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Author: Ralph C. Nash, Professor Emeritus of Law, The George Washington University
Contributing Authors: Vernon J. Edwards and Nathaniel E. Castellano

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¶ 31 THE FUTILITY OF FAR REFORM: It's About People, Not Rules

*Matthew J. Fleharty, Lt. Col. (USAF)**

**The author is an active-duty U.S. Air Force lieutenant colonel currently commanding a Contract Management Office (CMO) with the Defense Contract Management Agency (DCMA). He has previously served as a Contracting Officer leading the acquisition of major weapons systems, commodities, services, construction projects, and contingency efforts. He also served as the Program Element Monitor for the Sentinel Intercontinental Ballistic Missile Program. He is a graduate of the United States Air Force Academy, the Naval Postgraduate School, and Harvard University's John F. Kennedy School of Government. The views expressed are those of the author and do not reflect the official position of the Department of Defense, the U.S. Air Force, or of the Defense Contract Management Agency.*

“Human experience shows that people, not organizations or management systems, get things done.” *Economics of Defense Policy: Adm. H.G. Rickover, Hearing Before the Joint Economic Committee, Congress of the United States, 97th Cong., 2d Sess., pt. 2, at 758 (1982).* We would be wise to keep Admiral Hyman Rickover’s words before us as we seek to reform our federal acquisition system and improve its outcomes. Federal acquisition reform is nothing new, in fact it is a frequent recurrence that might lead one to conclude it is a Sisyphean task.

The latest reform effort, launched by Executive Order No. 14275, *Restoring Common Sense to Federal Procurement* (Apr. 15, 2025), 90 Fed. Reg. 16447 (Apr. 18, 2025), seeks to “simplify and streamline the Federal Acquisition Regulation (FAR), which governs Federal procurement, to ensure it contains only provisions required by statute or essential to efficient, secure, and cost-effective procurement.” White House, *Fact Sheet: President Donald J. Trump Restores Common Sense to Federal Procurement* (Apr. 15, 2025), <https://www.whitehouse.gov/fact-sheets/2025/04/fact-sheet-president-donald-j-trump-restores-common-sense-to-federal-procurement/>. While that may sound nice conceptually, in reality a “Revolutionary FAR Overhaul” alone cannot fix our federal acquisition system. Regardless of what is or is not written in the FAR, those words will require people to read them, analyze them, interpret them, and apply them. How well people do those things is what ultimately determines acquisition outcomes. So, unless we make substantial changes and investments in the education and development of our people, the contracting workforce, the FAR overhaul will merely be another acquisition reform effort in a long line of Sisyphean “successes.” But that boulder will inevitably roll back down the mountain.

The FAR—A Convenient Scapegoat

The fact sheet accompanying the Executive Order, cited above, states: “Studies have consistently found that the FAR is a barrier to, rather than a prudent vehicle for, doing business with the Federal Government.” Agencies have made similar claims

for decades, yet rewrites of and relief from the FAR have not improved acquisition outcomes. That is in part because many of the worst practices and inefficiencies in acquisitions are not due to any FAR requirements.

Consider the Federal Aviation Administration, which obtained congressional relief from the FAR in 1995, yet has been unable to produce superior acquisition outcomes. When Congress was considering the FAA's request to be relieved from the FAR, the General Accounting Office (since renamed the Government Accountability Office) advised them:

In summary, our work over the past decade does not support the conclusion that the cost and schedule problems encountered by FAA were caused primarily by federal procurement regulations. Rather, we found that these problems were caused primarily by technical and managerial factors, such as underestimating the complexity of developing systems and inadequate oversight by management.

GAO, *Exempting FAA From Procurement and Personnel Rules*, B-270178, (Oct. 27, 1995), <https://www.gao.gov/assets/rced-96-27r.pdf>. And today, after almost 30 years of complete relief from the FAR, our nation's air traffic control system is as antiquated as ever. See Lake, *Delta CEO Says Air Traffic Control Systems Are So Outdated That Some Commercial Routes Were Faster in the 1950's Than They Are Today*, FORTUNE, May 16, 2025, <https://fortune.com/2025/05/16/delta-ceo-air-traffic-control-1950s/>. Let us take a look at what happens today to see where the real problem lies.

Consider how the Government conducts FAR Part 15 competitive acquisitions known as “source selections.” FAR 15.304, *Evaluation factors and significant subfactors*, states that evaluation factors should be “tailored to the acquisition,” must “represent the key areas of importance and emphasis to be considered in the source selection decision,” and “support meaningful comparison and discrimination between and among competing proposals.” It also states that “[t]he evaluation factors...that apply to an acquisition and their relative importance, are within the broad discretion of agency acquisition officials” subject to a few requirements (e.g. the Government must evaluate price/cost, the quality of the product or service, and small business participation if the acquisition is not set aside for small business).

If those are the required standards for evaluation factors, why do so many Government acquisitions use faux evaluation factors like “technical approach” and “management approach” in so many source selections, requiring offerors to write proposals that contain merely general, non-promissory statements to get our attention instead of concrete promises? See *Contracting Process Inertia: The Enduring Appeal of the Essay-Writing Contest*, 36 NCRNL ¶ 25. By doing so, acquisition teams turn what should be a substantive competition into little more than a costly and time-consuming “essay-writing contest” that is of little real value to the Government or the taxpayers. Nothing in the FAR requires the use of those faux evaluation factors, yet they are commonplace throughout Government acquisitions. Why?

Even when providing a “fair opportunity” to be considered for orders under multiple award indefinite-delivery, indefinite-quantity contracts—a process that should be relatively simple and streamlined when compared to FAR Part 15 source selections—the workforce turns that process into anything but simple and streamlined. FAR 16.505(b)(1)(ii) clearly gives Contracting Officers “broad discretion” to establish “appropriate” ordering procedures for multiple-award IDIQ contracts. “The contracting officer should keep submission requirements to a minimum.” So, what do many acquisition teams and COs do? As a review of GAO fair opportunity bid protest decisions shows, many needlessly adopt FAR Part 15 source selection procedures in their entirety, turning what could and should be a streamlined method for which a qualifying competition already took place into a cumbersome and costly process for the Government and for contractors seeking business opportunities. Why?

Why? It's The People!

Why do people do such things? Ultimately, the FAR is not self-executing—people conduct acquisitions. Every passage in the FAR, regardless of whether it is long or short, complex or simple, statutory or not, requires members of the acquisition workforce to read, analyze, interpret, and apply those words. A better written FAR could help us, while a poorly written FAR could hinder us, but if the people using the FAR do not understand the fundamentals, we will continue to have an inefficient and ineffective acquisition system. Poor application of the FAR is not due to individuals' willful disregard of the rules or lack of effort. In almost all cases it actually makes the job more difficult and time consuming. Rather, those problems and many others like them are the products of a lack of professional knowledge, imagination, and skill.

For far too long, we have failed to properly invest in educating our contracting workforce. Few members receive a quality

professional education about contracting concepts, principles, rules, processes, procedures, methods, and techniques. Few if any have access to best-in-class professional reading materials like THE NASH & CIBINIC REPORT or the Thomson Reuters BRIEFING PAPERS. Instead, what our acquisition workforce gets is a Defense Acquisition University (DAU) “back-to-basics” approach (<https://www.dau.edu/sites/default/files/basic-pages/back-to-basics/Fact%20Sheet%20CON.pdf>) that includes zero in-person instruction, 73% fewer training hours, and a multiple guess exam that, once passed with only one year of experience, results in a “Contracting Professional” certification.

After “the basics,” the recurring standard for workforce development is to spend merely 80 hours on continuous learning over a two-year period that consists of 4,160 work hours—at that rate, people spend more time at work going to the bathroom than studying their profession. Our investments in and expectations for our contracting workforce’s development are abysmally low. Following the adage that we get out of something what we put into it, we should not be surprised by our acquisition system’s failure to deliver quality results when we fail to make quality investments to develop our people.

A Revolution Or More Of The Same?

If we want to see better acquisition results, we must start by setting the people responsible for delivering those results up for success. A May 2, 2025 Office of Management and Budget memorandum, M-25-26, *Overhauling the Federal Acquisition Regulation*, <https://www.whitehouse.gov/wp-content/uploads/2025/02/M-25-26-Overhauling-the-Federal-Acquisition-Regulation-002.pdf>, states that “buying guides” and “training” are part of the effort, so the OMB at least recognizes that some investments in our people are necessary. However, what little information is available unfortunately reads like more of the same stuff we have heard for years.

The OMB memo states that in developing the buying guides:

Initial efforts will focus on best practices for applying innovation and streamlining throughout the acquisition lifecycle and on specific categories of the most popular common spend categories, including information technology (IT), professional services, and facilities and construction. The buying guides will be living documents that are updated as best practices evolve and will accommodate varying levels of procurement experience.”

This all sounds eerily similar to the guides and procedures agencies currently issue which have failed to improve the efficiency and effectiveness of Government acquisitions to date.

Consider the 81-page DEPARTMENT OF DEFENSE SOURCE SELECTION PROCEDURES, dated 20 August 2022. The stated purpose is—

to ensure the Department’s source selection process delivers quality and timely products and services to the Warfighter and the Nation at the best value to the taxpayer. Source selections should be structured and conducted to communicate the Government’s requirements and objectives in clear, meaningful ways to encourage Industry to propose the best possible array of solutions, allow the Government to make meaningful differentiations amongst proposals, and ensure the award represents the best value to the Warfighter and the Nation.”

See <https://www.acq.osd.mil/dpap/policy/policyvault/USA000740-22-DPC.pdf>.

Despite those procedures, source selections take far too long, (see *Longer Than World War II: When Do You Know a Procurement System Is in Trouble?*, 31 NCRNL ¶ 32) and contain far too many mistakes, with GAO sustained protest rates hovering around 20% for years. The DOD source selection procedures, just like any of the forthcoming guides, are merely words written on pages that must be read, analyzed, interpreted, and applied by a person—just like the FAR. So new guides, like a FAR overhaul, are no substitute for investing properly in the contracting workforce’s education and development.

Which brings us to “training.” The OMB memo states:

The Federal Acquisition Institute and Defense Acquisition University (DAU) will work together with the FAR Council to develop modernized training based upon the FAR Council’s deviation guidance and the buying guides as they become available. The buying guide training for specific categories of spend will be designed to build technical expertise at the point of need and allow the workforce to learn more effectively, practice their new skills, and better accomplish agency missions.

To some, that might sound good. But looking past the buzzwords and keeping recent history in mind, this “modernized training” will likely be little more than another set of computer-based training (CBT) modules that are only PowerPoint® deep. Af-

ter all, that is exactly what was rolled out to the acquisition workforce for recent emergent topics like Commercial Solutions Openings, Other Transaction Authority, and Intellectual Property. We are turning to the same organizations that have had responsibility for training our acquisition workforce for decades, asking them to do essentially the same thing, and expecting different results. This is not how one properly educates people in a profession as complex as contracting.

Pursuing A Real Revolution

Our federal acquisition system's challenges and shortcomings are foundational. They are not issues we can "innovate" our way out of. More of the same will continue to deliver, well, more of the same. So, in addition to overhauling policies and regulations, we must reckon with how to develop a truly professional contracting workforce that is capable of handling the challenges and complexities inherent in contracting in a world that is becoming ever more dangerous.

The first thing we must do is develop and provide quality professional education, not just training, for our acquisition workforce, especially for interns and new hires. We are so eager to get new people into offices to start pushing paper that we squander our best chance to educate them and, I daresay, inspire them about the importance (and fun) of contracting. If we want to develop our people properly, we need to be honest about what works and what doesn't, and, frankly, our current construct does not cut it. The time and money we have available to develop our contracting workforce are finite, so we must use them wisely.

Let us stop mass producing CBT modules to merely check a box and invest our resources elsewhere. We need better education on the basics, demanding in-person courses that focus on fundamental skills like how to read, analyze, interpret, and apply regulations and how to think logically. We also need formal education about topics such as the nature of requirements and how best to specify them, how to design appropriate contracts, how to structure a decisionmaking process like source selection, and how to manage and sustain successful contractual relationships, to name just a few. The courses should be rigorous; their intensity and difficulty should at least match what people will encounter in the office. In my experience, the best people in our profession relish challenges—we should cater to those people, not to the lowest common denominator. People who can't (or won't) cut it should be dismissed.

Another effort we should undertake if we are to be serious about "revolution" is making best-in-class study resources accessible. We are leaving too much knowledge off the table when so much of the best thinking about contracting is locked behind expensive paywalls. In my 16-year career, I can count on zero fingers how many times a colleague came to me to recommend and urge me to take a DAU CBT course; however, I have lost count of the number of articles from both THE NASH & CIBINIC REPORT and Thomson Reuters BRIEFING PAPERS that I was lucky to receive from a mentor or stumble upon on the internet for free that truly illuminated an important contracting concept. Want to see for yourself? Compare and contrast DAU's CBT CON 0074, *Source Selection*, to a Thomson Reuters BRIEFING PAPER, Edwards, *A Primer on Source Selection Planning: Evaluation Factors and Rating Methods*, 17-8 BRIEFING PAPERS 1 (July 2017). There is no question which one is the far superior product. Or see Edwards, *Contract Pricing Arrangements: A Primer—Part I*, 09-11 BRIEFING PAPERS 1 (Oct. 2009) and *Part II*, 09-12 BRIEFING PAPERS 1 (Nov. 2009); Edwards, *Contract Line Items*, 21-9 BRIEFING PAPERS 1 (Aug. 2021); and Bodenheimer, McLaughlin, and Crawford *Defective Pricing and the False Claims Act*, 19-5 BRIEFING PAPERS 1 (Apr. 2019). If we want our workforce to operate at excellent levels it follows that we ought to provide them excellent materials to study and learn from.

While I recognize that providing the entire contracting workforce access to such resources is cost prohibitive, settling for our status quo—which provides no access for anyone—is not the right solution either. One possible solution is that the Government could provide access to certain skilled professionals who would be responsible for reading the publications, selecting the best articles, and then leveraging those pieces to develop lesson plans or other materials that can be distributed along with the readings to contracting offices to support ongoing office study groups. And supervisors should be evaluated on the quality and amount of in-house training they provide. However we go about it, what is imperative is that we find a way to regularly leverage some of the best thinking in the contracting profession and help our people learn from it.

Conclusion

Educating and training some 30,000 COs and specialists is a daunting task, but we need to make substantial investments in

people if we want to improve acquisition outcomes. While there are pockets of excellence sprinkled throughout our contracting workforce, we need an acquisition system where excellence is the standard, not the exception. So, is a “Revolutionary FAR Overhaul” necessary? Maybe, but it certainly is not sufficient. We would be wise to remember two things: (1) people, not policy, produce revolutions, and (2) much of what plagues our acquisition system is not due to the FAR, but to a failure of competency that we cannot correct by merely rewriting the rulebook. Overhauling the FAR to “focus only on what’s legally required” may seem enticing, but alone it is little more than a forlorn hope. There are plenty of things that our acquisition workforce desperately needs to do better that are not legal requirements. And, as long as the FAR remains a written document, achieving good acquisition outcomes will always require competent professionals who read, analyze, interpret, and apply the FAR wisely and effectively.

Returning to Admiral Rickover’s observation that people get things done, a real, positive revolution in acquisition system performance will not occur unless we make revolutionary investments in our people. Ultimately, I am confident that if we have a well-educated and skillful contracting workforce they would use even the most convoluted FAR wisely, efficiently, and effectively. In fact, some of us do just that today. Conversely, if we fail to change how we educate and train our contracting workforce and do not provide our people better professional resources, I believe we could have the best written FAR, but much of the workforce would still find ways to misuse it. *Matthew J. Fleharty*

