

Statement on the Draft Defense Acquisition Streamlining and Transparency Act

Like others organizations, the Coalition for Government Procurement is in the process of analyzing the draft [Defense Acquisition Streamlining and Transparency Act](#) in its entirety, but our initial reaction is one of appreciation, optimism, and caution. With regard to the electronic commerce provisions generally, we applaud the committee's recognition of DoD's statutory obligation to utilize commercial terms, conditions, products, and solutions to the maximum extent practicable. At the same time, however, the online marketplace provisions raise concerns that we hope will be clarified over the coming weeks.

Although the committee intends for DoD to contract with multiple e-marketplace providers, the language of the bill does not assure that intent is fulfilled. We are concerned that the language could risk establishing an e-marketplace monopoly by an award of just one, single, no-bid contract to an e-marketplace provider. Such a monopoly could disrupt the negotiating position of vendors selling through the e-marketplace with no clear value being returned to DoD. Before waiving foundational elements of the procurement system, like the full and open competition requirements of the Competition in Contracting Act, we believe that a suitable analog to competition should be established to assure that DoD benefits from the powerful and clarifying forces of the marketplace.

In addition, we believe that further clarity is needed concerning how this e-marketplace will account for laws applicable to procurement, such as the Trade Agreements Act, Small Business Set-Asides, and Buy American provisions. Although the effort to limit information disclosure is appreciated, it is not apparent how the release provision will impact vendors outside the program. Moreover, considering the definition of commercial items in the bill, there are questions of supply chain assurance and cybersecurity that may come into play here. For instance, e-marketplace providers utilize cloud services in their platforms, but, under the proposed language, it does not seem that they will be subject to requirements, like FedRAMP, imposed on other vendors serving the government with cloud technology.

Along these lines, in undertaking this potentially significant improvement effort, the committee draft appears to stop short of addressing how to provide a level playing field to the government's own existing e-commerce platforms, FEDMALL and the GSA Schedules, which are a source of significant business activity, especially for small businesses. Freeing these platforms of certain statutory requirements could be just as transformative to the procurement process and might provide healthy competition to the new provider in this space, sparking downward pressure on prices and innovation in delivery and customer service.

Many e-marketplace providers exist today, and they have established robust, dynamic platforms to serve their customers. In the coming weeks, we hope these vendors will be secured the opportunity to compete and bring value to government customers. The Coalition appreciates the committee's courageous effort here to tackle the burdens of the existing procurement process, and we look forward to working with the committee as it seeks to perfect this legislation.