industry were divided on the issue of "reasonable responses to relevant questions," although all seemed to agree that substantive issues beyond the successful offeror's proposal are now more likely to be addressed. A reasonable conclusion, based on the interviews, is that the new process is more open and relaxed. The atmosphere of debriefings is less strained. Perhaps the best description, based on the findings, is that the new debriefing process is "less adversarial" than the old process.

One conclusion, based largely on responses to interview question 7, is that the new process may be working as well as can be expected, given the current laws and regulations. In fact, participants from both sides expressed the general belief that providing too much source selection information might do harm to the competitive acquisition process. Government participants for the most part said it is important to maintain the subjective nature of the selection decision and to guard confidential and proprietary information on both sides. Industry participants prefer more objectivity in the selection decision, but some conceded that the current process may be the best obtainable under the circumstances.

Investigative Question 3

Has the new, expanded post-award debriefing process helped contractors to develop better proposals for future procurements?

Based on government responses to this question alone, the answer is inconclusive. Two of the seven government participants clearly believed the new process helps contractors prepare better proposals. Only one clearly said “no,” with most others falling somewhere in between.

When government responses to interview question 2 are considered, the government position shifts to the positive. Question 2 asked if debriefings clearly addressed proposal weaknesses and deficiencies. Most government participants answered “yes” to this question. If proposal weaknesses and deficiencies are more fully explained, it follows that most contractors will learn from their mistakes and do better in the future.

All industry participants indicated, in some positive sense, that the new debriefing process helps them prepare better proposals. The key appears to be that more information leads to better proposals.

The preponderance of the evidence seems to fall on the positive side. The new process has probably resulted in a general improvement in contractor proposals. The findings indicate that more insight into the reasons behind government source selection decisions, and improvements in explaining proposal deficiencies, give contractors a better sense of what the government wants to see in industry proposals.

Investigative Question 4

What has been the impact of the new debriefing process on the likelihood of a debriefed offeror's pursuing a protest?

This is the central question of this study and, based on the findings, it is difficult to answer conclusively. Three of the seven government participants said the expanded debriefing process has led to a reduction in the number of protests. Others expressed concern that more information on award decisions gives contractors more information on which to base their protests.

Industry participants generally believed that a better understanding of the award decision probably leads to a reduction in protests. At least one, however, agreed with some of the government participants that more information helps contractors make a better case for their protests.

The conclusion from the findings may be a tentative "yes." The likelihood of protest has probably decreased as a result of the new debriefing requirements.

Admittedly, this conclusion may be based as much on intuition as on the findings of this

study. A more definitive answer may have to wait until both sides have more experience with the new process. As one industry participant phrased it, protests should “go down markedly” as the new process becomes more ingrained.

Investigative Question 5

What, if anything, can be done to improve the debriefing process?

Government participants generally agreed that the new process is acceptable as it now stands. Do not tinker with a good thing. One suggestion that might be worthwhile was for the government to develop a workshop or “road show” to explain the source selection process to industry. One industry participant also stated the need for some type of training, especially in the area of proposal evaluation by the government. Perhaps HQ AFMC/AQ, the command RFP support team, is ideally suited to undertake this industry-oriented training project.

Most industry participants said that knowing the relative ranking among their competitors would help them make better business decisions. SAF/AQC might consider a change in policy to give contracting officers the option of including the relative rankings of all offerors in post-award debriefings.

Concluding Remarks

Metzger and Golden have documented that the number of protests filed at GAO has decreased from 2809 in fiscal year 1994 to 2529 in fiscal year 1995, the first full year of FASA implementation (Metzger and Golden, 1997: viii). This decrease is a ten-percent drop in protests in one year. There is no guarantee that this reduction marks the beginning of a downward trend, nor is there any evidence linking the cause of the

decrease directly to the effects of FASA. One can draw reasonable conclusions from the evidence, however, and state that FASA has probably played some role in the improvement in the protest numbers. The precise role is impossible to determine from this study.

It is reasonable to conclude that the post-award debriefing is an important vehicle for government-industry communication. Ideally, it provides an explanation of the rationale for the award decision, exposes proposal weaknesses and deficiencies, and assures the unsuccessful offeror that it received fair treatment.

FASA changes were designed to improve post-award debriefings by requiring government agencies to provide more information on the source selection process and the rationale for award. The theory behind the changes was that better information would result in better proposals, and that bid protests would be reduced as unsuccessful offerors gained insight into the government's selection decisions.

This study examined the impact of the FASA changes on the post-award debriefing process at Aeronautical Systems Center. Post-award debriefing memorandums and related documentation were analyzed to determine the differences in the debriefing process before and after FASA. Also, government and industry personnel with extensive post-award debriefing experience were interviewed to gain their perspective on the changes in the process and to help determine if FASA changes had their intended effects.

Results of the study indicate that, at ASC, FASA has improved the post-award debriefing process. The process is less adversarial and more open. Study participants generally agreed that FASA requirements have increased the amount of information provided to unsuccessful offerors in debriefings. Extrapolating from this point, one can

state generally, if not categorically, that more information has led to greater understanding of the reasons for the source selection decision, better quality of proposals, and less likelihood that the unsuccessful offeror will pursue a protest. Categorical conclusions await the results of future research.

Suggestions for Further Research

Future researchers might consider the following related areas for further study:

- A similar study using larger samples and/or employing statistical analysis.
- A comparison of the post-award debriefing process at different Air Force locations.
- A comparison of the post-award debriefing process among the services and other DoD agencies.
- A comparison of debriefings to determine if large and small businesses view the process in the same way.
- A comparison of the pre-award and post-award debriefing processes.
- A comparison of government and commercial debriefing practices.

Appendix A: Staff Summary Sheet (AF Form 1768)


STAFF SUMMARY SHEET

TO	ACTION	SIGNATURE (Surname), GRADE AND DATE	TO	ACTION	SIGNATURE (Surname), GRADE AND DATE
1 ASC/SYG	COORD	Lori Miller, GS-13 28 Apr 97	6		
2 ASC/PK	COORD	Boyer GS-15 25 Apr 97	7		
3 ASC/CC	APPR	Boyer GS 4/3.	8		
4			9		
5			10		

SURNAME OF ACTION OFFICER AND GRADE	SYMBOL	PHONE	TYPIST'S INITIALS	SUSPENSE DATE
Fossum, Cindy, Major	AFIT/LAS	51211	drt	

SUBJECT	DATE
Request for Access to and Release of Source Selection Records After Contract Award	28 APR 1997

- SUMMARY
1. Request Mr. David Thomas be granted access to post award source selection records at ASC/SYG. Mr. Thomas is a student in the Graduate Contract Management Program at the Air Force Institute of Technology (AFIT). He requires access to post award source selection records pertaining to DAC and Other Contracting programs. The purpose of obtaining this information is to complete a master's thesis on the Air Force post award debriefing process.
 2. This request includes permission to copy records for conducting academic research. Confidentiality will be maintained and no source selection sensitive or proprietary information will be compromised. Copies of all records will be destroyed upon completion of the research.
 3. This request is made pursuant to AFFARS Appendix BB, paragraph BB-403(b) and AFMC FAR Supplement Appendix BB, paragraph 38.a.
 4. Recommend approval.


 CINDY FOSSUM, Major, USAF
 Program Manager
 Graduate Contract Management Program
 Air Force Institute of Technology

Appendix B: SAF/AQC Letter, 13 October 1993



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC



OFFICE OF THE ASSISTANT SECRETARY

13 OCT 1993

FROM: SAF/AQC
1060 Air Force Pentagon
Washington DC 20330-1060

SUBJ: Air Force Debriefing Policy

TO: ALMAJCOM/FOA (Contracting)

1. During the past year, we've taken a hard look at the Air Force's debriefing policy. After discussions with MAJCOM representatives at the World-wide Conference, review of the results of AFMC debriefing initiatives, and discussions with industry representatives, we've come to the conclusion that we need to be more open and consistent in the way we do debriefings throughout the Air Force. Therefore, a new AFFARS supplement to FAR subpart 15.10 to cover debriefing policy is being developed. Until that subpart is published, the following guidelines shall be followed for debriefings on all competitive acquisitions that use source selection procedures set forth in AFFARS Appendix AA or BB. In addition, these guidelines are encouraged for lower dollar value source selections.

a. Contracting Officers should conduct debriefings in an open, nonadversarial environment that encourages the frank exchange of information about the offeror's proposal. However, care must be taken not to disclose anything during a debriefing that would compromise the integrity of the source selection process or reveal proprietary information from another offeror's proposal.

b. The contracting officer chairs and controls the debriefing. However, the people responsible for the actual evaluations such as the Source Selection Evaluation Board Chairperson and evaluators shall provide the specific evaluation results in the debriefing, unless an exception is approved by the Source Selection Authority (SSA).

c. All offerors, including the successful offeror, shall be debriefed upon their request, normally within 10 days after contract award.

d. During the debriefing, contracting officers shall release the color/adjectival ratings, proposal risk assessment, performance risk assessment, and the evaluated price/cost of an offeror's proposal to that offeror. The level of detail presented at the debriefing shall match what was briefed to the SSA at the decision briefing (e.g., the item or factor level). When the cost factor was based upon most probable life cycle cost or similar calculation, the major component parts of the calculation will be presented. This may include such elements as: economic price adjustments, other government costs (e.g., operations and support), and "dollar-ized" proposal risk assessment. Additionally, contracting officers, if requested, may consider releasing other information normally released without a protective order by the GAO in the processing of a protest. Legal counsel should be consulted before releasing such information.

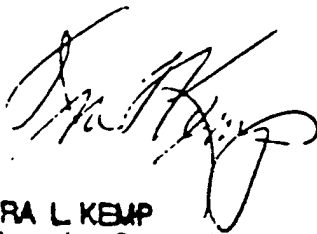
e. Offerors may ask oral questions during debriefings in addition to written questions submitted prior to the debriefing. Government personnel shall attempt to answer all questions. However, the debriefing team should caucus before providing answers to any questions not provided in advance which are complex, unclear, or may potentially lead to the release of proprietary or classified information. All answers provided must be consistent with the information presented to the SSA and correspond to the areas evaluated during source selection. Occasionally, it may be necessary to provide the offeror with a written response after the debriefing. A written record of the debriefing presentation shall be made part of the official source selection file. A written summary of all questions and answers shall also be retained in the source selection file, and may be provided to the offeror.

f. The debriefing shall include a discussion of the proposal format as well as its content. Remember to focus on the offeror's proposal being debriefed only. You should comment on the particular aspects of the proposal that made it more difficult to understand or on those aspects that were effective in making the proposal easier to understand. Bear in mind that proposal format as well as technical content may be proprietary.

g. After the debriefing, the offeror may receive a copy of the contract and the source selection decision document, provided classified and proprietary information are properly protected.

h. If the contractor agrees, less formal debriefing procedures (e.g., telephonic debriefing by the contracting officer) may be used.

2. If you have any further recommendations regarding debriefing process improvements, please direct them to my action officers for source selection issues: Lt Col Greg Waeber, SAF/AQCS, DSN 225-1997 or Ms Melissa Rider, SAF/AQCO, DSN 224-1634.

A handwritten signature in black ink, appearing to read 'Ira L. Kemp', with a stylized flourish at the end.

IRA L KEMP
Associate Deputy Assistant
Secretary (Contracting)
Assistant Secretary (Acquisition)

Appendix C: Interview Cover Letter and Questions



DEPARTMENT OF THE AIR FORCE
AIR UNIVERSITY (AETC)

To:

Subject: Interview Questions—Air Force Post Award Debriefing Process

1. Thank you for agreeing to participate in this research project, which is directed toward determining the effectiveness of the post-award debriefing process. As we discussed previously, the purpose of the interview is to obtain your opinion of, and insight into, the post-award debriefing process as expanded by the Federal Acquisition Streamlining Act of 1994 (FASA). I would like to emphasize once again that your responses will be kept strictly confidential. All comments will be on a non-attribution basis.
2. A common complaint among government contractors before FASA was that post-award debriefings did not provide enough information to satisfy unsuccessful offerors concerning the source selection decision. Consequently, many protests were filed simply because the basis and rationale for the award were not fully understood. The theory behind this research is that the expanded post-award debriefing process under FASA provides better information than the old debriefing procedures, and therefore has contributed to a decrease in the number of protests. Your opinions and comments will help us to determine if the new process is working as envisioned by the architects of acquisition reform. In addition, your feedback may be helpful in making recommendations to improve the Air Force post-award debriefing process.
3. Please review the attached list of interview questions. I will call you in a few days to schedule a brief interview that is designed to last no more than thirty minutes. The interview will be open-ended but will follow the general form of the attached questionnaire.
4. Once again, thank you for your participation and cooperation. If you have any questions regarding this research project, please call me at this number: (937) 255-7777, ext. 2189. You may also call my academic advisor, Professor Andre Long, Acting Head, Department of Government Contract Law, Air Force Institute of Technology, Wright-Patterson AFB, Ohio 45433. His number is (937) 255-7777, ext. 3146.

DAVID R. THOMAS
Student, Graduate Contract Management Program
Air Force Institute of Technology

Atch:
Interview Questions

POST-AWARD DEBRIEFING INTERVIEW QUESTIONS

Government Questions

1. The Federal Acquisition Streamlining Act of 1994 (FASA) directed many changes to the government acquisition process, among them the expansion of the post-award debriefing process.

a. Have you conducted or participated in a post-award debriefing of an unsuccessful offeror?

b. Has your participation included experience both before and after FASA changes?

2. FASA requires that post-award debriefings address significant weak or deficient factors in the unsuccessful offeror's proposal.

a. In your opinion, do the current debriefings clearly identify proposal weaknesses and deficiencies?

b. If you have post-award debriefing experience both before and after FASA, can you see a difference in the way debriefings have been conducted in this area?

3. FASA requires disclosure of the overall evaluated cost and technical ratings of the successful offeror and the unsuccessful offeror.

a. In your opinion, do debriefings clearly show the overall cost and technical ratings of the successful offeror?

b. If you have post-award debriefing experience both before and after FASA, can you see a difference in the way debriefings have been conducted in this area?

4. FASA requires the overall ranking of all offerors and a summary of the rationale for award.

a. In your opinion, do debriefings clearly provide the overall rankings and a summary of the reasons for the selection decision?

b. If you have post-award debriefing experience both before and after FASA, can you see a difference in the way debriefings have been conducted in this area?

5. FASA requires reasonable responses to relevant questions relating to the conformity of selection procedures to the solicitation, regulations, and other applicable authorities.

a. In your opinion, do Air Force personnel allow relevant questions and provide reasonable answers?

b. If you have post-award debriefing experience both before and after FASA, can you see a difference in the way debriefings have been conducted in this area?

6. What, in your opinion, is the biggest difference between the old post-award debriefing process and the new debriefing process?

7. Overall, are you satisfied that the current post-award debriefing process provides as much information as possible, given that government personnel must conform to applicable authorities and not divulge confidential or proprietary information?

8. Do you believe the current debriefing process provides information that leads to the development of more responsive and competitive proposals?

9. Compared to the old process before FASA, do you believe the current post-award debriefing procedures have reduced the likelihood of protest by an unsuccessful offeror?

10. Do you have any specific recommendations as to how the current process can be improved?

POST-AWARD DEBRIEFING INTERVIEW QUESTIONS

Industry Questions

1. The Federal Acquisition Streamlining Act of 1994 (FASA) directed many changes to the government acquisition process, among them the expansion of the post-award debriefing process.

a. Have you participated as the representative of an unsuccessful offeror in a post-award debriefing conducted by an Air Force contracting officer?

b. Has your participation included experience both before and after FASA changes?

2. FASA requires that post-award debriefings address significant weak or deficient factors in the unsuccessful offeror's proposal.

a. In your opinion, do debriefings clearly identify proposal weaknesses and deficiencies?

b. If you have post-award debriefing experience both before and after FASA, can you see a difference in the way debriefings have been conducted in this area?

3. FASA requires disclosure of the overall evaluated cost and technical ratings of the successful offeror and the unsuccessful offeror.

a. In your opinion, do debriefings clearly show the overall cost and technical ratings of the successful offeror?

b. If you have post-award debriefing experience both before and after FASA, can you see a difference in the way debriefings have been conducted in this area?

4. FASA requires the overall ranking of all offerors and a summary of the rationale for award.

a. In your opinion, do debriefings clearly provide the overall rankings and a summary of the reasons for the selection decision?

b. If you have post-award debriefing experience both before and after FASA, can you see a difference in the way debriefings have been conducted in this area?

5. FASA requires reasonable responses to relevant questions relating to the conformity of selection procedures to the solicitation, regulations, and other applicable authorities.

a. In your opinion, do Air Force personnel allow relevant questions and provide reasonable answers?

b. If you have post-award debriefing experience both before and after FASA, can you see a difference in the way debriefings have been conducted in this area?

6. What, in your opinion, is the biggest difference between the old post-award debriefing process and the new debriefing process?

7. Overall, are you satisfied that the current post-award debriefing process provides as much information as possible, given that government personnel must conform to applicable authorities and not divulge confidential or proprietary information?

8. Do you believe the current debriefing process provides information that leads to the development of more responsive and competitive proposals?

9. Compared to the old process before FASA, do you believe the current post-award debriefing procedures have reduced the likelihood of protest by an unsuccessful offeror?

10. Do you have any specific recommendations as to how the current process can be improved?

Appendix D: Government and Industry Participants

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