Regulatory Reform - Review, Assess, Reset

Government and industry stakeholders recognize that change is needed to make the federal acquisition system deliver high value services and products, with greater efficiency, at lower costs. An influx of new federal leadership and ideas provides an exceptional opportunity to review, assess, and reset the current state of federal acquisition. The Coalition recommends that the Office of Federal Procurement Policy (OFPP) lead a comprehensive review of federal acquisition regulations and policies to identify changes that add value, reduce costs, and increase innovation.

Since its inception, the Coalition for Government Procurement has advocated for common sense federal acquisition strategies. Member companies are proud to serve federal agencies that support the military, protect homeland security, and provide critical services to taxpayers. From cybersecurity, to healthcare, to office supplies, Coalition members provide commercial services and products through federal government contracts valued at approximately $146 billion annually. Of that amount $46 billion in sales are provided through the General Services Administration (GSA) and Department of Veterans Affairs Federal Supply Schedules (Schedules) program. While our members are proud to serve, they are also cognizant of the responsibility that both contractors and the government share in making the federal acquisition system one that (i) delivers maximum value, at minimum costs, and (ii) is fair and transparent for all stakeholders.

Federal acquisition policies and regulations have been in a continual state of flux trying to achieve this balance. In the past year, contractors endured numerous rulemakings that implement or revise government-wide and GSA-specific acquisition policies. Despite valiant efforts, the current system has not achieved the optimum balance. Most, if not all, of the policy changes are unrelated to the quality of the services or goods provided to federal agencies. A partial list of major rules is attached. Much of the regulatory burden is due to:

- Use of Government unique processes
- Data collection and reporting, and
- Implementation of social policies

The Coalition recognizes the need for federal regulation in these areas, but too many of the current rules unnecessarily complicate the system and add cost to government and industry. A reduction in regulatory burden would free up resources across all stakeholders to lower costs. Acquisition processes can be significantly improved by application of the following principles.

1. **Adopt Commercial Practices**

Part 12 of the Federal Acquisition Regulation (FAR) implements the Federal Government’s statutory\(^1\) preference for the acquisition of commercial items, using commercial practices. We support commercial item contracting because, by relying on commercial practices and items, the government reduces administrative costs, saves money by avoiding the duplication of specifications for products that exist in the market, and maintains timely access to technological innovation. Unfortunately, since the enactment of the Federal Acquisition Streamlining Act

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\(^1\) 41 U.S.C. 1906, 1907, and 3307; 10 U.S.C. 2375-2377
(FASA), which called for the use of commercial products and practices, the number of standard contract clauses for commercial items has grown 400%.²

2. Reducing Unnecessary Regulatory Burdens

Unnecessary regulations complicate the procurement process, and thus, the government needs to eliminate them. A survey of Coalition members revealed that Schedule contractors spend more than 1,200 hours annually on compliance at a cost of more than $125,000 per company. Much of that burden is related to requirements to monitor and report data about commercial customers so that the government can price its own agreements. This process is no longer necessary, as competition in the market and technology now provide other valid alternatives to assuring that the government receives reasonable prices. Contractors also are required to monitor and report to the government information that is already in the government’s possession, like order data. In effect, the government has shifted its responsibility for data collection to the private sector. In this regard, the government would increase transaction value and lower transaction cost by harnessing, controlling, and manipulating its own data.

3. Streamlining Procurement Processes

Simplified, consistent procedures in the Federal acquisition process could yield cost saving efficiencies for both government and industry. Such procedures also would improve the availability of critically needed products and services for customer agencies. The Coalition supports streamlining procurement processes government-wide.

4. Common Sense Implementation of Social Policy

The acquisition system has long been a platform for implementing polices, such as the use of domestic products, small business utilization, labor rights, and veteran’s affairs. The Coalition does not object to the furtherance of these fundamental policies, and, in fact, particularly supports matters that promote small businesses and veterans through our own organization. Members believe, however, that all stakeholders could benefit from simplification and consolidation of policies and regulations, with greater acknowledgement of commercial practices. If a social policy exists in law, there is no need to re-state that policy in procurement law and construct an administrative process around it. We would appreciate the opportunity to exchange ideas on how to maintain commitment to these policies without utilizing wasteful administrative processes and regulations.

Recommendation

The Coalition recommends that the OFPP lead a comprehensive review of the attached federal acquisition regulations to identify changes that add value, reduce costs, and increase innovation. Pending completion of the review, federal agencies should postpone actions on all proposed rules and, where practicable, delay implementation of rules that have become final within the last year, but which have not been fully implemented.

² Greenwalt AEI study, recommendation B-13 and note 10.