

Subcommittee on Management, Organization, and Procurement

Committee on Oversight and Government Reform

"The State of Federal Contracting: Opportunities and Challenges for
Strengthening Government Procurement and Acquisition Policies"

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Madam Chair, Ranking Member, and Members of the Committee, thank you for the opportunity to testify this morning on opportunities and challenges for strengthening government procurement and acquisition policies. I am the Chairman of the Coalition for Government Procurement and President & CEO of The Washington Management Group and Federal Sources, Inc. I have over 30 years of experience in government acquisition, including serving as the Assistant Commissioner for the Office of Acquisition, Federal Supply Service, GSA, and 10 years of work in private sector. I hope my experience on both sides of the procurement spectrum will be of value to your committee.

The Coalition for Government Procurement is a non-profit association of companies that sell commercial services and products to the federal government primarily through multiple award schedule (MAS) contracts and government wide acquisition contracts (GWAC's). Our member companies are comprised of both large and small businesses and account for 70% of sales on the GSA schedules and 50% of commercial item acquisition in the federal marketplace. The Coalition's mission is to protect the interest of its members by providing valuable information on issues affecting the government market and by constantly advocating common sense in government procurement policy. We have worked with government to achieve this goal for 30 years.

The Coalition believes that there are many issues that need addressing in today's federal market. Issues such as strengthening and improving the federal acquisition workforce, balancing transparency vs. the need to protect the legitimate proprietary information of both the government and private sector, and the need to ensure proper oversight while still ensuring that the federal market continues to attract the best solutions from as many contractor partners as possible must all be weighed and carefully balanced to ensure that government agencies can meet the ever-increasing missions we as citizens expect of them.

The Coalition recommends that Congress and the Administration provide the same focus and resources on "front-end" needs such as acquisition workforce training and enhancement, as has recently been given to "back-end" outputs such as increased inspector general resources and the creation of what are now multiple special contract oversight boards. Simply put, no one can expect to have the type of federal acquisition we all want without giving equal weight and attention to all parts of the process.

We believe that the best place to start creating a better environment is the acquisition workforce. The Coalition has a long history of supporting both an increase in the total number of acquisition professionals and an enhanced business advisor role for the federal acquisition workforce. We are currently recommending to the General Services Administration and others the creation of an acquisition executive corps that acts as true acquisition/business relationship managers using acquisition expertise and industry knowledge to create solutions that achieve government missions, save tax dollars and enhance the relationship between government and business.

In our “1102 NextGen” white paper we call for the creation of a career path and related incentives for contracting professionals to not only negotiate and award contracts, but to develop strategies and truly manage contracts, from a contracting officer perspective, that they or others put in place. Further, the Coalition is calling for the de-segmenting of the contracting function so that all contracting professionals will have a total 360 degree view of the business process. This step will enhance the role of acquisition professionals and give them the experience needed to be better strategic business advisors to their internal customers. We believe that this will have a profound, positive impact on acquisition and will also increase the attractiveness of the federal acquisition field, ensuring that the hiring of new contracting officials keeps pace with the changing and more demanding missions of government agencies.

These acquisition professionals must also have the resources and time necessary to conduct sound acquisition planning. From our experience in working with the SARA Panel and, more recently, the Multiple Award Schedule Improvement Panel, we have seen first-hand that proper acquisition planning at the outset of a project leads to a better explanation of the government’s needs, better contractor responses, a smoother contract operation phase, and less of a need to rely on oversight mechanisms that inherently only catch problems after damage has been done. The Coalition believes that the additional resources in people and training that this recommendation requires will actually cost the government less than a continued emphasis on fixing mistakes that have already occurred. Only by improving the front-end can anyone reasonably expect to have fewer mistakes to begin with.

The Coalition is also a strong supporter of making government acquisition of commercial solutions as free as possible from government-unique requirements. We have worked for our entire 30 year existence for common sense acquisition policies that allow the government to take advantage of the same solutions, with the same market-driven competition, as is available to the private sector. We believe that these policies have generally served the government well. Innovative businesses are able to enter the market, increasing competition and enhancing the operation of government with knowledge gained in other areas.

The Federal Acquisition Streamlining Act, Clinger-Cohen Act, and Services Acquisition Reform Act were all based on this premise. Each of these acts passed Congress by wide margins, indicating broad-based support for market-driven innovation. Collectively, they helped create a government that works better and costs less.

The Coalition is concerned, however, that the recent trend is to implement an increasingly burdensome succession of new, government-unique rules for commercial solution acquisition. While these laws are well-intended and were created in response to problems created by a few wrong doers, we believe that the overall impact may create a hostile marketplace where all government contractors are considered not as business partners, but Cold War adversaries not to be trusted.

Several provisions of The American Recovery & Reinvestment Act (ARRA), for example, are a cause for concern for not only what they mean for ARRA-funded procurements, but the trend they could indicate for new rules that could come next for all procurements.

The Recovery Accountability and Transparency Board created by ARRA was set up specifically with the mission to punish wrong-doing before any business had taken place. The Board has an initial \$84 million appropriation for 2.5 years. While the Coalition understands that proper oversight and pursuit of wrong-doers is important, the creation of a discreet board, enhancement of agency inspectors general and the Government Accountability Office, and the exclusion of any funding to improve the front-end of the acquisition process sends a clear message that all but the most careful of contractors should steer clear of ARRA-funded projects.

In addition, the special reporting requirements to accept Recovery Act funds are causing much confusion within industry. What to report and when is not always clear. We have fielded literally dozens of calls, some from experienced contractors, on what the rules mean under a variety of scenarios. Contractors are concerned that they will be found in non-compliance even if they make a good faith effort to report. As a result, several have said again that they may not compete for ARRA-funded projects.

One more example of government unique requirements is the new contractor ethics reporting mandate that went into effect in December of 2008. This rule requires for the first time that contractors with “credible evidence” of wrong doing report on themselves not just to their contracting officer, but to agency IG’s as well. This rule alone has led for several people we know to recommend that their businesses get out of the government market. It is not a question of ethics. Most contractors are ethical and who take their compliance responsibilities seriously. There are also substantial ethics and compliance rules that were already in place before this new rule. It is rather an indication that a company could face even more severe penalties than otherwise would if some mistake were made and not reported. In this environment it is already assumed by many that there is no such thing as an “honest contractor mistake”.

These steps, along with similar regulatory and policy changes, help create an atmosphere that causes distrust, discourages communication, and brings innovative thinking on government needs to a halt. Continuing this trend will increase costs not just for industry, but for government as well.

Particularly hardest hit will be small businesses and those with various socio-economic designations. These are the companies that the government is trying to attract the most, yet may be discouraging from participating in federal business as they do not have the infrastructure necessary to ensure compliance with an ever-changing set of government-specific rules. Expending scarce resources on successively newer and more invasive rules takes away the ability to grow a business, pursue new opportunities and thrive.

Companies of all sizes are in business to do business and the more rules that there are to abide by, the less incentive there is to participate both because of reduced profit opportunities and the probable negative publicity when wrong-doings, no matter how inadvertent, are eagerly exploited in the media.

The Coalition is concerned that this climate may lead to the unintended consequence of driving small businesses out of the federal marketplace. At very least, these new rules will make it successively more difficult for the government to meet its 23% small business goal.

We are even concerned that larger commercial companies with \$20, \$40, or even \$80 million dollars in government sales may elect to leave the market or sell only through traditional government contractors. These are companies that are inherently commercial and, while their government sales may look big, the cost to maintain them may become disproportional to their other business.

Taken together, these small and predominantly commercial, firms employ thousands of people in Congressional districts throughout the country. These are jobs that may be reduced or even lost if government unique mandates continue to be required of their firms.

Only those firms that are mostly, if not entirely, established to do government business will be left to compete for contracts. The government will lose out on the competition and innovation that has existed for the past 15 plus years in the commercial solutions sector.

Another trend of note to the Coalition is the current drive to promote firm, fixed price contracts. Government acquisition professionals today generally do not have sufficient knowledge of, or time to stay abreast of, the latest technology developments, innovations in service provision, or other similar commercial market trends. FASA, Clinger-Cohen and the like promoted discussions with industry and enabled the government to have a better understanding of what was available. This was one way acquisition professionals could stay on top of the innovations they needed to know about to be effective buyers. Now, however, such discussions are far less frequent.

An over-burdened, less well-informed acquisition workforce cannot be expected to craft a Request For Proposals with requirements sufficiently defined so as to enable good use of firm, fixed price contracting. Bids on ill-defined requirements will inherently be higher than they would for better defined projects as contractors attempt to mitigate their own risk. The government will end up paying more for a solution than it otherwise would if another contract type had been used.

The Coalition is a strong supporter of GSA's Multiple Award Schedule program. We believe this program is the government's best commercial solution acquisition method. It consistently provides the latest commercial solutions at great values from businesses of

all sizes. We support moves to eliminate duplicative contract methods and the enhancement of GSA's role in acquisition.

The Coalition has consistently recommended the elimination of the schedules Price Reductions Clause (PRC). The PRC no longer serves as a mechanism to ensure fair and reasonable schedule pricing. Competition in the federal market has long surpassed the PRC for that purpose. Today the PRC serves mainly as a "gotcha" mechanism to trip up even the most conscientious contractor. We believe that a commercial-item contract should reflect the commercial marketplace as closely as possible. The penalties associated with the PRC are far from that.

We are aware that the MAS Improvement Panel may soon recommend the elimination of the PRC from the schedules program. This is a move the Coalition strongly supports.

The Coalition also recommends bringing the entire schedules program under one, centralized management structure. The GSA MAS program generates over \$37 billion in annual sales. It is a large and multi-faceted program. We support the initiative taken by GSA in 2008 to establish a Schedules Program Office. This office has already brought about greater consistency and accountability across all schedules.

We recommend taking the next logical step and combining the operational and policy aspects of the program under one program management office. Today, at least three separate entities are responsible for various parts of the program. This led to the interesting specter at last week's GSA Expo of having two parts of the program brief contractors without the vital third part – the actual program office. If the MAS program is to continue to have consistent rules, a clear face to the federal customer, and sustained opportunities for growth it must be centrally managed.

The issues facing government acquisition today are substantial, but manageable if industry and government can continue to work together not as adversaries, but as partners working on the same mission from different perspectives. We have the capability to continue the evolution of an acquisition system that is already the envy of most of the world. With rational and sound leadership from all stakeholders we can turn down the hype and truly focus on ensuring that the business of government is done wisely and well.

The Coalition appreciates this opportunity to testify. We look forward to working with you, Madam Chairman, and the other members of the Committee on these important issues. I will be happy to answer your questions.

1102 NextGen –Professional Acquisition Executives

Objective: To create a acquisition executive corps that acts as true acquisition/business relationship managers using acquisition expertise and industry knowledge to create solutions that achieve government missions, save tax dollars and enhance the relationship between government and business. Create a career path and career incentives for contracting professionals to not only negotiate and award contracts, but to develop strategies and manage contracts, from a contracting officer perspective, that they or others put in place. To de-segment the contracting function so that all contracting professionals have a total 360 degree view of the business process. To ensure that the hiring of new contracting officials does not result in merely the recreation of what is already being done, but enhances the role of acquisition professionals as members of an acquisition/business management team. “New people, new training”.

Concept: Educate, train, and assign new contracting officers on the 1102 NextGen Program. This program will 1. require contracting officers to act as both contract awarders/negotiators and as contract business managers during their careers. 2. create a cadre of potential acquisition executives to develop, manage and direct major federal acquisition programs; Yet, 1102 NextGen envisions that contracting officers will act either in a traditional role or as contract program manager at any given time. For example, when an 1102 is assigned to manage contracts, s/he is not awarding or negotiating new deals until such time as the management assignment is complete. Upon completion of that assignment, the contracting officer could be re-assigned to a negotiation and award role.

In their contract management role, contracting officers will be responsible for managing a specific book of business – i.e., the contracts to which they are assigned. The contracting officer will have the responsibility to assure good contract use. The contracting officer will provide acquisition expertise and support to customers on all contract-related issues necessary to the successful fulfillment of a given project. These include, but are not limited to, answering questions/providing guidance on proper contract use, ensuring that the contract is being used appropriately for its contract type and scope, assisting the customer and contractor in making any necessary modifications, and acting as a member of the total program management team.

In order to be considered for grade or in-step promotions past a certain level (to be determined), contracting officers will be required to have successfully performed at least one contract management assignment of a dollar threshold considered appropriate for their current job level. This requirement could be repeated at various career intervals to ensure the development and retention of the skills needed to be a senior level 21st century contracting officer.

Required Support: In order for this program to be successful, senior agency leaders must make the enhancement of the contracting corp. a key, strategic priority for their agencies. Too often, contracting officers are viewed as serving in a narrow, largely behind the scenes, manner. Under 1102 NextGen, contracting officers will be business

advisors with real responsibility for the successful performance of their contracts, not just the successful implementation of them. Senior agency leaders must recognize and support this.

Additionally, the 1102 NextGen program will work only if the total acquisition workforce is staffed and supported at the appropriate level. There is broad agreement that the acquisition workforce must be increased. This is undeniably the case. 1102 NextGen will, however, make better use of these important personnel resources by ensuring that they are not all put to work doing the same things, but acting in a variety of roles to ensure that acquisition has a true “cradle to grave” role with every project. In this manner, the government will realize a significantly improved return on the investment it will make when hiring new contracting personnel. There is a cost in hiring people, yet 1102 NextGen ensures that those costs are used in developing a multi-disciplined work force.

Possible Specific Features:

- There should be a career path to GS 15
- It should be geared to executive leadership in the acquisition area, not just how to award or manage a contract
- Training/experience should include industry and a good dose of managing business relationships in an internet/im/electronic world.
- Assignments should include more than one agency and various contract types
- Participants should not be entitled to permanent assignment until program completion
- Ideally OFPP should administer this program so that they can assure that the participants aren't diverted to satisfy some agency need.

Existing Acquisition Workforce: In parallel with the 1102 NextGen program, the government should also initiate steps to identify the best existing procurement practices and train current contracting officers on them. It is important that the current workforce receive training on these practices so that the government implements a consistent, efficient acquisition program. Recognizing and encouraging the replication of Centers of Excellence will be an important bridge to the 1102 NextGen program and give that effort a sound foundation on which to build.

Benefits: In addition to the benefits noted above of having a well-trained, multi-disciplined workforce, the 1102 NextGen program will ensure the better management of government spending. Because trained contracting officers will be part of the management team, potential problems can be identified and addressed before they become problems. Those problems that may still develop can be corrected more easily while the contract is still in place. The government will have better contract outcomes, get more for its contracting dollar, and realize a reduction in fraud, waste and abuse. Solutions will be available in a more timely and efficient manner, improving the overall

operation of government. In short, the investment in the 1102 NextGen program will save the government money by driving better contract processes and outcomes.

Another benefit is the attraction and retention of a skilled, motivated, and challenged acquisition workforce. If new contracting professionals know that they will have the opportunity to experience the entire business process, be employed as true acquisition/business advisors, and not be expected to perform a limited, well-known, set of tasks through out their career, the government will be able to attract and retain the type of people necessary to make 1102 NextGen work as envisioned. The government will reduce turn-over, increase stability, and have greater opportunity to be seen as an employer of choice for those interested in the acquisition profession.

Conclusion: OMB and OPM must work together to implement the 1102 NextGen program. The government needs the benefits of this program today and should begin implementing it as increases in the acquisition workforce are being made. In addition, individual agencies may seek authority to proceed with the 1102 NextGen program as a pilot program. The results of such pilots can be used to identify “best in class” practices for adoption through out government.