

Federal Acquisition Innovation &
Reform



The State of Competition

**Enhancing Competition and Increasing
Innovation Across the Federal Government
Supply Chain**

Report developed in
partnership with:



October 2009

Introduction

Issues in Achieving Competition Goals

Recommendations

The Obama Administration has highlighted competition for government contracts as a key acquisition policy priority, one with potential for saving significant taxpayer dollars.

- **In a March 4, 2009 memo, the Obama Administration highlighted competition for government contracts, or the lack thereof, as an issue that results in a loss or waste of billions of taxpayer dollars**
 - **The memo directs the Office of Management and Budget (OMB) to issue policy guidance to:**
 - **“Govern the use and oversight of sole-source and other types of noncompetitive contracts”**
 - **“Maximize the use of full and open competition and other competitive procurement processes**

- **While they may hold differing views, other stakeholders and oversight groups such as the Government Accountability Office (GAO), Project on Government Oversight (POGO) and Professional Services Council have cited competition (or the lack thereof) as a critical issue**

Competition for Government Contracts – Increasing or Decreasing?

No real consensus exists on the definition of competition or measures used to assess level of competition for federal contracts

Is competition increasing or decreasing?

Depends who you ask

- “The use of full and open competition in federal contracts dropped from 45% of contract dollars in FY 2000 to only 36% in FY 2008; meanwhile, the percentage of contracts not competed at all rose from 23% in FY 2000 to 27% in FY 2008.” *Secrecy Report Card 09*, OpenTheGovernment.org
- “The total amount of dollars awarded for no-competition actions has been relatively flat, and the average contract action size of no-competition contracts has fallen steadily, from \$771,000 in 1995 to \$153,000 in 2007”. Center for Strategic and International Studies, February 2009
- “The biggest recipients so far of the federal contracts awarded with stimulus money are large companies that faced little competition for the funds. [Of] about 22,000 federal contracts with a total value of around \$12 billion [signed to date], about a fifth of the dollars and almost all of the contracts agreed to so far have had four bidders or fewer.” *Big Firms, Little Competition Mark Federal Stimulus Deals*, Wall Street Journal, Sept. 12, 2009

➤ **Regardless of the measure used, quantitative analyses generally do not address issues related to the “quality” of competition**

- **Did the most qualified and capable suppliers compete for a given requirement?**
- **Were the requirements written to align with commercial capabilities, in order to ensure lowest total costs and maximum competition?**
- **Did we negotiate on the right terms through a deep understanding cost drivers?**



To have a holistic discussion about competition, we need consensus on a multi-level definition which addresses all aspects including set asides, multiple award contracts, etc.

FAIR believes the current competitive environment neither leads to lowest total costs nor creates an environment to attract the most innovative and capable suppliers. We further contend that the primary issue related to competition is not how many contracts or dollars are being competed. Rather, it is whether we have created a competitive marketplace that allows us to partner with the most capable and innovative suppliers while managing total costs.

- **To improve competition, we must first reframe the issue of competition within the context of broader public policy challenges**
 - **At a time when government is taking on many complex policy challenges, from health care reform to clean energy to green buildings, we need an acquisition system that facilitates relationships with the most innovative, capable and ultimately, best suppliers for any given need**
 - **Given our budgetary pressures, we must also ensure that the competitive process leads to the lowest TOTAL LIFECYCLE COSTS, through an analysis of tradeoffs between capabilities and costs. Government must do its own “homework” to ensure transparent negotiations, holistic cost management strategies, and an environment that yields “win-win” scenarios for all involved.**

- **Going forward, the more relevant question is:**
 - **Are we creating a competitive marketplace for federal contracts that**
 - **Is a source of innovation, one capable of attracting the most qualified, innovative, and ultimately best suppliers for any given need?**
 - **Ensures lowest total lifecycle costs for purchased products and services, ensuring public dollars are spent effectively?**

Based on the above definition, FAIR believes there is significant room for improvement in how government contracts are competed and managed. The remainder of this paper cites issues and recommendations for improving the “State of Competition” for federal acquisition.

Introduction

Issues in Achieving Competition Goals

Recommendations

Competition Issues Fall Into Three Categories

Competition issues can be grouped into three broad categories: Knowledge of Industry/Suppliers, Acquisition Process, Acquisition Strategy. Specific issues within each of these areas work together to create significant barriers to entry, a sometimes unattractive market for qualified suppliers, and unfocused cost management and negotiation strategies.

ISSUES IN COMPETITION

Knowledge of Industry/Suppliers

- Insufficient knowledge of industry and supplier capabilities, competition, supplier economics and cost structures
- Information asymmetry – suppliers have more information about government than vice versa

Acquisition Process

- Complex acquisition process
- Unique government requirements

Acquisition Strategy

- Aggregation of “Unlike” Requirements
- Long-Term Multiple Award Contracts
- Transparency in Limited Competition Scenarios

IMPACT

Unfocused cost management and negotiation strategies

“Barriers to Entry” that prevent capable suppliers from competing

Unattractive market characteristics that deters capable suppliers

KNOWLEDGE OF INDUSTRY/SUPPLIERS

Issue	Description	Impact
Insufficient Knowledge of Industry Structure, Competition, and Trends	<ul style="list-style-type: none"> • Not always but often, government lacks up-to-date knowledge of industry structure, value chain, competitive intensity, and trends shaping an industry 	<ul style="list-style-type: none"> • Requirements that do not incorporate commercial standards (if possible), potentially inhibiting qualified suppliers from competing • Evaluation criteria not focused on key differentiators within supply base
Limited Understanding of Industry Economics and Cost Structure	<ul style="list-style-type: none"> • Often, government lacks detailed knowledge of the economics and cost structure of suppliers, a best practice in the world’s leading corporations 	<ul style="list-style-type: none"> • Cost management and negotiation strategies not focused on key levers that drive costs –especially critical in sole source and non-competitive situations

The world’s leading companies and procurement programs understand that knowledge of their potential and existing suppliers’ businesses, including capabilities, trends, and costs is critical to building and managing supplier relationships. In fact, companies such as Toyota and Honda not only understand their own suppliers but also their 2nd and 3rd tier suppliers (their suppliers’ suppliers). This knowledge and the transparency that comes with it is a key factor that allows private sector to develop “win-win” relationships even in sole-source situations. (See FAIR white paper “Win-Win Competition – A Perspective from the Private Sector”).

Within the federal government, knowledge of industry and suppliers is often shaped by experience and RFIs, as opposed to proactive due diligence. Insufficient knowledge of industry trends, structure and costs has an impact on every aspect of acquisitions, including competition. Requirements may be structured in a manner that does not align with commercial standards, leading to increased costs. Evaluation criteria may be too detailed and reflect the Government’s risk averse approach as opposed to a focus on real differentiators of performance. Finally, cost management and negotiation strategies focus on levers that have limited relation to overall profitability or cost drivers, thereby limiting opportunities to reduce total costs. Altogether, the imbalance of knowledge and visibility into suppliers’ businesses places government at a significant disadvantage relative to industry,.

Competition Issues Related to the Acquisition Process

ACQUISITION PROCESS

Issue	Description	Impact
Complexity of the Acquisition Process	<ul style="list-style-type: none"> The federal government acquisition process, with the FAR and its many levels, is extremely complex and requires a significant learning curve 	<ul style="list-style-type: none"> Increased Barriers to Entry – the federal acquisition process and unique government requirements create significant barriers to entry, inhibiting many suppliers’ ability to compete
Unique Government Requirements	<ul style="list-style-type: none"> Unique government requirements, such as secure facilities and reporting requirements, can be costly to address Other issues such as limited protection of intellectual property rights often act as a deterrent for new, qualified suppliers 	<ul style="list-style-type: none"> Unattractive Marketplace for Qualified, Leading Suppliers - the acquisition process and requirements can also deter some of the most qualified and innovative suppliers from competing for government work, thereby limiting the capabilities available to government

In many ways, the federal government hiring process serves as an analogy for the acquisition process. The acquisition process, much like the hiring process, is complex, difficult to understand for any newcomer and requires a significant learning curve. For example, the cost of responding to a government RFP, with its many evaluation criteria and other factors, often discourages firms from competing and can be a non-starter for small firms. In other cases, unique government requirements represent a substantial hurdle for many firms and can reduce the number of qualified firms drastically. Combined with onerous requirements unique to the government, such as secure facilities and cumbersome reporting requirements, the complexity of the process acts as a significant deterrent for qualified suppliers and represents substantial barriers to entry.

Just like the job market, the best suppliers have many options for their business and sometimes choose to not work with government. In other cases, those that want to work with government find it difficult to overcome the significant process and unique government requirements hurdles. The net result is reduced competition, but even more importantly, loss of critical expertise and innovative solutions readily available in the marketplace.

Competition Issues Related to Acquisition Strategy

ACQUISITION STRATEGY

Issue	Description	Impact
Aggregation of “Unlike” or Dissimilar Requirements	<ul style="list-style-type: none"> • Unlike or dissimilar requirements, often comprising multiple industries and areas of expertise, are aggregated into a single acquisition (Note – this is not the same as the intent of strategic sourcing which implies aggregation of “like” requirements) 	<ul style="list-style-type: none"> • Reduced Competition and Reduced Capabilities— oftentimes when unlike requirements are aggregated, the competitive base is reduced to a few firms; in many cases, the most capable suppliers with niche expertise or capabilities forego such competitions in order to remain focused and avoid non-value adding partnerships
Long-term Multiple Award Contracts with “Closed Markets”	<ul style="list-style-type: none"> • Many large contracts, in the tens of millions of dollars, result in a limited vendor base being selected for the contract duration • None or very limited mechanisms to bring in new suppliers in case one or more of the selected suppliers are underperforming 	<ul style="list-style-type: none"> • Limits Access to New Capabilities/Innovation – long-term multiple award contracts often limit options for bringing in new suppliers during the contract duration, potentially harming the government’s ability to bring in new technologies/capabilities, especially in fast changing industries with short product lifecycles
Transparency in Limited Competition Scenarios	<ul style="list-style-type: none"> • In sole source or limited competition scenarios (such as small business set-asides), government may have limited means to evaluate costs and other key factors 	<ul style="list-style-type: none"> • Lack of Transparency and Controls- Limits government’s ability to establish controls and processes for managing costs, ensuring outcomes, and ultimately creating “win-win” scenarios

Due to many pressures such as an ever increasing workload and insufficient resources, acquisition strategies are often guided by the amount of time required to set up and manage contracts. This of course is a legitimate issue. However, other tradeoffs such as loss of expertise and impact on competition are not given as much consideration. “Unlike” or dissimilar requirements, such as a combination of very tactical and strategic requirements or ones requiring multiple disciplines (ex. training and strategy) are common in government procurement. Additionally, long-term multiple award contracts often limit a supply base for a number of years. While this may be an appropriate approach, it could be modified to “open” the market periodically to bring in new suppliers (especially important in fast changing industries).

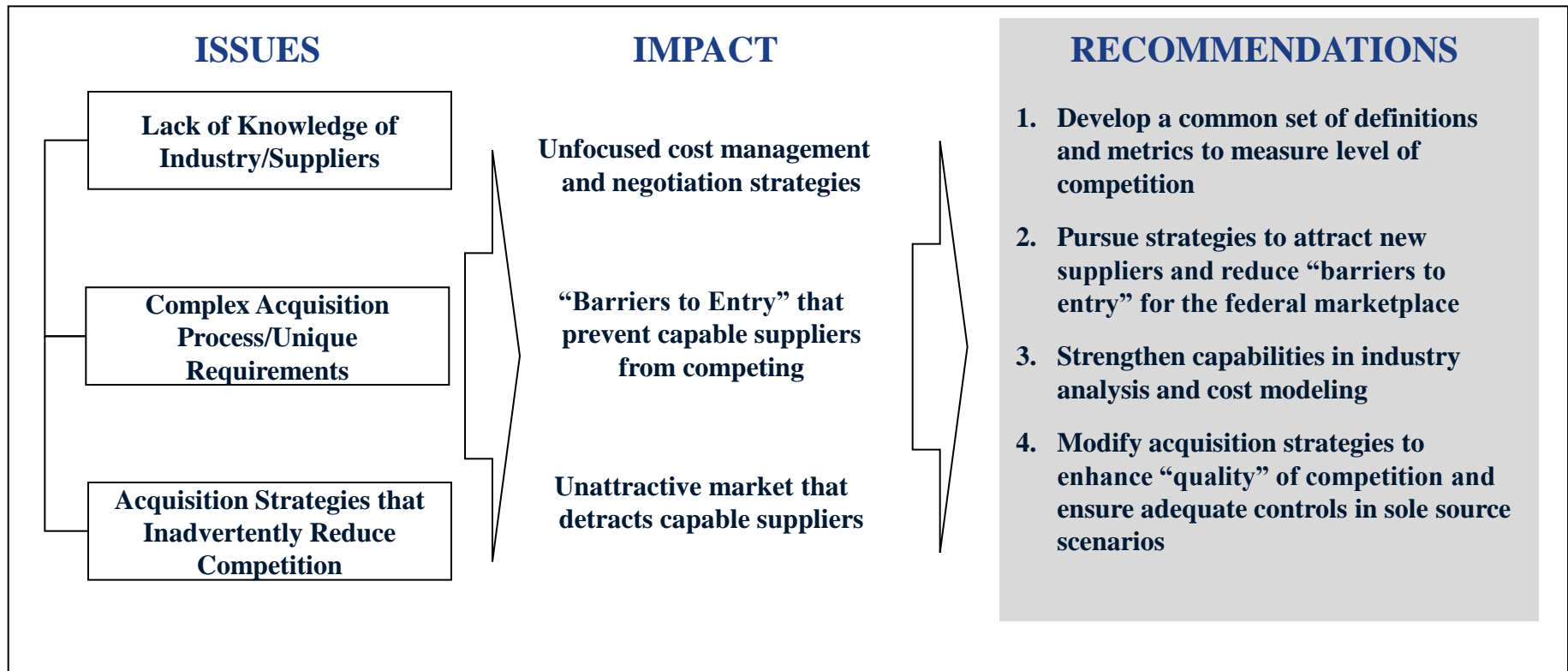
Introduction

Issues in Achieving Competition Goals

Recommendations

Four Key Recommendations To Address Issues

Based on our federal and commercial expertise, and our assessment of issues related to competition, FAIR has developed five key recommendations to improve the competitive environment within the federal marketplace



Recommendation 1

1. Develop a common set of definitions and metrics to measure levels of competition

- Develop multiple quantitative measures that distinguish between competition types such as “full and open” versus competition within federal supply schedules
 - Determine whether the aggregate measure of competition goes beyond full and open competition to include other scenarios (e.g. down selection through extensive market analysis prior to acquisition)
 - Determine whether follow on contracts to the same source, option exercises under previously competed contracts, and added scope under a previously awarded contract constitute competition
- Develop qualitative measures that account for the “quality” of competition
 - Periodically assess, through a sampling approach, whether the best and most capable suppliers are competing for government business and whether some issues are inhibiting participation (see recommendation 2 related to reducing barriers to entry)

Recommendations 2 and 3

2. Pursue strategies to attract new suppliers and reduce “barriers to entry” for the federal marketplace

- Develop and conduct recruiting, education and outreach to attract new suppliers, especially in areas where significant gaps exist in terms of available suppliers versus those competing for government business
- Assess “Barriers to Entry” and develop mitigation strategies to attract the best suppliers and enhance “quality” of competition
 - Identify and develop mitigation strategies for key structural, policy, and requirements barriers that limit competition across government
 - Assess any new policy and requirements in terms of impact on competition, ability to attract leading suppliers, and total costs
 - Conduct supplier surveys on a periodic basis to understand supplier perception and issues related to the federal marketplace

3. Strengthen capabilities in industry analysis and cost modeling

- Develop organic capabilities for strategic industry analysis and detailed cost modeling
 - These capabilities are critical to developing more informed negotiation strategies and in structuring requirements and acquisition strategies
 - Given the technical nature of these skills, government should evaluate tradeoffs between building internal capabilities versus accessing external expertise
 - Sufficient internal capability, at least for interpretation of market provided analyses, is critical
- Revise market analysis training and development courses to reflect broader economics and business principles

Recommendation 4

4. **Modify acquisition strategies to enhance “quality” of competition and ensure adequate controls in sole source scenarios**

- Require programs to assess impact on competition, including analysis of tradeoffs, for any major acquisitions over a certain size
 - Threshold for acquisition size should be large enough that it has an impact on the overall volume yet limits the amount of workload
- Require programs to conduct formal industry and cost modeling for procurements over a certain size with a requirement to understand industry cost structure, capabilities, and other key trends...especially critical in sole source scenarios*
 - Advanced cost analysis and modeling is especially critical in sole source situations and a key differentiator for world-class procurement organizations
 - Size threshold should be large enough that it does not unnecessarily increase workload but addresses a large percentage of spend
- Develop multiple award contracts over a certain size that have options for “opening” the market to new suppliers
 - For multiple award contracts over a certain size, government should explore option of allowing new suppliers to enter after the base and option periods. Top performing suppliers should not have to re-compete, while bottom tier suppliers may re-compete along with other suppliers
 - For multiple award contracts over a certain size, government should explore option of allowing new suppliers to enter after the base and option periods. Top performing suppliers should not have to re-compete, while bottom tier suppliers may re-compete along with other suppliers

****FAIR’s upcoming report on “Best Practices in Managing Sole Source Relationships” will further highlight the issues and strategies for managing sole source scenarios and creating “win-win” for both government and industry***

FAIR Institute

1220 L Street, NW

Suite 100-444

Washington, DC 20005

(202) 536-2400

contactus@thefairinstitute.org

Report developed in partnership with:

Censeo Consulting Group

1331 H Street, NW

Suite 600

Washington, DC 20006