

Procurement Ethics

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Today's Agenda

- ✓ **Welcome & Introduction**
- ✓ **Foundations of Procurement Excellence**
- ✓ **Workshop: RFP First Impressions**
- **Procurement Ethics**
- **Becoming a Client of Choice**
- **Workshop: Putting Together a Proposal**
- **Five Best Practices to Improve Your Next Solicitation**

Keep Organization Out of Court



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World U.S. **Politics** Economy Business Tech Markets Opinion Life & Arts Real Estate WSJ. Magazine

POLITICS

Pentagon's Cloud Project Under Fire as Award Nears

Emails detail Amazon meetings with defense officials before bids were solicited

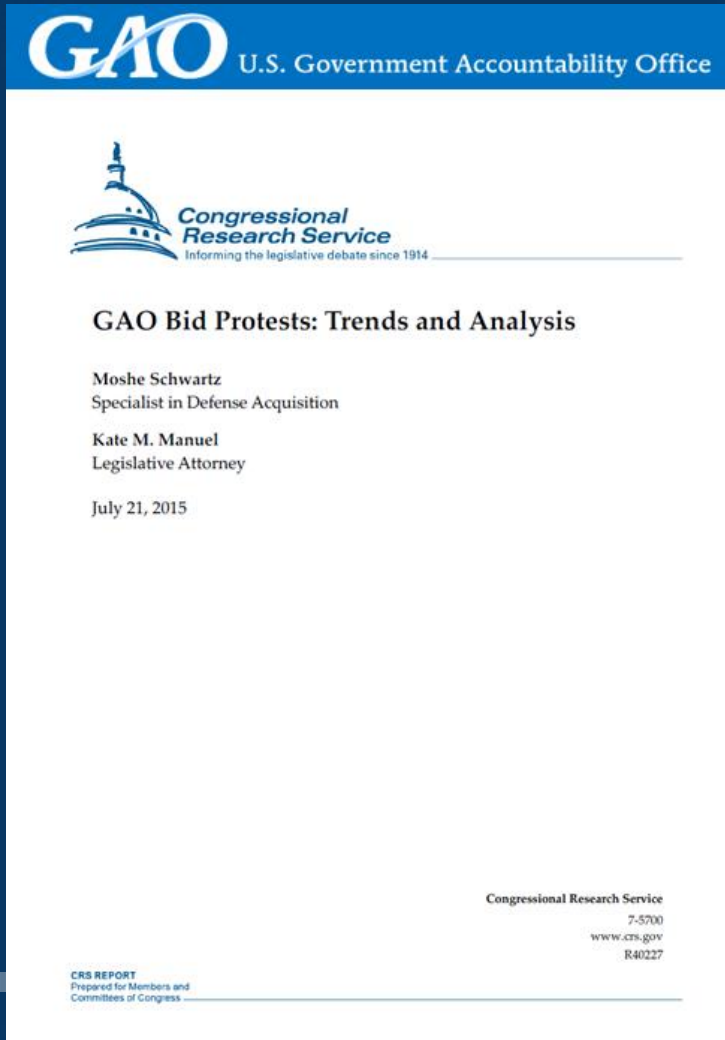


RECOMMENDED VIDEOS

1. Andrew Yang Ends Presidential Campaign
2. Steyer on Electric Vehicles in America
3. Samsung Galaxy S20

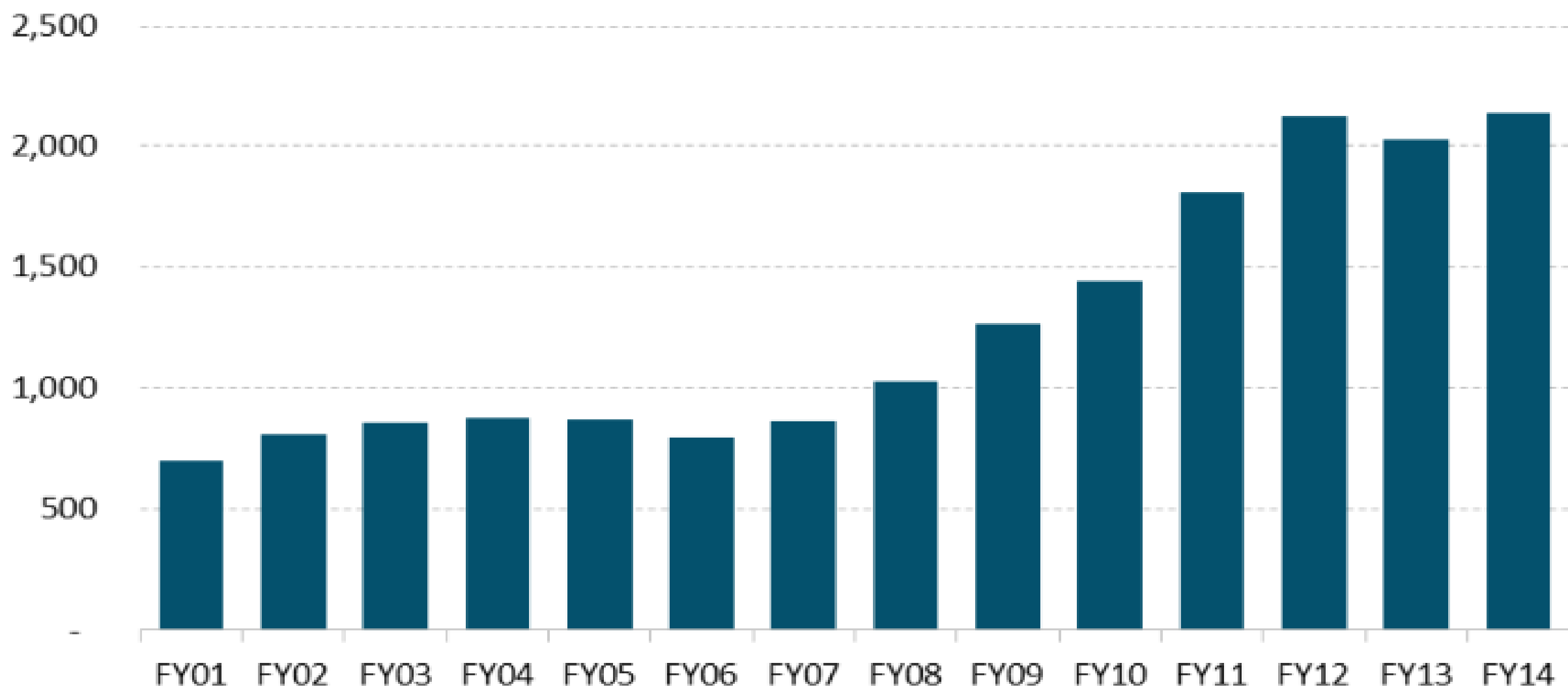


U.S. Government Accountability Office (GAO)



- Investigates how the federal government **spends taxpayer** dollars
- Advise Congress about ways to make **government more efficient, effective, ethical, equitable and responsive.**
- Support congressional **oversight** by:
 - Auditing
 - Investigating illegal / improper activities
 - Reporting on programs and policies
 - Performing policy analyses
 - Issuing legal decisions and opinions

Figure 3. Number of Procurements Protested
FY2001-FY2014



Source: GAO data provided to CRS.

Why Companies Protest

- Poorly written requirements
- Failure to follow the process laid out in the solicitation
- Not understanding award criteria
- Failure to adequately document results
- Inadequate debriefing – confusion on why they lost

Guiding Principles

Open

Fair

Transparent

Value

Conflict of Interest & Unethical Behavior

Conflict of Interest

**when an employee has financial interest
or personal gain to the procurement**

also applies to a member of the employee's immediate family

Example 1 – Employee Owning Stock

- An employee for your organization will serve as an evaluator on a new IT system acquisition.
- Software Firm A, was ranked the highest and awarded a multi-million with your organization.
- Stock prices for Software Company A increased as a result of the award. Your employee owns stock of Software Company A.

Example 1 – Employee Owning Stock

WARNING

**Conflict of
Interest**



*...Strictly avoid any
conflict of interest
or even the appearance
of a conflict of interest
in the procurement process...*

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Conflict of Interest

ACTUAL

is when an individual's judgment or integrity has been compromised

PERCEIVED OR APPARENT

is when an individual's judgment or integrity could appear to be influenced, biased, or compromised

**Ensure there are no
Conflicts of Interest
with the critical personnel
involved on the
procurement**

Conflict of Interest Disclosures

- You likely have responsibility to identify and disclose any actual, potential or perceived instances of conflict of interest.

LA DWP Los Angeles Department of Water & Power	<input type="checkbox"/> Contract Development <input type="checkbox"/> Contract Selection <input type="checkbox"/> Contract Award Check all boxes that apply.
--------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Individual Conflict of Interest Certification

An actual conflict of interest or the appearance of conflict of interest arises when there is a clash between an employee's duty to the City of Los Angeles and his or her private interests or allegiances. Such a conflict of interest may arise due to financial, business, professional, or personal relationships (past, present, or foreseeable in the future) with a proposed or actual contracting party, including any subcontractors of that party. In certain situations, relationships between members of your family and contracting parties may also give rise to conflicts of interests. If you are not certain whether any of your relationships with a contracting party, including subcontractors, may constitute an actual conflict of interest or the appearance of conflict of interest, you should consult with the City Attorney's Office to assist you in that determination, or recuse yourself from participation in the contract process. If you are recused on a matter, you must file a screening form with the Department's Ethics Liaison.

I agree that if I become aware of any information that might indicate that this statement is not accurate or that I have not complied with LADWP's Conflict of Interest Policy or the applicable conflict of interest laws, I will notify Department's Ethic Liaison immediately. I understand that knowingly providing false information on this Conflict of Interest Reporting Statement shall subject me to a civil penalty.

I hereby certify that I ☐ (do) ☐ (do not) believe that I may have an actual conflict of interest or the appearance of conflict of interest on this matter.

Identify contract or potential contract matter (including vendor name):

Board Date: _____

If you wish to recuse yourself, indicate the recusal here: _____ (Initials)

Please state the basis for your recusal: (Stating the basis for your recusal is optional)

Employee name: _____

Employee title: _____ System: _____

Employee signature: _____ Date: _____

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Individuals with any perceived or
apparent Conflict of Interest
must be precluded from the
procurement process

(evaluation, selection, negotiation, payments, etc.)

Example 2 – Family Members

- An employee for your organization will serve as an evaluator on a new IT system acquisition.
- Software Firm A, was ranked the highest and awarded a multi-million with your organization.
- Stock prices for Software Company A increased as a result of the award. Your employee's son owns stock of Software Company A.

Example 2 – Family Members

WARNING

**Conflict of
Interest**



Unethical Behavior

What Are Unethical Behaviors?

- **Gratuities & Kickbacks:** unethical for any payment
- **Employment or Promise of Employment:** unethical for any employee to become the employee of any company contracting with the agency
- **Sharing or Disclosing Confidential Information:** unethical for any employee or former employee to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

Example 3 – Tickets to an Event

- A Supplier that does work for your organization provides free tickets to a musical event to an employee in your Organization. This employee is commonly involved in the procurement process. The Supplier does not plan on going to the event.

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WARNING
**Unethical
Behavior**

~~X~~Employee
~~X~~Supplier

Example 4 – Gift

- An employee, who has worked at your company for 20 years, will be retiring in 6 months. This employee has been a lifelong hockey fan. Supplier ABC, who frequently does work with your company, has provided your employee with a signed hockey stick in celebration of their retirement.

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Example 5 - Scholarship

- A Supplier has provided a financial scholarship to a family member of an employee of your Organization. The scholarship can only be used for tuition.

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Example 6 - Employment

- **Software ABC has recently won a multi-million contract with your firm. One of your critical evaluators (responsible for giving Software ABC high scores), quit within weeks of this award and has accepted a position with Software ABC.**

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Example 7 – Confidential Information

- A former employee for your Organization, who retired several months ago, is doing consulting work. They share critical information that may be considered confidential with a Supplier that may propose a project for your Organization. No other suppliers have this information or are aware of it.

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Conflicts of Interest?

- “...attended a dinner with vice president of Amazon’s business selling cloud services to governments, though an organizer of the dinner said cloud computing never came up.”
- “...charging that a former Amazon employee working at the Pentagon helped shape the deal to favor Amazon... and then returned to work for Amazon.”

Ethics Applies To All Parties

Internal

- Procurement staff
- Customers / clients
- Subject matter experts

External Vendors

- Consultants
- Contractors
- Suppliers & Subconsultants

**Important to Obtain
Ethics Training From
Your Organization**

Summary

- Ethics relates to giving all vendors an equal opportunity to win
- Ethics gives your constituents the confidence that your organization is acting in the their best interest
- 2 major obstacles or challenges to ethics are:
 - Conflict of interest
 - Unethical behaviors
- Seek additional ethics education and training by your agency