



CHIEF NATIONAL GUARD BUREAU INSTRUCTION

NGB-OPARC
DISTRIBUTION: A

CNGBI 9000.01
29 July 2016

VISITS AND DEMONSTRATIONS OF PRODUCTS OR SERVICES BY CONTRACTORS FROM COMMERCIAL AND DEFENSE INDUSTRIES

References: See Enclosure E.

1. Purpose. This instruction establishes policy and assigns responsibilities governing visits, access to government personnel, and product/service demonstrations by prospective or current contractors to initiate or expand business opportunities with the National Guard Bureau (NGB) to ensure fair and equal treatment to all contractor personnel in accordance with (IAW) references a through h.
2. Cancellation. None.
3. Applicability. This instruction applies to all elements of the National Guard.
4. Policy. It is NGB policy to conduct government business in a manner above reproach with complete impartiality and without preferential treatment, to include preventing an actual or perceived conflict of interest in relationships between government agencies and contractors. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct IAW references a, c and g.
 - a. Government personnel will publicly disclose their actions regarding contractors.
 - b. Actions appearing to favor one contractor over another will be avoided and communications between representatives of companies will be conducted with complete impartiality when contractors solicit requests for visits or demonstrations or when NGB personnel initiate contractor visits.
 - c. Since industry representatives or contractors generally market products or services, care must be taken to avoid activities that might be construed as

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giving preferential treatment to any single contractor, thus creating either an actual or perceived unfair competitive advantage.

d. All NGB government personnel will refrain from meeting with contractors or industry representatives, conducting office calls, or receiving demonstrations without processing a Contractor Visit Data Sheet (See Enclosure B) IAW this instruction.

e. Executive Officers, and all points of contact responsible for a contractor visit, will complete the Contractor Visit Data Sheet and Contractor Visit and Briefing Agreement (Enclosures B and C), and coordinate with the Office of the NGB Principal Assistant Responsible for Contracting (NGB-OPARC), Office of the NGB Chief Counsel (NGB-JA), and the Office of Small Business Programs (NGB-SBP) to coordinate visit representation.

f. Under no circumstances may NGB personnel enter into written or verbal agreements obligating the NGB to fund activities or provide services, supplies, and equipment unless agreed to under a valid contract executed by a warranted NGB Contracting Officer.

g. For all visits, the following parameters apply when hosting prospective contractors, current contractors, and non-Federal entities at the NGB:

(1) NGB personnel cannot endorse a contractor's goods, products, or services.

(2) NGB personnel cannot promise to, or specifically advocate for, support, or endorse a contractor.

(3) NGB personnel will not discuss non-public information (this includes For Official Use Only, draft, pre-decisional, or classified information) with a contractor.

(a) Government personnel may discuss anticipated future needs of the Commands, but must provide the same information to competitors when requested.

(b) If a contractor requests a meeting, the government representative should meet with contractors who provide similar products and services to avoid favoring one over another if approached by these entities.

(c) Briefings or demonstrations involving classified information will be coordinated with the sponsoring Directorate Security Manager or the Directorate of Intelligence, Special Security Office. Access to classified information will be strictly controlled IAW reference h.

h. NGB personnel will not communicate with former employees if they believe doing so would cause that person to violate any of the following rules set forth below. If there is any doubt, NGB personnel will refer the matter to NGB-JA's Ethics Section for specific guidance. The representation restrictions IAW reference e are as follows:

(1) Lifetime Representation Ban. Military officers and Federal civilian employees who participate personally and substantially in a government contract, or other particular matters, are prohibited from representing the contractor (or any other third party) before any Federal agency, in connection with that contract or matter. "Behind the scenes" assistance is permissible. This ban does not apply to enlisted personnel.

(2) Two-year Representation Ban. Military officers and Federal civilian employees who have a contract or other particular matter under their official responsibility during their last year in the government may not, for two years, represent a contractor (or any other third party) before any Federal agency, in connection with that contract or matter. "Behind the scenes" assistance is permissible. This ban does not apply to enlisted personnel.

(3) Ban on Representation during Terminal Leave. Military officers and Federal civilian employees are prohibited from representing any person, company, or organization before any other Federal agency, or appearing in the Federal workplace, while on terminal leave. "Behind the scenes" assistance is permissible. This ban does not apply to enlisted personnel.

i. NGB personnel will take all precautions against releasing information not generally available to the public concerning a known valid requirement. Government personnel must safeguard proprietary, Privacy Act, and other sensitive and non-public information. Providing "insider information" is prohibited by law and reference b and IAW reference e.

(1) Federal employees are prohibited from giving preferential treatment to any private individual or company, IAW reference a. Providing interested contractors the same information at the same time is the preferred (and the legally most prudent) method of disseminating information.

(2) Employees will not disclose non-public information to further the private interests of any individual, company, or organization IAW reference d. All government contracts that authorize contractor employees to access Privacy Act material must contain the appropriate Privacy Act restriction clauses IAW reference g.

(3) Employees will not disclose contractor bid or proposal information, or source selection information IAW reference f.

(4) A high level of business security will be maintained in order to preserve the integrity of the acquisition process IAW reference g. Employees participating in the acquisition process may not disclose:

(a) Information on plans that would provide undue or discriminatory advantage to private or personal interests.

(b) Information received in confidence from an offeror.

(c) Information that would be protected under the Information Act and the Privacy Act.

(d) Information pertaining to internal agency communications; for example, technical reviews, market research reports, acquisition strategy documents, etc.

5. Definitions. Non-public information -- Information employees gain by reason of Federal employment, which he or she knows (or reasonably should know) has not been made available to the general public.

6. Responsibilities. See Enclosure A.

7. Summary of Changes. This is the initial publication of CNGBI 9000.01.

8. Distribution. This instruction is approved for public release; distribution is unlimited. Copies are available through <<http://www.ngbpdc.ngb.army.mil>>.

9. Effective Date. This instruction is effective upon publication and must be reissued, cancelled, or certified as current every five years.


FRANK J. GRASS
General, USA
Chief, National Guard Bureau

- A -- Responsibilities
- B -- Contractor Visit Data Sheet
- C -- Contractor Visit and Briefing Agreement
- D -- Contractor Visit Log
- E -- References
- GL -- Glossary

ENCLOSURE A

RESPONSIBILITIES

1. NGB-OPARC. NGB-OPARC will:

- a. Ensure NGB sponsors provide quarterly reports of visits or meetings with contractors.
- b. Represent NGB personnel at meetings with contractors.
- c. Determine exemptions for attendance at meetings with contractors.
- d. Review annual meeting and demonstration reports attended by NGB personnel for potential conflicts of interest with existing procurement strategies or procurement-sensitive information.

2. Associate Director of NGB-SBP. The Associate Director of NGB-SBP will:

- a. Archive materials and capability briefings obtained through meetings between contractors and NGB Sponsors.
- b. Support requests from NGB personnel for NGB-SBP representation at meetings with contractors.
- c. Determine exemptions for NGB-SBP's attendance at meetings.

3. Sponsors. Sponsors will:

- a. Ensure contractor personnel visiting with a General/Flag Officer or Senior Executive Service are informed prior to the start of the visit that appointed Contracting Officers are the only individuals authorized to enter into and administer contracts on behalf of the Government.
- b. Use Enclosures B, C and D of this instruction, to document meetings and attendance at demonstrations by contractors.
- c. Employ an event planner, if required.
- d. Obtain and process a visit authorization letter from the contractor's security office if a visiting contractor proposes discussion of any classified material IAW reference h.
- e. Maintain a log of contractor visits IAW Enclosure D and provide the log report no later than 15 calendar days following each quarter in the fiscal year to NGB-OPARC.

4. Event Planners. Event planners will:

- a. Be selected from the sponsoring organization.
- b. Assist the sponsor with arranging access to NG facilities using contractor vehicles.
- c. Assist the sponsor with arranging escorts for contractors when in facilities or on property controlled by the government or NG.
- d. Assist the sponsor with arranging locations for meetings or demonstrations in facilities or on property controlled by the NG.
- e. Assist the sponsor with coordinating visits with the NGB Security Manager.
- f. Assist the sponsor with arranging attendance of a representative from NGB-JA, NGB-SBP, and a Contracting Officer from NGB-OPARC-AQ, no less than five business days prior to the event. An optional representative from NGB-OPARC may be invited, if necessary.

5. NGB-OPARC-AQ. NGB-OPARC-AQ will:

- a. Support requests for representation from NGB-OPARC-AQ at meetings with contractors to ensure the subject matter of the proposed visit does not adversely affect ongoing source selections.
- b. Determine exemptions to NGB-OPARC-AQ attendance at contractor meetings.
- c. Review annual reports of meetings and demonstrations attended by NGB personnel for potential conflicts of interest with existing procurement strategies or procurement-sensitive information.

6. NGB-JA. NGB-JA will:

- a. Support requests from NGB personnel for representation at meetings or demonstrations by contractors to ensure the subject matter of the proposed visit does not adversely affect ongoing source selections, result in a perception of preferential treatment or favoritism, or otherwise adversely impact acquisition integrity.
- b. Determine exemptions to NGB-JA attendance at meetings.

c. Review annual reports of meetings and demonstrations attended by NGB personnel for potential conflicts of interest, appearance of impropriety, and other material that might violate integrity of the procurement process.

7. NGB Security Managers. NGB Security Managers will:

a. Ensure a visit authorization letter from the contractor's security office is received if a visiting contractor proposes discussion of any classified material IAW reference h.

b. Validate security clearances on contractor visit access requests.

ENCLOSURE B

CONTRACTOR VISIT DATA SHEET

1. The Contractor Visit Data Sheet forms part of the read-ahead packet for visits and demonstrations. The data sheet describes the purpose of the contractor visit or demonstration, identifies all contracts the contractor currently holds with the NG, and details company competencies or presentation topics.
2. The contractor submits the data sheet on company letterhead with a maximum length of two pages.

<p style="text-align: center;">CONTRACTOR VISIT DATA SHEET</p> <p>NOTICE: All contractors visiting the National Guard Bureau must provide the Sponsor Lead with the following information for inclusion in the read-ahead package prior to the scheduled contractor visit or demonstration.</p> <ol style="list-style-type: none">1. <u>Purpose</u>. <i>(In this section, the contractor must detail the purpose of their visit and provide the date and time of the tentative or confirmed visit.)</i>2. <u>Contract Information</u>. <i>(In this section, the contractor must (1) list all contracts their company currently holds with the National Guard, (2) identify the Contracting Officer Representative (COR) assigned to each contract, and 3) a short description of contract services, to include dollar value and the name(s) of supported component(s) within the National Guard OR when there are none, the contractor must state that there is no current contractual relationship between their company and the National Guard.)</i>3. <u>Additional Information on Company Visit</u>. <i>(In this section, the contractor must detail presentation topics without exceeding the maximum of two pages. The contractor must clearly state how their product or service supports the National Guard Bureau mission, priorities, and requirements. If the contractor does not have a specific presentation topic, the contractor must provide a synopsis of their company's core competencies and business base and how they relate to the National Guard Bureau mission, priorities, and requirements.)</i>
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Figure 1. Sample Contractor Visit Data Sheet

ENCLOSURE C

CONTRACTOR VISIT AND BRIEFING AGREEMENT

1. The Contractor Visit and Briefing Agreement forms part of the read-ahead packet for visits and demonstrations. Prior to processing, the Sponsor Lead provides the contractor with the information in bold italics.
2. The contractor submits the agreement on company letterhead with a maximum length of two pages.

<p style="text-align: center;">CONTRACTOR VISIT AND BRIEFING AGREEMENT</p> <p><i>(Company Name)</i>, hereafter referred to as the “Contractor,” is authorized to conduct a demonstration, product display, or briefing for National Guard Bureau or other authorized personnel, about materials or subjects as herein described, and subject to the terms of this agreement.</p> <p>DEMONSTRATION, PRODUCT DISPLAY, OR BRIEFING: <i>(Describe)</i>.</p> <p>LOCATION & DATE(S) OF DEMONSTRATION, PRODUCT DISPLAY, OR BRIEFING: <i>(List)</i>.</p> <p>The parties to this document agree as follows:</p> <ol style="list-style-type: none">1. The primary purpose is to provide the Contractor with an opportunity to explain their product or service and shall not be used as an attempt to seek procurement-sensitive information.2. Demonstrations, product displays, and briefings will be conducted for the sole purpose of demonstrating or displaying the capability of a particular item(s) or service and not for fulfilling mission requirements for an interim time frame. The demonstration, product display, or briefing will in no way, expressed or implied, obligate the National Guard Bureau to purchase, rent, or otherwise acquire the item(s) or service demonstrated, displayed, or briefed. The Contractor has sole responsibility for furnishing all supplies and equipment necessary to accomplish the demonstration, product display, or briefing. Demonstrations, product displays, or briefings will be conducted by an authorized representative of the Contractor furnishing the item(s) or services; no U.S. military or civilian employee of the Department of Defense will demonstrate or display item(s) or services on behalf of a Contractor. The

Figure 2. Sample Contractor Visit and Briefing Agreement

National Guard Bureau shall not assume the costs of or obligation for, expressed or implied, damages to, destruction of, or loss of a Contractor's equipment. The Sponsor Lead is the duly authorized representative of the U.S. Government for the purpose of this agreement and is **(Full Spelling of Sponsor Lead's First and Last Name)**, of **(Full Spelling of Office or Directorate)**, at **(10-digit Phone Number)**. The Sponsor Lead will work with the Contractor to schedule the demonstration, product display, or briefing, and coordinate logistics, security, and information technology requirements. The Sponsor Lead does not have the authority to commit the U.S. Government to any agreements or contracts, and will not be authorized to make any contact with the Contractor's organization until the Sponsor Lead has contacted NGB-OPARC-AQ.

3. The Contractor will not file any claim against the U.S. Government or otherwise seek compensation for any information or services provided under this agreement.

4. Nothing in a meeting with, or demonstration by, the Contractor shall be construed as an obligation on behalf of the U.S. Government. The National Guard Bureau and the Department of Defense are not bound, nor obligated, to follow any recommendations by the Contractor. The U.S. Government is not bound, nor obligated, in any way to give any special consideration to the Contractor on future contracts.

5. No U.S. Government services or U.S. Government-owned supplies will be provided for use by the Contractor.

_____/_____
(Contractor Company) Contractor Title

_____/_____/_____
(Name of Contractor) Signature Date
Print

_____/_____/_____
(Name of Government Lead) Signature Date
Print

Figure 2. Sample Contractor Visit and Briefing Agreement (continued)

ENCLOSURE D

SAMPLE CONTRACTOR VISIT LOG

Date	Start Time	End Time	Meeting Location	Name of Company/ Organization	Participant's Names (Govt and Civilian)	Office Symbol	NGB Sponsor Office	NGB Sponsor Name	Purpose of Visit (Demo, Capabilities Brief, etc.)

Table 1. Sample Contractor Visitor Log

ENCLOSURE E

REFERENCES

- a. 48 Code of Federal Regulation § 3.101, “Standards of Conduct”
- b. DoD Regulation 5500.07, 17 November 2011, “Joint Ethics Regulation (JER),” including Changes 1-7
- c. 5 CFR § 2635.101(b)(8), “Basic Obligations of Public Service”
- d. 5 CFR § 2635.703(a), “Use of Nonpublic Information”
- e. 18 U.S.C. Sections 202, 203, 205 and 207, “Crimes and Criminal Procedure”
- f. 41 U.S.C. Section 423, “Restrictions on Disclosing and Obtaining Contractor Bid or Proposal Information or Source Selection Information”
- g. Federal Acquisition Regulation 3.104, 5.401, and subpart 24.1
- h. DoD 5220.22-M, 28 February 2006, Incorporating Change 2, 18 May 2016 “National Industrial Security Program Operating Manual”

GLOSSARY

PART I. ACRONYMS

IAW	In accordance with
NGB	National Guard Bureau
NGB-OPARC-AQ	Operational Contracting
NGB-JA	Office of the National Guard Bureau Chief Counsel
NGB-OPARC	Office of the National Guard Bureau Principal Assistant Responsible for Contracting
NGB-SBP	Office of Small Business Programs

PART II. DEFINITIONS

(SEE PARAGRAPH 5)