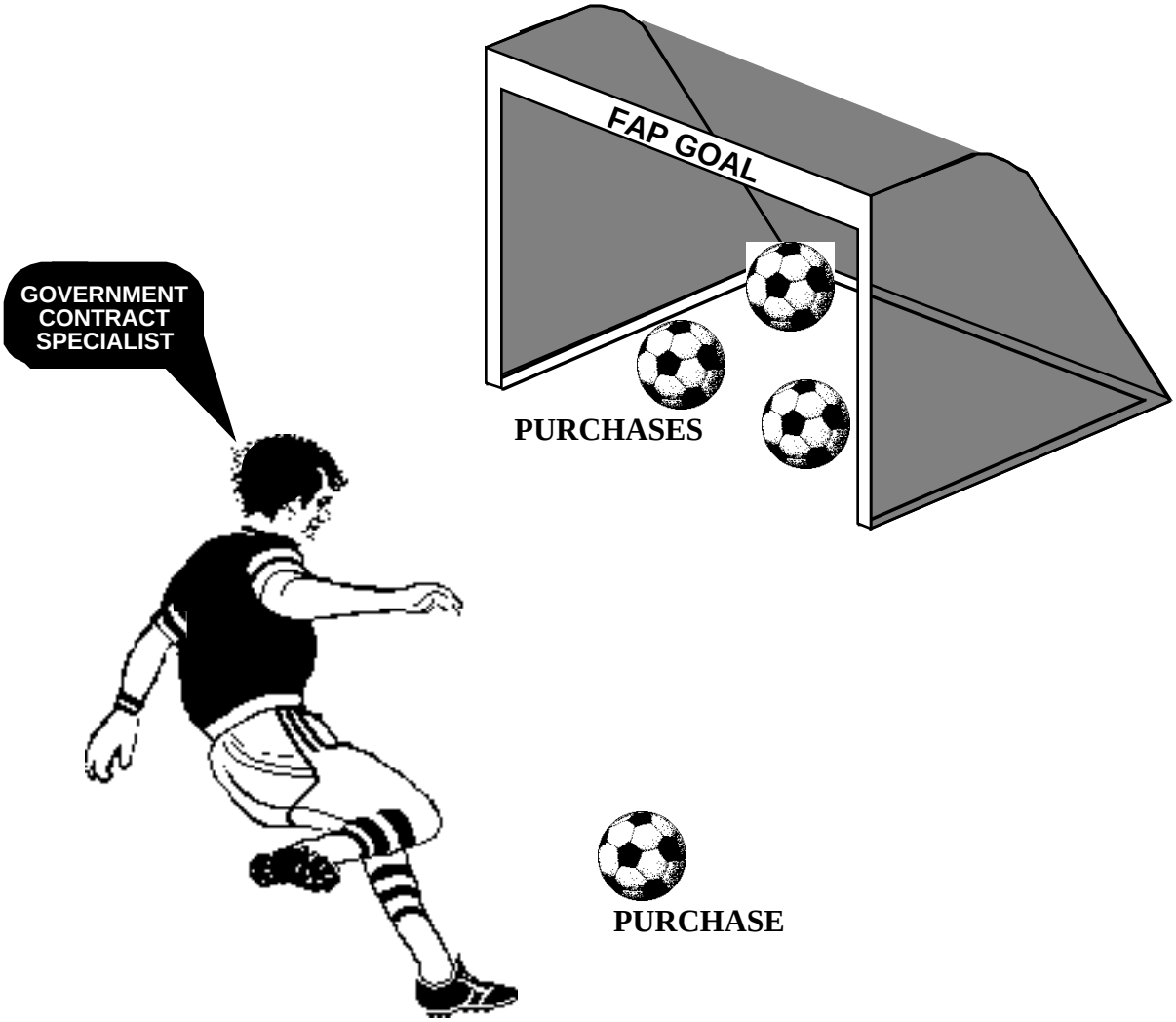
CHAPTER 1

GOALS OF THE FEDERAL ACQUISITION PROCESS



Score a goal with <u>your</u> purchase to achieve the FAP goals !!!

Learning Objectives

1-1, 1-2 & 1-3 Identify and define the goals of the Federal Acquisition System.
1-4 Describe four environmental factors that affect the Government's ability to accomplish goals of the acquisition process.
1-5 Summarize Congressional statements of procurement policy in 41 U.S.C. 401.
1-6 Identify strategies for accomplishing system goals.

Exhibit 1-1. Learning Objectives.

CHAPTER INTRODUCTION

This chapter articulates the vision, goals and standards of the Federal acquisition system. It also surveys environmental forces that affect your ability to accomplish the goals.

THE VISION

FAR 1.102-1

Deliver on a timely basis the best value product or service to the customer, whilemaintaining the public's trust and fulfilling public policy objectives. View best value from a broad perspective to be achieved by balancing the many competing interests in the system. The result is a system which works better and costs less.

1.1 GOALS OF THE FEDERAL ACQUISITION PROCESS

Why acquire supplies and services? The Government resorts to the acquisition process when supplies or services are necessary to its missions and cannot be obtained more cost-effectively in-house.

How does one judge the Government's success in acquiring needed supplies and services? This question is often viewed as relevant only to the contracting (purchasing) office. Yet, the contracting office is only one of the many organizations that play a role in the acquisition process. Hence, the goals of the acquisition system should be conceived broadly and should encompass the contribution of all parties to the process—including requiring activities, audit activities, budget activities, and the like. What are the goals of this process?

THE PREAWARD GOAL

Satisfy the customer by obtaining the optimum market response to requirements for supplies and services, in terms:

- Quality.
- Timeliness.
- Cost.

While:

- Minimizing business and technical risks.
- Accomplishing socioeconomic objectives.
- Maximizing competition.
- Maintaining integrity.

Exhibit 1-2. The Preaward Goal.

1.2 THE PREAWARD GOAL

The preaward goal of the acquisition process is to satisfy the customer by obtaining the optimum market response to the Government's requirements for supplies and services. What is optimum? Providing requiring activities with exactly what is needed (i.e., quality), when it is needed (i.e., timeliness), at a fair and reasonable price, while, at the same time, serving the Government's long-term interests by:

FAR 1.102-2(a)

- Minimizing the risks inherent in the acquisition.
- Advancing the Government's socioeconomic policies.
- Encouraging quality suppliers to continue doing business with the Government.
- Maintaining absolute integrity in all dealings with the private sector.

Typically, most contracts involve tradeoffs between these various goals. Hence the word "optimum."

1.2.1 Quality

Quality means the extent to which the actual minimum needs of the end users are satisfied.

FAR Parts 10, 11, & 15.605

The Federal Acquisition Regulation (FAR) requires that quality "be addressed in every source selection."[1] This is done in part by:

- Defining the need in functional terms,
- Describing the performance and/or design characteristics that are necessary to satisfy the need (e.g., height, weight, energy usage, reliability, maintainability, useful life, etc.).
- Prescribing standards for determining whether a deliverable is acceptable (i.e., meets the need as defined in the contract), and
- Establishing inspection and testing procedures for measuring the deliverable against those standards.

The FAR further allows the use of quality as a factor in evaluating competing contractors. For that purpose, the FAR states that quality may be expressed in terms of past performance, technical excellence, management capability, personnel qualifications, prior experience, and schedule compliance.

1 By "source selection" is meant the selection of an offeror for the award of a contract in competitive acquisitions.

The bottom line on quality, however, is not how well the Government has defined the end user's need in its specification and evaluation factors. Rather, quality is a question of whether the deliverable, after it is put into service, accomplishes the function for which it was acquired.

1.2.2 Timeliness

With respect to supplies, timeliness means delivering the requisitioned supplies to the end user in the quantity and at the time necessary for the end user's purposes. With respect to services, timeliness means performance at the time necessary for the end user's purposes.

When planning to meet an agency's needs, you must consider the time it takes to:

- Prepare specifications and purchase descriptions.
- Obtain funding and administrative approvals for purchase requests.
- Solicit offers, make source decisions, and award contracts.
- Complete, inspect, and accept the work.

When the requirement is for supplies, you must also factor in time for:

- Shipping and distributing supplies to the Government.
- Receiving and inventorying the supplies.
- Physically distributing supplies to the end users.

In addition, forecasts of time required for an acquisition should be cast in terms of probability—given the risk of delay that is inherent in any acquisition.

The bottom line for timeliness is whether the end user has the supplies in hand (or has had the benefit of the requisitioned services) when, and where, and in the quantity required for his or her mission. Otherwise, the mission will either be delayed or not accomplished.

1.2.3 Cost

The cost of supplies or services is more than just the price (i.e., dollar amount) of the contract. Other costs include:

- Any direct costs for acquiring the supplies or services not covered in the contract price (e.g., the cost of delivery when the contract provides for FOB Origin, under which the buyer pays the cost of shipping and risk of loss during transportation).
- Any cost of ownership not covered in the contract price (e.g., the cost of installation, inventory management, spares, maintenance, repairs, training, disposal, etc.).
- The Government's overhead for awarding and administering the contract (e.g., the salary costs of employees who prepare specifications, develop purchase requests, evaluate offers, determine responsibility, execute contracts, inspect and accept deliverables, etc.).

For example, two companies propose to offer products that meet both performance and quality requirements. The product of Company A requires more electricity than the product of Company B. However, Company A's purchase price is 10% less. Whether Company A's offer represents the best value is not only a matter of the purchase price but also of the net present value of the cost of electricity over the useful life of the product.

In short, the bottom line for any deliverable is the total cost of both acquisition and ownership, including the Government's overhead. Since the contract price is only one element of that cost, you should be wary of judging an acquisition by that cost alone.

1.2.4 Minimizing Business, Financial, and Technical Risks

In a contractual relationship, both parties want to achieve their desired objectives. When the risks associated with those objectives are perceived as being too high or unfairly apportioned, either or both of the parties may be unwilling to enter into the contract.

For the contractor (seller), the principal business or financial risk is the loss of money on the contract. No firm can forecast the cost of doing work under a contract with absolute certainty . There will always be such potential perils as strikes, equipment malfunctions, turnover of key personnel, financial setbacks (e.g., if the firm's bonds take a tumble), defective parts, bottlenecks in the availability of raw or semi-finished

goods, general inflation, unexpectedly long learning curves, and the like. Absent specific protection against such perils in other terms and conditions of the contract, offerors may inflate proposed prices to cover the "worst case" scenarios.

For the Government, the principal business risk is payment of an unreasonable price for the work (e.g., a price substantially higher than the actual cost of performance). This might happen, for instance, if the contract price had been inflated to protect the contractor from worst case scenarios that never materialized.

For the contractor, technical risks are strongly related to financial risks. Any problem in meeting technical requirements might require more effort (labor and material costs) than was contemplated at the time of the agreement on price. The contractor may even discover that the work is literally impossible at any price. From the Government's standpoint, technical risk goes beyond financial impact: The agency's very mission may be at risk. Examples of technical risks are shown in Exhibit 1-3.

TECHNICAL RISKS

- That the contractor will fail to deliver or will not deliver on time.
- That the final deliverable will not satisfy the Government's actual need, whether or not "acceptable" under the terms and conditions of the contract.
- That the Government's need will change prior to receipt of the deliverable.

Exhibit 1-3. Technical Risks.

When purchasing standard commercial (off-the-shelf) supplies and services, the risks to both parties—both business and technical—tend to be minimal. However, when the work becomes more complex or uncertain (e.g., building to a new Federal or military specification or conducting research and development), risk may become a significant factor in establishing and negotiating the terms and conditions of the contract. Absent some reasonable allocation of risk, one or both of the parties may be unwilling to enter into a contract. Consequently, over the years, the Government has developed a number of solicitation provisions, contract clauses, and contract forms that are intended to mitigate specific types of risk. Examples are listed in Exhibit 1-4.

EXAMPLES OF PROVISIONS, CLAUSES, AND FORMS THAT MINIMIZE RISK		
Clause or provisions	*Purpose (in part)*	*Minimizes the risk of:*
Contract Award FAR 52.212-2(a), 52.214-10 and 52.215-16)	Provides for rejecting offers from offerors who cannot affirm their capability to perform.	Default and/or unsatisfactory performance.
Economic Price Adjustment Labor and Materials (FAR 52.216-4)	Allows adjustments in the contract price if rates of pay for labor or the unit prices for materials shown in the schedule either increase or decrease.	Unexpectedly high rates of inflation or deflation in the market prices of labor or supplies that are critical to contract performance.
Performance Bond (SF 25)	Requires the contractor to guarantee repayment (e.g., through a surety) of excess costs of reprocuring an item if it defaults.	Acquiring from markets (e.g., construction) that have experienced unusually high rates of business failure.
Advance Payments (FAR 52.232-12)	Allows the Government to provide the contractor with startup funds prior to the commencement of work on the contract.	Impossibility of performance, if private sector financing is not likely to be available in the required amount or at a reasonable rate of interest.
Warranties (FAR 52.212-4(o) & 52.246-17)	Requires contractors to repair or replace a defective item after acceptance (or provide other consideration).	Unsatisfactory performance during the useful life of the item.

Exhibit 1-4. Examples of Provisions and Clauses That Minimize Risk.

Past Performance

FAR 1.101-2 & 15.605

To minimize the Government's risks, the FAR explicitly encourages contracting officers to give preference to contractors who have a track record of successful past performance or who demonstrate a current superior ability to perform. Contracting officers will be required to evaluate past performance in all competitively negotiated acquisitions expected to exceed $100,000 not later than January 1, 1999, unless they document in the contract file the reasons why past performance should not be evaluated. At their discretion, contracting officers will be able to evaluate past performance in competitively negotiated acquisitions under $100,000. Ahead of this schedule, many contracting officers are already using past performance as a significant evaluation factor.

1.2.5 Socioeconomic Objectives

The Federal Government annually expends billions of dollars to acquire supplies and services. In its 1972 report to the Congress, the Commission on Government Procurement noted that:

> "…the magnitude of the Government's outlays for procurement and grants creates opportunities for implementing selected national policies. The opportunities lie in the disciplining effect which the Government can exert on its contractors and grantees. It can require, for example, that suppliers maintain fair employment practices, provide safe and healthful working conditions, pay fair wages, refrain from polluting the air and water, given preference to American products in their purchases, and promote the rehabilitation of prisoners and the severely handicapped."

EXAMPLES OF SOCIOECONOMIC OBJECTIVES

Objective	*Required By*
Pay prevailing wages for work on Government contracts	Walsh-Healey Public Contracts Act Davis-Bacon Act Service Contract Act
Clean the environment	Clean Air Act Clean Water Act
Provide employment opportunities for American workers	Buy American Act
Ensure equal employment opportunity	Executive Order 11246 Executive Order 11141
Promote the hiring of veterans	Veteran's Preference Act

Exhibit 1-5. Examples of Socioeconomic Objectives and the Legal Action(s) that Require Them.

For instance, the Small Business Act has established a policy of placing a fair proportion of Federal acquisitions with small business concerns. Examples of other socioeconomic goals are listed in Exhibit 1-5. In most cases, these goals are met by incorporating the corresponding clauses in Government contracts and enforcing those clauses. In some cases, subcontracts also contain clauses that require subcontractors to achieve or attempt to achieve the stated objectives.

Socioeconomic Goals in the Private Sector

Commercial and industrial concerns also consider social and economic objectives in their acquisition procedures. For example, private sector entities often:

- Promote the use of small and small disadvantaged suppliers.
- Assist minority-owned business concerns (suppliers and vendors).
- Use American-made over foreign-made products.
- Prefer local suppliers over suppliers from other geographic locations.

1.2.6 Maximizing Competition

Often, maximizing competition is viewed as a matter of numbers —how many offers did the Government receive for a given requirement? But, what if the most efficient, economical, and highest quality suppliers decline to submit offers? What if the only offers received are from the marginal and inefficient producers? Because of these potential situations, competition is not merely a matter of numbers. Rather, maximizing competition means:

- Building and maintaining a base of responsible suppliers who are willing and able to compete for Government contracts.
- Encouraging those suppliers to research and invest in new manufacturing technologies and product innovation where such research and investments would help the Government more effectively and economically accomplish its missions.
- Broadening the industrial and mobilization base, in the event that the Government needs to rapidly build up the armed forces.

The Government has employed a variety of strategies for accomplishing these subgoals, including:

- Dual sourcing — awarding part of a requirement to one source and another part to a second source.
- Obtaining data or rights to data (designs, specifications, etc.) from one source for use by other sources in competing for future requirements.
- Permitting companies to include (by agreement) independent research and development (IR&D) costs in their indirect costs charged to Government contracts.
- Funding innovative research efforts by small business concerns.

1.2.7 Maintaining Integrity

Frequently, a contractor's protest of a contract award activates the need to "protect the integrity" of the Federal acquisition process. Basically, in Government contracting, integrity means:

FAR 1.102-2(c) & 15.610(e)

- Dealing fairly and in good faith. For example, in negotiated acquisitions, CO's may not use "auctioning" techniques, "technical levelling", or "technical transfusion"[2] to, in essence, play one offeror against another.
- Maintaining impartiality and avoiding preferential treatment.
- Avoiding any appearance of conflict of interest or in any other way compromising public trust in the Federal acquisition system.

Chapter 10 of this text deals extensively with ethics, conflicts of interest, and other matters that, collectively, relate to integrity.

1.2.8 Tradeoffs

When contracting for goods and services, you must often make tradeoffs between the goals and seek an optimum business solution. The following are among the many tradeoffs to consider:

Between Quality and Cost

When preparing and reviewing specifications and purchase descriptions, one important consideration is the tradeoff between cost and the different alternatives for satisfying the Government's minimum need. For example, in one acquisition, a requiring activity specified that impellers for a pump be cast from stainless steel. However, it turned out that cast iron would have been as reliable and effective as stainless steel at a fraction of the cost. Thus, quality cannot be considered without regard to cost, just as cost cannot be considered without regard to quality.

Between Timeliness and Cost

One way of ensuring that supplies are available when and where needed is to stockpile large quantities in Government warehouses. From the standpoint of the contracting activity, a savings is also realized by placing one large order rather than issuing a separate order each and every time the end user requires the item on-the-job.

[2] "Auction" techniques includes (1) indicating to an offeror a cost or price that must be offered to receive further consideration, (2) advising an offeror of its price standing relative to another offeror, and (3) otherwise furnishing information about other offerors' prices. "Technical Leveling" means helping an offeror bring its technical proposal up to the level of other proposals through successive rounds of discussion. "Technical Transfusion" means disclosing technical information supplied by one offeror to other offerors.

On the other hand, inventories are costly to maintain and are subject to "shrinkage" (i.e., theft, deterioration, misplacement, etc.). From the standpoint of inventory costs alone, the Government would prefer to order on a "just-in-time" basis, as often as necessary to meet the end user's immediate need—and keep no inventory on hand.

Hence, the optimum ordering quantity is a matter of minimizing ordering and inventory costs, taken together, as follows:

$$EOQ = \sqrt{\frac{2SR}{CK}}$$

Where
EOQ = Economic Order Quantity
S = Cost of preparing and awarding the contract or delivery order.
R = Total quantity required for the year.
C = Price per unit.
K = The cost of carrying one unit in inventory for one year, as a percentage of C.

For example, if:
S=$300
R= 5,000 Units
C = $100
K = 20%

Then:

$$EOQ = \sqrt{\frac{2 \text{ x } \$300 \text{ X } 5000}{\$100 \text{ x } .2}}$$

and the Economic Order Quantity = 387 units. From the standpoint of lowest total cost—considering both ordering and inventory costs together, 387 is the precise quantity to order when the Government's warehouses run out of the units.

If, in this example, timeliness were the overriding goal, then the Government would make one purchase of 5,000 units at the beginning of the year. If cost is the overriding goal, then the Government would order in lots of 387.

Reality is not quite so simple. This decision can become more complicated when you factor in such variables as (1) the availability of quantity discounts, (2) long-term or cyclical trends in unit prices, and long-term trends in availability (i.e., will the items be available at any price?).

There are other potential tradeoffs, with respect to timeliness, beyond inventory levels. For instance, there are tradeoffs between cost and delivery terms. If the Government pushes for delivery in half the time that is customary in that market, the tradeoff might be a higher award price.

Between Risk and Cost

At times, minimizing the contractor's risks may help reduce the eventual award price. For instance, if the Government is willing to protect a contractor from inflation through an Economic Price Adjustment clause, proposed prices should exclude any contingency for such inflation. Likewise, if the Government is willing to financially assist the contractor (e.g., advance payments), the result should be prices that exclude the corresponding cost of private sector capital.

At other times, minimizing risks may result in a higher award price but a lower total cost for the supplies or services. For example, the Government may require the contractor to furnish a warranty. In that case, the contractor would propose an award price that covers its expected costs for repairs over the warranty period. This would be in the Government's interests if the net increase in the award price is less than the net present value of the expected cost of repairs that the Government would otherwise incur over that same period.

Finally, the Government may be willing to pay a higher price to reduce the risks of default, unsatisfactory or marginal performance, and the like. For instance, the Government is willing to pay a higher price to a responsible firm than gamble on a company that cannot affirm its responsibility. Likewise, the Government may be willing to pay a higher award price to a firm which, based on an evaluation of its relative technical and business management strengths, is more likely than a competitor to succeed in meeting the Government's objectives.

These are but a few of the many examples of potential tradeoffs between risk and cost.

Between Socioeconomic Objectives and Cost

The Government often pays a premium, explicitly or implicitly, to accomplish socioeconomic goals. For instance, the Buy American Act authorizes the Government, under certain circumstances, to pay a higher price for domestic made goods vis-a-vis foreign made goods. Moreover, socioeconomic requirements may add to the Government's overhead for contracting surveillance and reporting (e.g., to monitor compliance with labor laws).

On the other hand, socioeconomic programs have contributed to accomplishing other goals of the Federal acquisition process. For example, the small business program has been effective in creating new sources of supply, thus maximizing competition.. Another example is the improvement in workforce capabilities and productivity brought about by occupational, health, safety, and wage rate laws. These laws help prevent accidents that are costly and delay work while encouraging better qualified persons to seek jobs coming under the wage rate laws.

At times, socioeconomic goals are blamed for problems with quality or cost control that in fact result from failings in acquisition planning, market research, and the like. Socioeconomic objectives are no excuse for shortcomings in accomplishing other goals of the Federal acquisition process—socioeconomic factors are, after all, never the only factors in determining the optimum market response for the Government's requirements.

Between Competition and Cost

The primary benefit of competition is its demonstrated success in reducing award prices. On the other hand, this benefit of competition is subject to diminishing returns. And, the Government incurs an additional cost for every offer it considers (e.g., the salary expenses of Government workers who read the offer, technically evaluate it, apply price-related factors, and—if the offer has a reasonable prospect for award in negotiated acquisitions—discuss it with the offeror). This suggests that there is an optimum level of competition for any given acquisition, as illustrated in Exhibit 1-6. This also suggests that there are practical limits to a Contracting Officer's search for additional vendors to extend open market mailing lists.

There may also be an inverse relationship between the goals of minimizing risk and maximizing competition. If minimizing technical risk was the only goal of the acquisition process, the Government would tend to award only to the offeror or offerors who successfully performed the same or similar work on previous contracts with the Government.

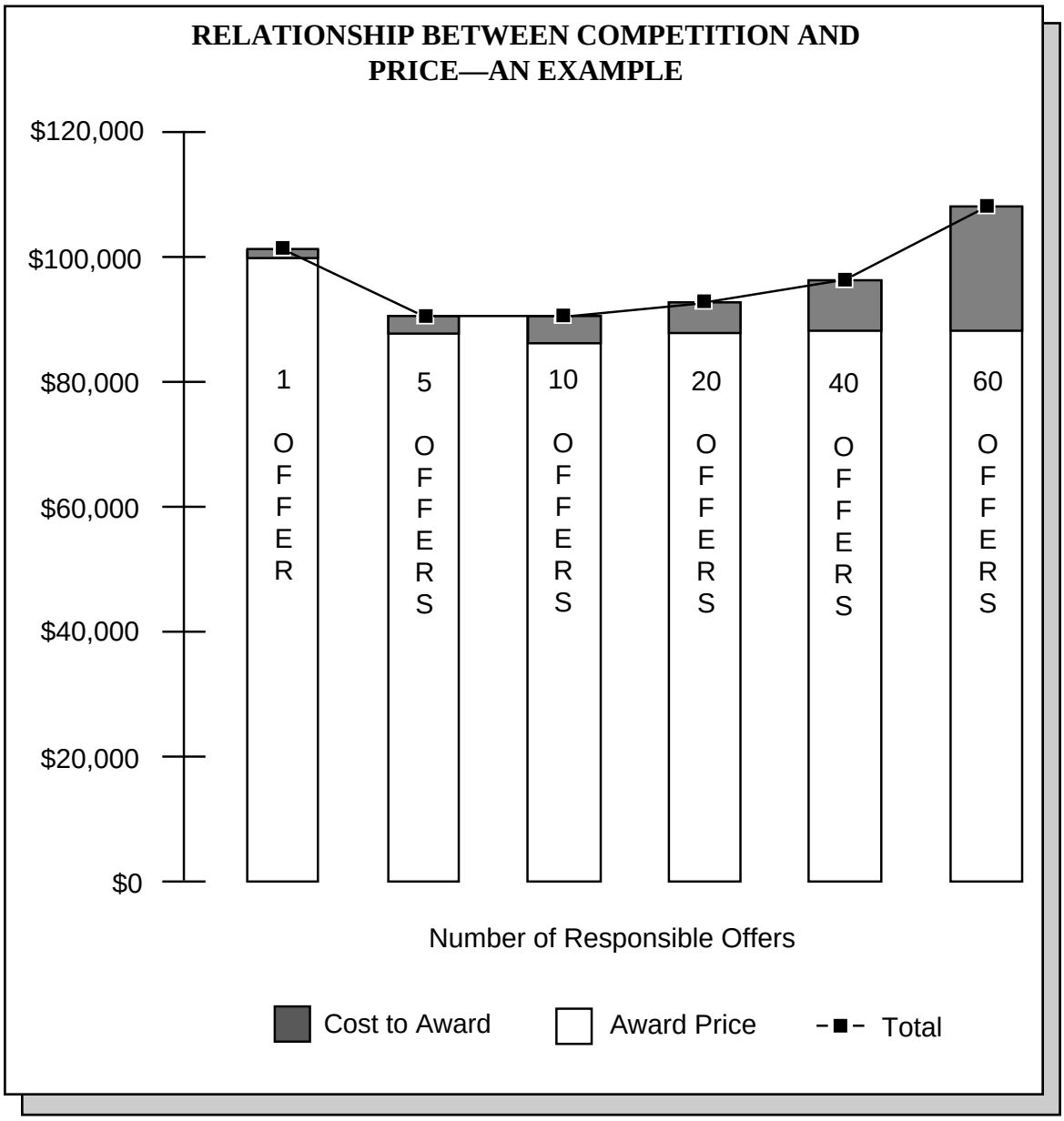


Exhibit 1-6. Relationship Between Competition and Price—An Example.

Between Integrity and Cost

In the short run, tactics such as auctioning and technical leveling could probably win lower prices for the Government. In the long run, such tactics would tend to drive good firms out of the Government market — leaving behind firms who play by equally unscrupulous rules. Thus, playing fair in the long run is not only honorable but also makes good business sense.

Tradeoff Analysis

In short, every goal has its cost. Sometimes that cost is a matter of law and regulations and, as such, is beyond tradeoff analysis. At other times,

however, the success of an acquisition can be measured in part by the degree to which the contract represents the optimum market response to the Government's requirement—all goals of the process taken as a whole.

1.3 THE POSTAWARD GOAL

The postaward goal is described in Exhibit 1-7.

POSTAWARD GOAL

Assure that purchased supplies and services are:

- Delivered or performed when and where specified in the contract.
- Acceptable, in terms of conforming to the contract's specifications or statement of work.
- Furnished in compliance with other terms and conditions of the contract.

Exhibit 1-7. Postaward Goal.

This goal will largely be addressed in Chapters 8 and 9.

1.4 ENVIRONMENTAL FACTORS

The Government's ability to accomplish the goals and objectives of the acquisition process is a function of environmental opportunities, trends, and constraints. The Federal acquisition process is influenced by a number of basic environmental forces, including:

- Market Forces.
- Legal Forces.
- Internal Forces.
- Political Forces.

1.4.1 The Market Environment

The market (i.e., market forces and conditions) largely determines:

- Whether or not the Government can fulfill its needs at all and the level of quality that can be achieved.
- The timeliness of fulfillment.
- Cost of the supplies or services.
- Risks inherent in the acquisition.
- Degree to which socioeconomic objectives can be accomplished and alternatives for accomplishing them.
- The level and nature of competition for the acquisition.
- The potential tradeoffs between quality, timeliness, and cost.

A list of factors that affect market environment is presented in Exhibit 1-8. Of these, the most significant is the "law" of supply and demand.

KEY MARKET CHARACTERISTICS

- Commercial specifications and industry standards.
- Availability of commercial products to meet Government needs.
- Trends in technology.
- Trends in supply/demand.
- Other factors that affect market prices (e.g., cost of money, raw materials prices).
- Production and delivery lead times.
- Other terms and conditions characteristic of the market.
- Number of firms in market.
- Characteristics of the supplier base, in terms of such factors as:
  - Market shares and niches.
  - Market/corporate strategies.
  - Product lines and features.
  - Patent and data rights.
  - Product reliability and history.
  - Production capability and capacity.
  - Distribution and support capabilities.
  - Interest and willingness to compete for Government work.
  - Financial strength.
  - Eligibility for the 8(a) program or for small business, small/disadvantaged business, or labor surplus area set asides.
- Laws and regulations peculiar to that market.

Exhibit 1-8. Key Market Characteristics.

Some supplies and services are required only by the Government and have no commercial counterparts (e.g., weapons systems). In this situation, the Government creates a marketplace which is generally limited in scope and competition, to which it may become "captive."

1.4.2 The Political Environment

The political environment, for the purposes of this chapter, refers to the interactions between the three principal branches of the Government and the public at large with respect to the Federal acquisition process. These interactions tend to focus on:

- Legislative authority for the program or programs to be supported by the acquisition.
- Appropriations for the program or department that would fund the acquisition.
- Statutes that govern the acquisition process generally.
- Congressional oversight of specific programs or the acquisition process in general.

Every acquisition is, in part, a function of the political environment, if only because the acquisition (1) ultimately supports a program or programs established through the political process and (2) is conducted according to policies and rules that, to a large extent, have been established through that same process.

The larger the acquisition, the more likely it is to be directly influenced by political considerations. The Congress may take a direct interest in an acquisition, for example, in its impact on constituents. The President may take a direct interest in the acquisition, in terms of its impact on the Federal budget and his or her own priorities. Special interests may lobby both the executive and legislative branches to fund the acquisition, overturn it, or steer it to certain companies or regions of the country.

In short, politics—directly or indirectly—ultimately determine what is bought and, directly or indirectly, play a role in determining how and from whom it is bought.

1.4.3 The Legal Environment

The Federal acquisition process is further influenced in its workings by the legal environment. This is not unique to the Federal acquisition process. Much of the subject matter of any business law course has to do

with the law of agency and the law of contracts. There are many parallels in contract law in terms of the applications to private sector firms vis-a-vis Federal contracts. These include the following:

Authority to execute contracts	Only a duly appointed Contracting Officer (CO), acting within the scope of his or her authority, may enter into a contract on behalf of the Government.
Approvals	In some cases, even though a CO is acting within his or her authority, a contract may not be binding on the Government unless required approvals have been obtained.
Apparent authority	The Government is not bound by the unauthorized acts of its agents. This "doctrine" often comes into focus when there is a question as to whether the actions of a person representing the CO, (e.g., a contracting officer's technical representative) are binding on the Government.
Contract clauses	Many clauses found in Government contracts are not normally found in private sector contracts or depart significantly from terms and conditions customary in the private sector. The "Changes—Fixed Price" (FAR 52.243-1), "Audit—Negotiation" (FAR 52.215-2), and "Disputes" (FAR 52.233-1) clauses are examples.
Funding	Funds appropriated by Congress may be used only for the purposes for which they were appropriated.
Whom to contract with	Many laws and regulations that place constraints on an offeror's eligibility to receive a Government contract are unique in whole or in part to Government contracting.
Steps in the acquisition process	In general, the process of soliciting and awarding Federal contracts is prescribed in far greater detail in law and regulations than private sector contracting. Moreover, offerors may utilize unique procedures and forums for protesting Federal contract awards if these are not made according to those laws or regulations.

1.4.4 The Internal Environment

Internal environment refers to the interactions of various organizations and officials within a department or agency with respect to the Federal acquisition process.

Agencies (agency head) have some flexibility in organizing the agency and managing it (organizational structure, delegation of management authority). In addition, many provisions of the FAR permit agencies to

decide at what level or who (delegations of authority) will make judgements or exercise authority with respect to a given contract-related decision.

Among the internal factors that affect the performance of the acquisition system:

- The organization's mission, and the primary types of supplies or services required for that mission.
- Delegations of authority, both de jure and de facto (e.g., who are the decision makers, and what do they have the authority to decide?).
- The quality of personnel, in terms of their knowledge of acquisition tasks, skill at performing those tasks, and ability to exercise delegated authority.
- Staffing levels (e.g., ratio of contract specialists to contract actions and the number of staff hours available for each action).
- Internal controls and oversight (e.g., who evaluates performance, what critical factors and standards of performance are applied, who audits performance, and how is work sampled and reviewed, etc.).

1.5 CONGRESSIONAL POLICIES FOR ACQUIRING SUPPLIES AND SERVICES

Many statutes prescribe policies pertaining to Federal acquisition (Chapter 3, Basic Statutes and Regulations). For example, annual defense authorization and appropriations bills contain numerous policy statements and procedural requirements. However, the most fundamental statements of overall policy for the acquisition system are to be found in the Office of Federal Procurement Policy Act (41 USC 401), which applies to all executive agencies.

This act does not articulates a set of goals as such for the Federal acquisition system. Rather, it prescribes overall policies for promoting economy, efficiency, and effectiveness in the acquisition of property and services. The following is a summary of these policies.

STATUTORY POLICIES FOR ACCOMPLISHING SYSTEM GOALS

41 USC 401

It is the policy of the Congress to promote economy, efficiency, and effectiveness in the procurement of property and services by the executive branch of the Federal Government, by:

(1) promoting full and open competition;
(2) establishing policies, procedures, and practices which will provide the Government with property and services of the requisite quality, within the time needed, at the lowest reasonable cost;
(3) promoting the development of simplified uniform procurement processes;
(4) promoting the participation of small business concerns;
(5) supporting the continuing development of a competent, professional work force;
(6) eliminating fraud and waste in the procurement process;
(7) eliminating redundant administrative requirements placed on contractor and Federal procurement officials;
(8) promoting fair dealings and equitable relationships with the private sector;
(9) ensuring that payment is made in a timely manner and only for value received;
(10) requiring, to the extent practicable, the use of commercial products to meet the Government's needs;
(11) requiring that personal services are obtained in accordance with applicable personnel procedures and not by contract;
(12) ensuring the development of procurement policies that will accommodate emergencies and wartime as well as peacetime requirements;
(13) promoting, whenever feasible, the use of specifications which describe needs in terms of functions to be performed or the performance required; and
(14) establishing policies and procedures that encourage the consideration of the offerors' past performance in the selection of contractors.

Exhibit 1-9. Statutory Policies for Accomplishing System Goals (41 USC 401).

1.6 STRATEGIES FOR ACCOMPLISING SYSTEM GOALS

FAR 1.102

- *Shift the focus from "risk avoidance" to "risk management"*. The cost of attempting to eliminate all risk is prohibitive.
- *Forecast requirements and develop long-range plans for accomplishing them*. Keep the extent of planning commensurate with the size and nature of a given task. In carrying out such plans, be flexible in accommodating changing or unforeseen mission needs.
- *Team with other participants in the acquisition process*. Participants include not only representatives of the technical, supply, and procurement communities but also the customers they serve.
- *Empower participants to make decisions within their area of responsibility*. Delegate authority to make decisions (and accountability for the decisions) to the lowest level within the system, consistent with law. In particular, the contracting officer must have the authority to the maximum extent practicable and consistent with law, to determine the application of rules, regulations, and policies.
- *Encourage innovation and local adaptation*. Assume that any strategy, practice, policy or procedure is a permissible exercise of authority if (a) in the best interests of the Government and (b) NOT prohibited by the FAR, law (statutory or case law), Executive order or other regulation
- *Communicate with the commercial sector as early as possible in the acquisition cycle, using methods established in the FAR for such communications.* Among other purposes, early communications can help procurement officials become aware and take advantage of capabilities available in the commercial marketplace.
- *Foster cooperative relationships between the Government and its contractors.* Do this consistent with the Government's overriding responsibility to the taxpayers and applicable FAR policies.
- *Maximize the use of commercial products and services in meeting Government requirements.*
- *Select contractors who have a track record of successful past performance or who demonstrate a current superior ability to perform.*
- *Promote competition*.
- *Train and educate.* Provide training, professional development, and other resources necessary for maintaining and improving the knowledge, skills, and abilities for all Government participants in the acquisition process. The contractor community is encouraged to do likewise.