



Federal Acquisition Institute

Knowledge Nugget: Innovation and the FAR Guiding Principles Transcript

[Welcome to the Federal Acquisition Institute Media Library. Brought to you by The Federal Acquisition Institute.]

[Knowledge Nuggets: Innovation and the FAR Guiding Principles]

Contrary to popular belief, the Federal Acquisition Regulation, or FAR, is extremely flexible allowing for innovation and sound business judgment. Many Contracting Professionals believe that if the regulations do not specifically state that something is allowed – then it’s prohibited. The truth is that the FAR says the exact opposite! In fact, the FAR Guiding Principles found at FAR part 1.102(d), specifically state: “In exercising initiative, Government members of the Acquisition Team may assume if a specific strategy, practice, policy or procedure is in the best interests of the Government and is not addressed in the FAR, nor prohibited by law (that is, statute or case law), Executive order or other regulation, that the strategy, practice, policy or procedure IS a permissible exercise of authority.”

This might just be the most important—and most overlooked—statement in the FAR! They’re words that every Contracting Professional should live by! Basically, this means – if the FAR doesn’t say you CAN’T do something – then you CAN and should apply professional judgment and use permissible flexibilities.

[Acquisition process: Planning, Solicitation, Award, Contract Administration, Closeout.]

The FAR Guiding Principles provide the backbone for the acquisition process and are the key to providing the Acquisition Team with the ability to be innovative with its acquisitions.

The basic tenets of the Principles are as follows:

1. Satisfy the customer in terms of cost, quality, and timeliness of the delivered product or service;
2. Minimize administrative operating costs;
3. Conduct business with integrity, fairness, and openness; and
4. Fulfill public policy objectives.

But what does all of this mean?

The FAR Guiding Principles tell us that the Acquisition Team should exercise initiative, use best business judgment, and be innovative!

In fact, testing and information sharing is encouraged in order to experiment, learn fast, iterate, adopt, and scale new and modern ways of doing business. There are many examples of Acquisition Teams putting these principles into action, by using innovative practices such as:

- Oral presentations and paperless proposals,
- Technical and product demonstrations,
- Down-selects,
- Phased acquisition strategies,
- And an on-the-spot consensus.

Other examples include Challenge.gov contests, Commercial Solutions Opening (or CSO) pilots, and Other Transaction Authority (or OTA).

For more ideas on successful acquisition innovation practices, including knowledge management resources of proven techniques and to connect with agency Acquisition Innovation Advocates and other innovators, visit the Acquisition Gateway Acquisition Innovation Hub.

[\[https://hallways.cap.gsa.gov/app/#/gateway/acquisition-innovation\]](https://hallways.cap.gsa.gov/app/#/gateway/acquisition-innovation)

What are some other foundational truths that all Contracting Professionals should know based on the FAR Guiding Principles?

First, it's OK to talk to potential contractors – in fact, it's highly encouraged! The FAR Guiding Principles clearly state that the Government should communicate with industry as early as possible in the acquisition cycle to determine the capabilities available in the commercial marketplace.

Fairness and openness require open communication among all team members, internal and external customers, and the public. The contractor community is a part of the Acquisition Team. Specifically, FAR part 1.102 specifies that the Acquisition Team is comprised of representatives of the technical, supply, and procurement communities; customers; and the contractors who provide the acquired products and services.

In an effort to enhance communication with industry, the Office of Federal Procurement Policy (or OFPP) has asked each of the 24 CFO Act agencies to designate an Industry Liaison to serve as a conduit for the acquisition stakeholders, including an agency Acquisition Innovation Advocate, and promote strong vendor communication practices. These are great steps towards strengthened communication with industry and access to non-traditional vendors!

And finally, don't be afraid of Protests! Don't let the fear of a protest get in the way of thinking creatively and innovatively!

Risk avoidance is almost impossible! There's no way to remove all risk from an acquisition. In an attempt to avoid risk, the Acquisition Team often errs on the side of caution, perhaps avoiding innovative techniques and trying to "protest proof" their solicitations and contracts. That is not going to happen. The truth is that very few contracts are actually protested—just about 1%—and of that small amount, about 85% are dismissed by the Government Accountability Office, or GAO.

The FAR Guiding Principles state that the focus of "risk avoidance" should be shifted to "risk management" and that the cost to the taxpayer of trying to eliminate all risk is prohibitive. They even state that the Executive Branch will accept and manage the risk associated with empowering local procurement officials to take independent action based on their professional judgment – in other words, you're provided with "Top Cover," so don't be afraid to use professional business judgment, try new processes, use flexibilities, and leverage partnerships!

The FAR Guiding Principles provide the framework from which the Acquisition Team must operate, but there is a great deal of flexibility afforded to the Team. The next time your acquisition calls for increasing value to your customer to meet mission needs, try a new or modern business practice. It's encouraged by the FAR!

For more detailed information about Innovative Practices, please visit the Innovation Hub on the Acquisition Gateway.

[\[https://hallways.cap.gsa.gov/app/#/gateway/acquisition-innovation\]](https://hallways.cap.gsa.gov/app/#/gateway/acquisition-innovation)

You're also encouraged to contact your agency's Acquisition Innovation Advocate (AIA); refer to the interagency AIA directory on the Innovation Hub.

[Thank you for watching a production from the Federal Acquisition Institute (FAI). Please visit the FAI online media library for other great topics.]