

GAO Finds Downside of Competition

Written by Nick Sanders

Wednesday, 26 August 2015 00:00

The notion that competition is good is one of the foundational principles of the Federal government's acquisition system. It's right there in the FAR Statement of Guiding Principles (FAR 1.102). The Federal Acquisition System will promote competition. It's like motherhood and apple pie: competition is a good thing and nobody can question it.

Nobody, that is, except for the Government Accountability Office (GAO).

Recently GAO issued a [report](#) that discussed the evolving competitive landscape of the Evolved Expendable Launch Vehicle (EELV). Currently, the EELV is provided to the Air Force by the United Launch Alliance (ULA) via a sole-source, cost-reimbursement contract. However, in future acquisitions the Air Force intends to "procure launch as a commercial item using a firm-fixed price contract." We've [discussed](#) ULA and its sweet spot with the EELV launches before, and we noted then that the situation was subject to change based on smaller, more nimble, commercial companies looking to capture market share from ULA. So the in-process change in USAF acquisition philosophy is nothing new. And yet, that change in approach has GAO concerned, even though use of competition and firm fixed-price contracting would seem to fit right in line with the acquisition emphases of the current administration.

Haven't we posted article after article talking about increased use of fixed-price contracting (including fixed-priced development contracting)? Haven't we posted article after article talking about the general focus on increasing competition? Yes to both questions. Yet GAO is concerned.

Let's explore GAO's concerns.

The GAO report takes a reader through the history of the USAF relationships with Boeing, McDonnell Douglas and Lockheed Martin – companies that eventually merged and/or agreed to a joint venture—the joint venture that became ULA. The GAO report discusses the Air Force's ability to obtain cost or pricing data and the ability to rely on such data from ULA's "immature" business systems. That data was deemed necessary because of the sole-source award to ULA – since there was no competition, the Air Force needed detailed, reliable, cost data in order to determine that the price being paid was fair and reasonable. ULA and the Air Force struggled with the issues (and were criticized by GAO while they struggled). However, by

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July 2014, all six DFARS business systems at ULA had been approved.

Now that ULA has its business systems approved, the Air Force is moving to a competitive acquisition strategy, one in which certified cost or pricing data will not be required—because competition will permit the use of price analysis alone to determine that the price being paid is fair and reasonable. This concerns GAO.

As GAO wrote –

Relying on the commercial market reduces the Air Force's insights into and access to certain types of information that is currently provided under ULA's Phase 1 contract. For example, under the current ULA contract, the Air Force requires ULA to maintain six major business systems that need to be reviewed and approved by a government oversight organization, and provide insights into ULA's cost and schedule performance on a continuous basis, among other benefits. Under the revised acquisition strategy, the Air Force will not have access to the same level of detail it currently obtains and the contractors will be allowed to use business systems that are not required to meet DOD standards.

Let's bottom-line this: GAO is concerned because the Air Force's new acquisition strategy will rely on competition and commercial market forces to assure price reasonableness.

Really. That's their concern.

What we see here is the old guard fighting for "the way we've always done it" while the new guard implements new and innovative strategies. To be clear: we view GAO's concerns as a great example of why it is so difficult for the Pentagon to undertake meaningful acquisition reform.

In addition, notice that what the GAO is fighting for is the traditional oversight processes, the kind of stuff that was once estimated to add as much as 17 percent to defense acquisitions. We wrote once that the six DFARS business systems were a big waste of taxpayer funds. We wrote –

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Reviewing contractor business systems has become a cottage industry, with consultants and attorneys eager to assist contractors with creating adequate business systems, or remediating those systems that failed DCAA or DCMA audit.

And now we have reenergized DCMA functional specialists and refocused DCAA auditors, with new and improved audit programs to help them evaluate business systems. We have peer reviews of ACO business system adequacy determinations, and at least two levels of Review Boards to help adjudicate disagreements between the ACO and those who performed the reviews. We have process upon process, and guidance upon guidance—all to help focus oversight on the first line of defense against fraud, waste, and abuse.

And that is what GAO is arguing for. GAO is arguing for bureaucracy. It is afraid of innovation. It is afraid of change. And it is afraid that too many bureaucrats will be out of work if the Air Force decides to acquire launch services via commercial competition.