



What's *Hot* at NASA HQ

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Topics

- Conflicts of Interest
- Indemnification
- Strategic Sourcing
- Other *Hot* Areas of Emphasis



Conflicts of Interest



Conflicts of Interest

- Recent Activity
 - Standing Review Board (SRB)
 - Established through Office of Chief Engineer (NPR 7120.5D)
 - Purpose is to conduct independent life cycle reviews to objectively assess a program/project's progress against its approved program/project plan
 - SRB's are typically comprised of experts from within and outside the Government
 - Some reviews may involve access to acquisition sensitive information
 - OCI issues raised in recent protest



Conflicts of Interest

- OCI definitions used by GAO and the CoFC:
 - Unfair access to data: Concern that contractor has access to nonpublic information as part of its performance where that information may provide the firm a competitive advantage in a later competition for a government contract.
 - Impaired objectivity: Concern about firm's ability to render impartial advice to the government and occurs when contractor's financial interest could influence performance. Elements are: 1) use of subjective judgment by the contractor and 2) having a financial interest in the outcome. (The conflicting financial interest includes interests of affiliates.)
 - Biased ground rules: This conflict involves elements of both bias and unfair competitive advantage. The concern is that a contractor is capable of skewing the competition, whether intentionally or not, in favor of itself. The definition of a financial interest used for OCI's involving "impaired objectivity" applies to this conflict.



Conflicts of Interest

- Types of OCI Resolution:
 - Avoid--To prevent the occurrence of an OCI through actions such as exclusion of sources or modification of requirements. Avoidance precludes the conflict
 - Neutralize—To counteract, through a specific action, the effects of a potential or actual OCI. The conflict remains, but the impact of the conflict has been negated
 - Mitigate—To reduce the effects of an OCI to an acceptable level of risk so that the Government's interests with regard to fair competition and/or contract performance are not impaired. The conflict remains, but action was taken that minimizes the impact of the conflict to an acceptable level of risk
 - Waive—Used when conflict cannot be successfully avoided, neutralized, or mitigated and retention of offeror and/or contractor is deemed to be in the best interest of the Government. Conflict remains without sufficient resolution



Conflicts of Interest

- Federal Acquisition Regulation Cases In Progress
 - Case 2007-006 Contractor Business Ethics Compliance Program and Disclosure Requirements
 - Requires contractors to establish and maintain internal controls to detect fraud , and to notify contracting officers and the Inspector General whenever they become aware of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts. There is a statutory requirement for these changes (PL 110-252 which is the 2008 Defense Authorization Act) This case is very close to becoming final. It may be published this month.
 - Case 2007-017 Service Contractor Employee Personal Conflicts of Interest (PCI)
 - Consideration of if, when, and how contractor employees' personal conflicts of interest need to be addressed, and whether greater disclosure, specific prohibitions, or reliance on specific principles would be most effective in efficient in promoting ethical behavior. The FAR Council issued an Advance Notice of Proposed Rule Making in April (and extended the comment period several times) soliciting ideas and suggestions from the public on how to address this issue. The comment period has closed and the Team is now considering various approaches.
 - Case 2007-018 Organizational Conflicts of Interest (OCI)
 - Consideration of whether the FAR's current guidance on OCI adequately addresses the current needs of the acquisition community or whether providing standard provisions and clauses might be helpful. The FAR Council issued an Advance Notice of Proposed Rule Making on this case concurrent with the PCI rule, soliciting ideas and suggestions from the public on how to address this issue. The comment period has closed and the Team is now considering various approaches.



Conflicts of Interest

- NASA Resources
 - NASA Acquisition Integrity Program – OGC
 - OCI Working Group – Amy Voigt
 - FAR Law Team – Office of Procurement
 - SEB Handbook
 - **“New”** Conflict of Interest Handbook under development
 - Targeted to roll-out draft for broad Agency comment in December 2008



Indemnification



Indemnification Background

- Constellation Issue
 - Use of Public Law 85-804, the indemnification authority used by NASA to indemnify against unusually hazardous risks associated with the Space Shuttle, was questioned for work performed under the Constellation program
 - At issue was whether or not Constellation contractors seeking PL 85-804 indemnification for work related to the space Shuttle program would be able to satisfy the “national defense” predicate of 85-804.
- Science Issue
 - Requests for indemnification on payloads with nuclear risk received
 - Indemnification granted based on Price-Anderson Act
- NASA Specific Indemnification Authority
 - In FY07, recognizing that contractors likely would request relief from potential third-party liability associated with certain hazardous activities, NASA included as part of its legislative package a provision which would provide NASA with statutory authority to indemnify contractors.
 - The proposed new legal authority to indemnify gained OMB approval and preliminary support of Hill staff.
 - However, due to reasons unrelated to the proposed indemnification provision itself, the provision was not included in the FY '08 or FY '09 Authorization Bill.



Latest Indemnification Activity

- ESMD, OGC, OLA, OP met with the Administrator in September to address near-term and long-term issues.
Outcome:
 - Pursue NASA legislation in Spring upon Congress return
 - Legislation to include Constellation and Science coverage
 - Desire for coverage similar to 85-804 – No additional contractor insurance needed
- OP continues to work the indemnification issues with OGC, OLA and CxP to ensure proper authority is obtained, if possible, to allow indemnification for contractors requesting it for work under Constellation
 - Requests received prior to legislation will be processed on a case-by-case basis
 - **“New”** Indemnification Handbook under development
 - Targeted to roll-out mid FY 2009



Strategic Sourcing



Strategic Sourcing

- What is Strategic Sourcing?
 - “Collaborative and structured process of critically analyzing an organization’s spending and using this information to make business decisions about how to acquire commodities and services more effectively and efficiently”
- Why Strategic Sourcing?
 - 2005 Federal Mandate
 - Smart way to conduct business
 - Save resources (dollars and people)



Desired Results

- Allow agencies to take advantage of partnering with vendors on a Federal or Agency-wide basis when acquiring common commodities/services
 - Improved Process
 - Reduction in prices and administrative costs
 - Reduces the price of commodities/services
 - Decreases acquisition costs with increased volume
 - Increased visibility into purchasing power
 - Better Value
 - Optimize performance and business acumen
 - Achieves a better value to the Government
 - Assists in reducing the total cost of ownership including prices
 - Ease of use at higher economies of scale
 - Increase achievement of socio-economic goals
 - Increases participation across all performance groups



Examples: Areas Ripe for Strategic Sourcing

Information Technology

- Software
- Computing hardware
- Network
- IT services
- Peripherals



Site Services

- Relocation and Transportation services
- Facility services and equipment
- Protective Services

Financial, Corporate & Employee Supplies and Services

- Services
- Contract closeouts
- Bankcard services
- Training and education
- Office supplies





Future Procurement Journey

Strategic Goal: Reap returns on investments to allow more resources for mission centered activities.

Manage and Control

- Leakage
- Exceptions
- Demand

Standardize and Leverage

- Information Technology
- Operating Equipment
- Supplies
- Services

Strategic Source

- Mission Support Procurements



Standardize and Leverage Contracts

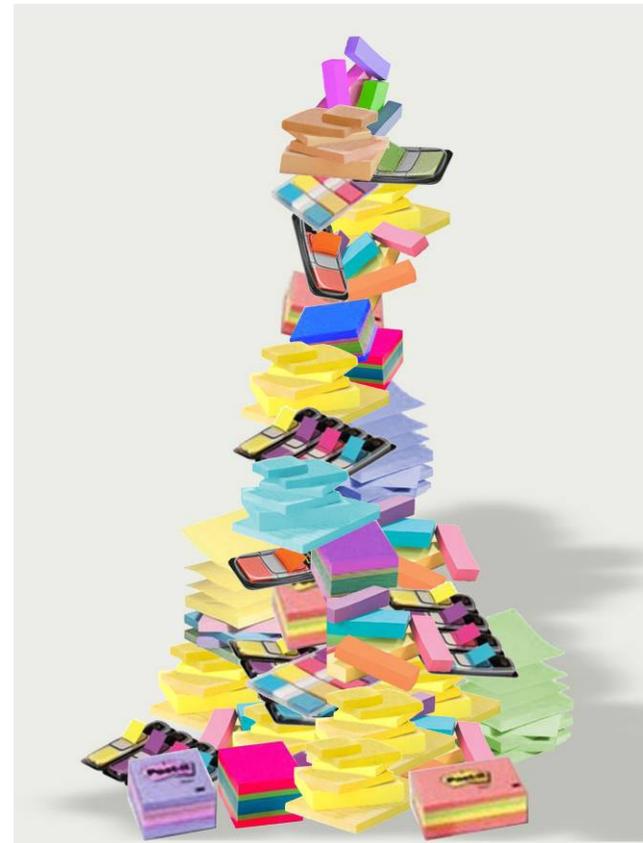
- **106,400 catalog items**
- **Reduced 39,000 items from the catalog**
- **Equal to 30 mini-marts**
- **Year-over-year cost savings of 15%**





Management and Control Supplies and Services

- **Staplers**
Reduced 110 items
to 58 items
- **Pads and
notebooks**
Reduced 263 items
to 110 items
- **Sticky notes**
Reduced 183 items
to 134 items





Agency-Wide Contract Activities at the NSSC

| Contract Description | Total Contract Not to Exceed Values |
|--|-------------------------------------|
| ISO Registration Services | \$2.2M |
| Multi-Functional Devices (Copier Services) | \$36.M |
| Outsourcing Desktop Initiative for NASA (ODIN) | \$1.2B |
| Radio Technical Commission for Aeronautics (RTCA), Inc. Membership | \$420K |
| Contracting Officer Technical Representative (COTR) Training and Refresher Course | \$500K |
| Contract Closeout Services | \$15M |
| Electrical and Electronics Engineers Library | \$394K |

| Contract Description | Total Contract Not to Exceed Values |
|--|-------------------------------------|
| Relocation and Household Goods Movement Services | \$74.2M |
| Enterprise Software Agreement for Informed Filler | \$1.5M |
| Computer Aided Engineering (CAE) Software | 4.9M |
| Agency Bank Card Services | ----- |
| Agency-wide Protective Services | 1.5B |

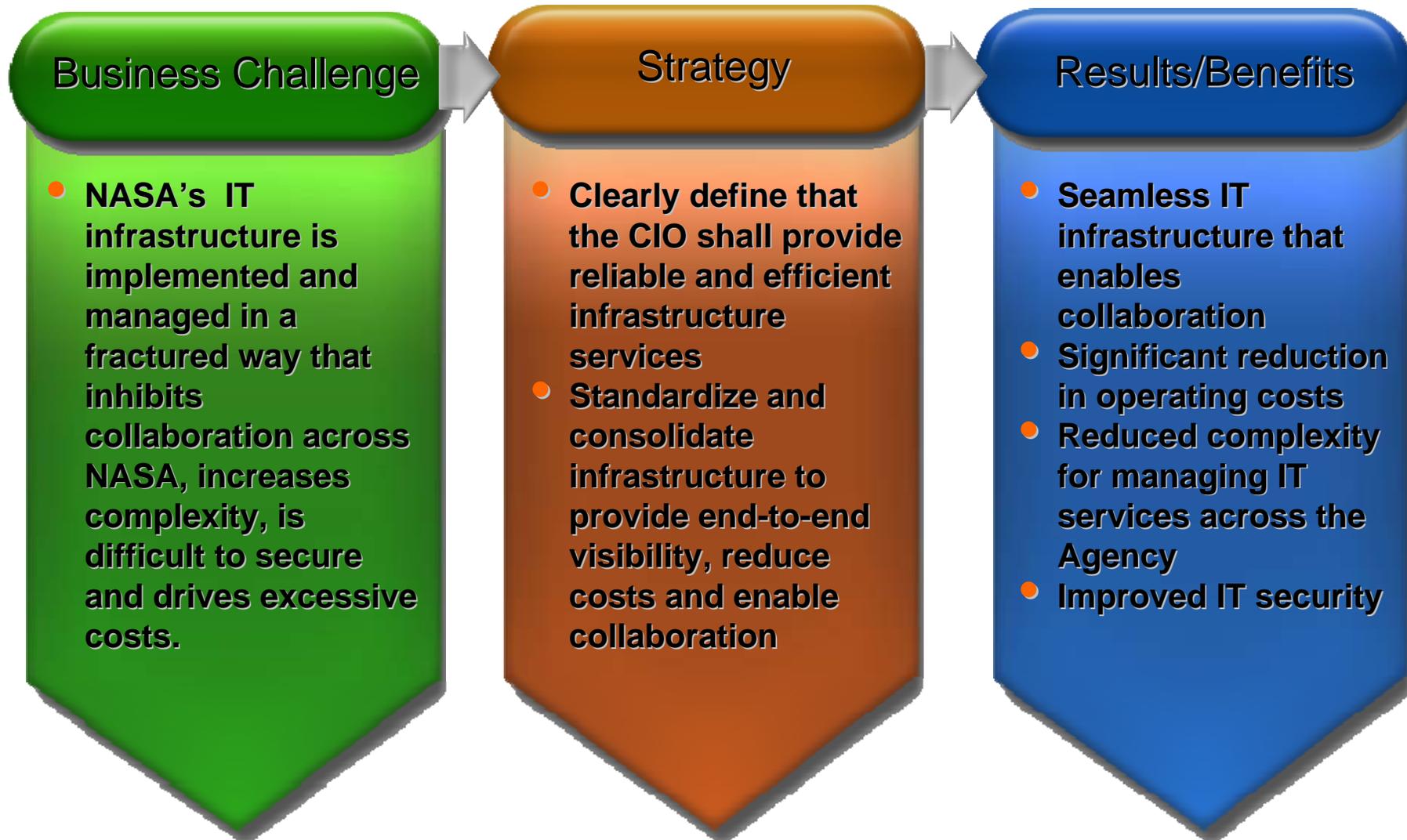


Latest Agency-wide Initiatives in Work

- Consolidation of Commercial Items between \$3,000 and \$100,000
 - Benefits:
 - Reduction in staffing
 - Cost avoidance
 - Significant credit card rebates
 - Web based status tracking system
 - Dedicated customer contact center
 - Enables NASA to move toward next levels in Strategic Sourcing
 - Status
 - Host Site at the NSSC
 - Business Case
 - NSSC Board of Directors
 - Operational Management Council
 - Program Management Council
- IT Infrastructure Improvement Program (I³P)

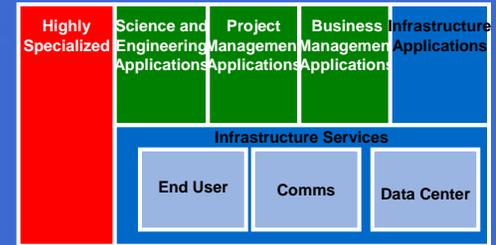


I³P Infrastructure Integration Strategy



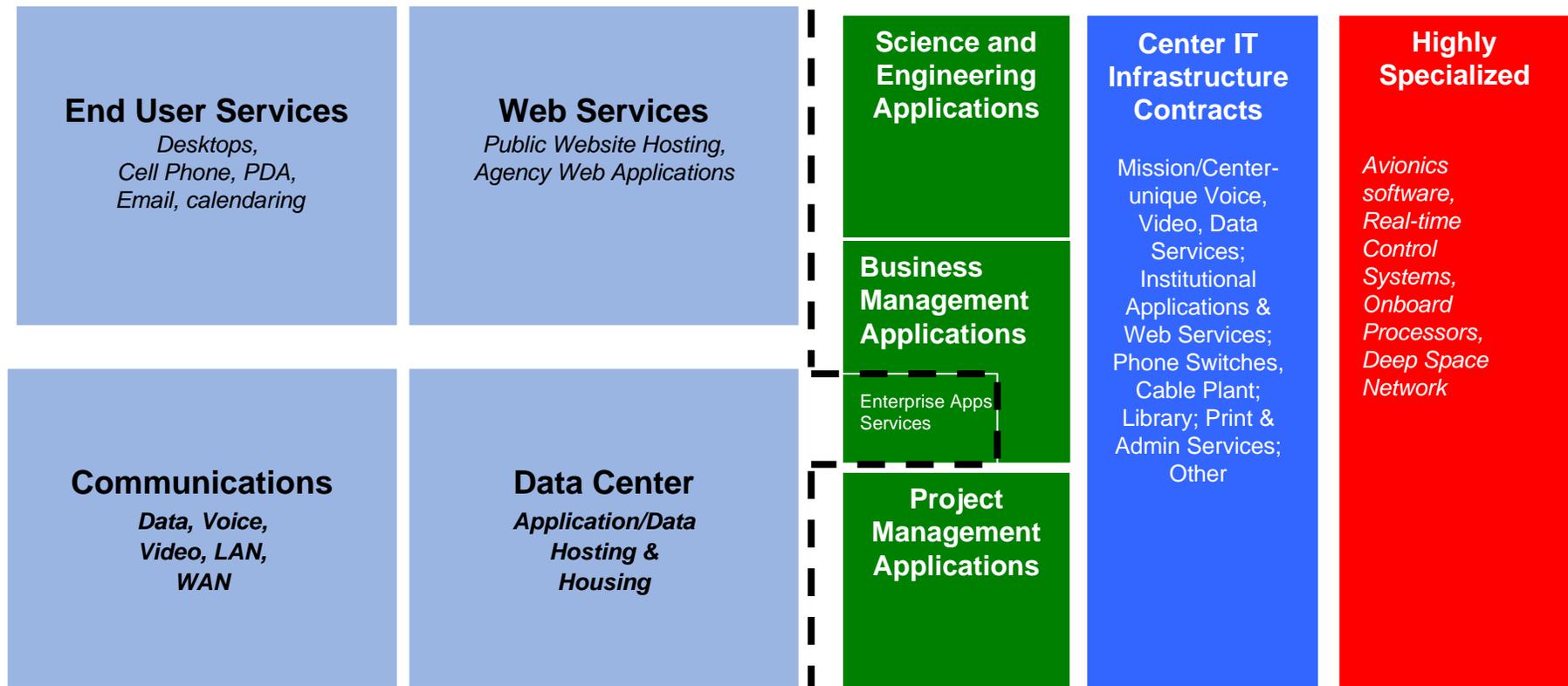


I³P Acquisition Scope



In Scope

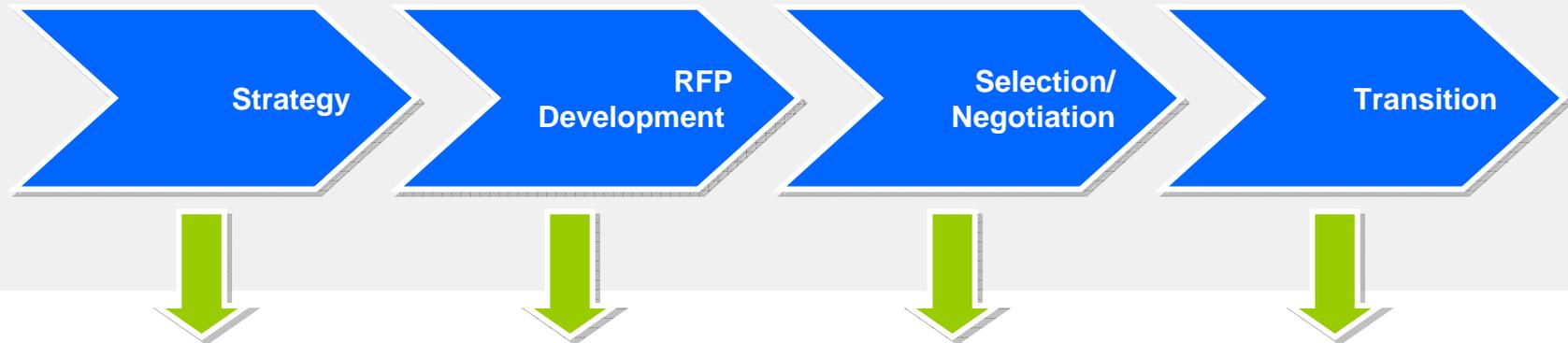
Not In Scope





I³P Major Phases

Major Phases



- Governance and Integration Approach
- ITIL implementation
- Strategy Validation Assessment
- Independent Cost Estimate
- Provider Intelligence and Market Analysis (for Major Vendors Only)

- SOW/RFP Development
- Evaluation Criteria Development
- SLA Development
- Pricing Model
- Benchmarking Model Development
- Retained Organization Design / HR Transition Planning
- Communication Plan

- Proposal Review
- Provider Clarification Sessions
- Provider Due Diligence Planning and Support
- Finalist Selection Support
- Negotiations Support
- Contract Development

- OLA Development
- Transition Planning
- Retained Organization Standup



I³P Status

- Major Procurements Underway
 - NASA Enterprise Data Center (NEDC)
 - Kennedy Space Center Leading
 - Agency Consolidated End User Services (ACES)
 - NASA Shared Services Center Leading
 - NASA Integrated Communications Services (NICS)
 - Marshall Space Flight Center Leading
 - Enterprise Applications Services Technologies (EAST)
 - Marshall Space Flight Center Leading
 - Web Enterprise Service Technology (WEST)
 - HQ/GSFC Leading
- Milestones
 - Highly successful Industry Day held in July 2008
 - Requests for Information Released
 - HQ Procurement Strategy Meetings targeted in mid-November 2008
 - Remaining procurement milestones under development



Other *Hot* Areas of Emphasis

- Transition from Current to Future Operations
 - Numerous Key Ongoing/Upcoming Procurements—a few of which include:
 - ISS Cargo Resupply
 - Ground Operations
 - Ares V
 - Altair
 - Skills Retention
- Procurement Tenets – Formally issued August 1, 2008; concentrating on implementation in FY 09
- Improving Cost Analysis
- Policy Issues
 - Termination Liability
 - Competition – IDIQ Multiple Award Contracts
- Baseline Performance Review
- FY 2008 Obligation Push – Next step is costing the obligations
- HQ Staffing – Office of Procurement downsizing
- Iran, North Korea, Syria Non-Proliferation Act (INKSNA) – ***Resolved***





Back-Up Slides



Procurement Tenets



Procurement Tenets

“Purpose”

- 85% of NASA’s budget is obligated for procurements so NASA must maximize its return on investment (ROI)
- The Procurement Tenets are a set of principles for a NASA way of doing business which will increase its ROI when contracting out for supplies and services
- The Procurement Tenets are ancillary to the other Federal and Agency regulations, policies and core values
- Each Tenet principle shall be addressed by HQ, Program, Project and Contract Managers in their acquisition and procurement strategies, processes and procedures



Procurement Tenets

- Maximize Competition: establish and take advantage of a competitive environment to meet NASA requirements
 - Early market research and continual communication with industry
 - Focus on getting industry's best solution, commitment and lower cost through a competitive environment
 - Evaluate Performance as factor in exercising options
 - Plan re-competes; shorter term contracts; component breakouts; have the right data and data rights
 - Competition process will be thorough but not complicated
- Integrated Strategies: involve all functional authorities early and throughout the planning process
 - Establish an Integrated Product Team environment
 - Inform and seek industry input throughout the acquisition
 - Serves as Road Map for Program Execution and success



Procurement Tenets

- Requirements: clearly specify what is to be acquired
 - **Zero-based** approach in developing Requirements
 - Requirements Need to Earn Their Way into Contracts: # of Data Deliverables, Reviews and **only applicable** requirements
 - May need to modify institutional standards and processes
 - Get Industry's Input as requirements are developed!
 - Clearly specify what NASA will do and what Industry will do
 - Focus on Performance Outcomes and allow Industry to determine Best Way to achieve desired outcome
 - Look at Commonality: technical requirements and reporting
- Streamline: remove non-value added steps and requirements that do not support the desired outcome
 - Do not compromise on safety, good business decisions and successful completion
 - Seek Industry Input on non-value processes and requirements
 - Seek process improvements and efficiencies



Procurement Tenets

- Performance Incentives: that enhance desired outcomes
 - Milestone Based
 - Pay for level of performance: metrics and standards
 - Focus on successful outcomes for technical, cost and schedule performance, small business
 - Shared Savings, Cost Management and Lower Life Cycle Cost
- Merge NASA's and Industry's Core Expertise
 - Define NASA and Industry's role with Design, Development and Integration for projects
 - Requires a tight NASA and Industry Team with appropriate "arms length" relationship
- Common NASA Contracts and Strategies
 - Common face to Industry
 - NASA Contract: Not a Center or Mission Directorate Contract
 - Not "zip code" dependent



Procurement Tenets

- Contract Cost: reduce the Cost and Cost Risk for procurements
 - Move towards firm-fixed-price contracts after development and on repetitive service contracts
 - Use award fee contracts on high risk contracts
 - Perform work load analysis
 - eliminate “pass through” contracts
- Turn Contract Upside-Down: understand the supply chain of a requirement
 - Insight of Prime contractors supply chain management
 - Aggressive Pursuit of Socio-Economic Goals with Prime Contractors that are realistic, efficient and effective
 - Personnel, teams, subcontractors and suppliers share in objectives and rewards

Purpose of Tenets is to Maximize Return on Investment (ROI) for Industry and NASA!