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BEFORE THE

SUBCOMMITTEES ON

INFORMATION TECHNOLOGY AND ON GOVERNMENT OPERATIONS

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

UNITED STATES HOUSE OF REPRESENTATIVES

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Chairmen Hurd and Meadows, Ranking Members Kelly and Connolly, and Members of the Subcommittees, I appreciate the opportunity to present to you written testimony regarding the current challenges in Federal IT acquisitions. We all can agree that an efficient and effective procurement system that enables businesses of all sizes to deliver best value solutions is critical to meeting agency missions and serving the American people. For this reason, the Coalition for Government Procurement (the Coalition) is pleased that the Subcommittees are focusing on the government's role in addressing the various challenges related to Federal IT acquisitions, so that it promotes innovation and industry's participation in the Federal marketplace.

The Coalition is a non-profit association of firms selling commercial services and products to the Federal Government. Together, our members account for a significant percentage of the sales generated through General Services Administration (GSA) contracts, including the Multiple Award Schedules program. Coalition members also are responsible for many of the commercial item solutions purchased annually by the Federal Government. Members include small, medium, and large business concerns. The Coalition is the only association of its type with a membership spanning a broad cross-section of service and commodity types, and it is proud to have worked with Government officials for more than 35 years towards the mutual goal of common sense acquisition.

In order to ensure an efficient and effective procurement system, the Coalition recommends that Congress should support policies that promote the following goals:

- Leverage existing IT acquisition resources effectively to avoid inappropriate duplication and its associated waste of resources.
- Provide agencies necessary funding flexibility for IT modernization to bring innovation to government systems.
- "Re-commercialize" commercial acquisitions, which have suffered the imposition of inordinate process and compliance mechanisms, that risk making the government market inhospitable for commercial firms.

Through such an approach, the Government would be able to access innovative solutions from the commercial market at a best value to Federal agencies and American taxpayers. What follows is a discussion of approaches that will promote these goals.

I. Identify the Appropriate Balance between Centralized and Decentralized Management of IT Procurements Government-wide

Prior to the acquisition reforms of the 1990's, Federal IT acquisitions were conducted pursuant to the Automatic Data Processing Act of 1965, commonly referred to as the Brooks Act, which established a government-wide approach for IT acquisitions that centralized the purchasing authority within the General Services Administration (GSA).¹ At that time, this centralization of management was based on concerns that the Federal government was not sufficiently leveraging its market power, that it lacked technological expertise in IT purchasing decisions, and that government IT systems lacked compatibility.²

By the 1990's, however, technology and its development process had significantly evolved, rendering the acquisition process established under the Brooks Act outdated, ineffective, and wasteful.^{3,4} Consequently, Congress responded through a series of reform initiatives, including the Federal Acquisition Streamlining Act (FASA) and the Clinger-Cohen Act (the amalgam of the Information Technology Reform Act (ITMARA), and the Federal Acquisition Reform Act (FARA)), which sought to decentralize the authority to procure IT, streamline the acquisition process, and embrace commercial practices.^{5,6,7,8}

Although the decentralized management approach adopted through the 1990's reforms has achieved many of its intended positive outcomes, such as empowering agencies with the autonomy and flexibility necessary to procure more effective IT solutions, it has also resulted in several unintended negative consequences, such as expanding contract duplication.⁹ In order to address these unintended negative consequences, Congress has enacted several laws, such as the E-Government Act and the Federal Information

¹ See the Brooks Act, 40 U.S.C. §1102 (1965).

² See the Congressional Research Service (2002, January). Government Information Technology Management: Past and Future Issues (The Clinger Cohen Act). Retrieved from https://archive.org/stream/RL30661-crs/RL30661_djvu.txt

³ See Cohen, W.S. (1994). Computer Chaos: Billions Wasted Buying Federal Computer Systems. Retrieved from <https://acc.dau.mil/adl/en-US/22163/file/2121/Cohen%20Computer%20Chaos%201994.pdf>

⁴ See U.S. Industrial College, National Defense University (1995). The Brooks Act: An 8-Bit Act in a 64-Bit World (NDU-ICAF-95-S18). Retrieved from <http://www.dtic.mil/dtic/tr/fulltext/u2/a294101.pdf>

⁵ See Clinger-Cohen Act, 40 U.S.C. § 1401 (1996).

⁶ See the Federal Acquisition Reform Act of 1995, Pub. L. No. 104-106, 110 Stat. 186 (1995).

⁷ See the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (1994).

⁸ See S. Rep. 103-258, 1994 U.S.C.C.A.N. 2561. Retrieved from http://federalconstruction.phslegal.com/wp-content/uploads/sites/116/2006/12/1994_USCCAN_2651.pdf

⁹ See Waldron, R. (2012, November). Contract Duplication Study. Retrieved from http://thecgp.org/images/Contract-Duplication_Final.pdf

Technology Acquisition Reform Act (FITARA), which emphasize the role of the Chief Information Officer (CIO),^{10,11,12} a critical feature of the Clinger-Cohen Act.

Recent agency reform efforts, however, appear to depart from the decentralized management approach promoted by Congress through the acquisition reforms of the 1990's and recent statutes. Specifically, reform efforts, such as the Office of Federal Procurement Policy's (OFPP) Category Management initiative, shift agency acquisition toward a more centralized management approach through the establishment of Best in Class contracts proposed for mandatory use by Federal agencies.¹³

The Coalition has opined on the challenges of this approach, and we are happy to discuss our assessment at your convenience. In summary, however, our position is that "one-size" approaches to acquisition do not fit all needs. Too often, the discussion is one of centralization versus decentralization when the answer is more nuanced. Agency acquisition approaches should be driven by the mission fulfillment needs of the agency. Where mission drivers can be addressed in a coordinated fashion, of course opportunities for common acquisition should be leveraged. The Coalition believes that agencies should seek out such opportunities, but that assessment involves a balance that is best struck as close to the point of performance, the agency, as possible, and it involves matters related to complexity, time, budget, and the mission goals involved.

II. Leverage Existing Resources to Improve Efficiency

With regard to the procurement of IT, the Coalition recommends the elimination of mandatory use contracts proposed through the Category Management initiative that restrict competition and access to the commercial market. Instead, the government should leverage already existing Federal resources like the Procurement Innovation Lab at the Department of Homeland Security and GSA's FEDSIM program. The 18F program, which was established to serve as an IT advisor to program and acquisition managers in the Federal government, could also be used to improve Federal IT acquisition by assisting agencies in the development of requirements to update legacy systems.

¹⁰ See E-Government Act of 2002, Public Law 107-347, 116 Stat. 2899 (2002).

¹¹ See U.S. Department of Justice (2013, September). E-Government Act of 2002. Retrieved from <https://www.it.ojp.gov/PrivacyLiberty/authorities/statutes/1287>

¹² See Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Public Law 113-291, 128 Stat. 3292 (2014).

¹³ See Proposed new Office of Management and Budget Circular No. A-XXX, "Implementing Category Management for Common Goods and Services" (2016, October). Retrieved from <https://www.federalregister.gov/documents/2016/10/07/2016-24054/category-management>

III. Increase Funding Flexibility

Currently, Federal agencies encounter serious financial pressures associated with maintaining legacy IT systems. The significant costs of maintaining and operating these systems strains the ability of agencies to direct the necessary amount of resources required for modernizing their IT systems. Key to ensuring IT modernization government-wide is ensuring sustained and consistent funding over time. Some potential approaches are the creation of a new revolving fund, investment in GSA's Acquisition Services Fund (ASF), or the identification and appropriation of multi-year funding for IT modernizations efforts.

I hasten to add that the legislative efforts of IT Subcommittee Chairman Hurd and Government Operations Ranking Member Mr. Connolly in the last Congress to find new means for agencies to fund IT modernization are an important step in this effort. Their Modernizing Government Technology Act provided a creative incentive mechanism for agencies to move away from costly legacy systems, and we support efforts in this Congress to make those proposed changes a reality.

IV. "Re-Commercialize" Commercial Acquisition

To assure competition and access to innovation in the Federal government, the IT acquisition process should align with standard commercial practices, in accordance with FASA. FASA and its implementing regulations require agency heads to ensure, to the maximum extent practicable, that commercial items may be procured to fulfill agency requirements, that requirements be modified so they can be met by commercial items, that specifications be stated to enable offerors to supply commercial items, and that policies be revised to reduce the impediments to acquiring commercial items.

Over the years, unfortunately, the contracting community has witnessed the "de-commercialization" of commercial contracting by the Federal government. For instance, the increase in data reporting requirements, like the Transactional Data Reporting rule for the GSA Schedules Program and GWACs, are inconsistent with standard commercial practices and add to contractors' costs (which are inevitably passed on to customer agencies in the form of higher prices). The growth in such government-unique requirements discourages some innovative technology firms from entering the Federal market. At a time when our nation's adversaries have access to the same global supply chain as the U.S., the failure to maximize the government's access to innovative IT

companies negatively impacts not only efficiency within the government, but also our nation's national security.

Along these lines, to enhance the alignment of the Federal acquisition process with standard commercial practices, it is critical that government acquisition decisions include an evaluation of the Total Cost of Acquisition (TCA). The TCA should be comprised of all direct and indirect costs associated with an acquisition, including a monetized cost of time (to account for the cost impacts associated with delays). Understanding the TCA will enable the government to conduct a value assessment of its procedures and requirements and actually determine whether they are worth their attendant costs, especially to the extent that those costs involve a reduction in competition from commercial firms. It is important to note that such determinations are common in the commercial marketplace and allow firms to drive efficiency, lower costs, and reduce production time.

V. Conclusion

Again, the Coalition for Government Procurement appreciates Congress's focus on IT acquisition reform and recommends the Subcommittees support for policies that promote the following goals:

- Leverage existing IT acquisition resources effectively to avoid inappropriate duplication of resources.
- Provide agencies funding flexibility for IT modernization.
- "Re-commercialize" commercial acquisitions to attract and maintain innovative firms in the Federal market.

We stand ready to provide you with any additional input at your request. Thank you.