Why Commercial Items Procurement Demands a Smarter Approach

Federal contracting officers face a choice every time they issue a solicitation: which part of the FAR governs this buy? For decades the answer has been a tug of war between Part 12, which covers commercial items, and Part 15, which handles negotiated acquisitions. The distinction matters because the rules, the timelines, and the level of effort required are fundamentally different. Yet many acquisition teams treat the two parts as interchangeable, and that is where the trouble starts.

Part 12 was written to streamline the purchase of goods and services that the government buys off the shelf, or close to it. Part 15 is a heavier process meant for complex, custom requirements where the government needs to evaluate proposals and trade off technical factors against price. The problem is that the line between commercial and non-commercial has blurred. Software subscriptions, cloud services, and integrated logistics support often look commercial on the surface but come with government-unique terms that push them into Part 15 territory. When contracting officers misapply Part 12, they risk protests, delays, and audit findings. When they default to Part 15 for everything, they waste time and money.

The Real Cost of Misclassification

I spent several years working inside a federal buying unit that handled IT hardware and software. Early on we treated almost everything as a Part 15 acquisition because that is what everyone knew. Our lead times stretched to six months for items that any business could buy online in a week. The problem was not the market. It was our own procedures. We wrote lengthy statements of work, held multi-week evaluation periods, and required detailed technical proposals for laptops and standard server configurations. The vendors were frustrated. Our customers were frustrated. And the taxpayers were paying for a process that added zero value.

When we finally shifted to Part 12 for those straightforward buys, the cycle time dropped by more than half. But we also made mistakes. We tried to use Part 12 for a cloud platform that required significant government-specific configuration and data handling. The solicitation was protested, and we had to recompete under Part 15, losing nearly a year. That experience taught me that **commercial items procurement** is not a shortcut. It is a discipline that requires a clear understanding of what makes an item truly commercial, and a willingness to use the right tool for the job.

What Makes an Item Commercial Under the FAR

The FAR defines a commercial product as one that is sold in substantial quantities to the general public, or to state and local governments, and that is offered without modification. That sounds simple, but the interpretation is anything but. Services, for example, must be offered to the general public under the same terms and conditions. If a vendor customizes the service for the government, it may no longer qualify. Similarly, items that are commercial in nature but are sold only to the government do not count. The key is the existence of a genuine commercial market.

Contracting officers must also consider the price. Part 12 allows for price reasonableness determinations based on commercial pricing, which is usually faster than the cost analysis required under Part 15. But if the government demands unique data rights, special warranties, or unusual delivery terms, the item may lose its commercial character. The FAR Council has tried to clarify these boundaries, but the reality is that many products fall into a gray zone. A software platform might be 90 percent commercial and 10 percent custom. In that case, the acquisition team has to decide which part of the FAR governs the whole buy, and that decision often depends on whether the custom portion is material.

When Part 15 Is the Better Fit

Part 15 is not the enemy. It exists precisely for situations where the government cannot rely on market forces alone. When the requirement involves research and development, complex systems integration, or services that must be tailored to a unique mission, Part 15 gives the government the flexibility to evaluate technical approaches, past performance, and management capability. The trade-off is that the process takes longer and requires more documentation. But for high-value, high-risk acquisitions, that investment is justified.

The mistake is treating Part 15 as the default because it is familiar. Many contracting officers have been trained on Part 15 and feel comfortable with its structure. They know how to write evaluation factors, how to run a technical evaluation panel, and how to document the source selection decision. Part 12, by contrast, requires a different skill set. The contracting officer must be able to assess the commercial market, understand pricing trends, and negotiate effectively. It is less procedural and more judgment-based. That can be intimidating, especially for newer professionals.

Practical Strategies for Choosing the Right Path

Over the years I have seen three approaches that help acquisition teams make better decisions about which part of the FAR to use.

- **Conduct a commerciality determination early.** Before writing the solicitation, gather market research. Talk to vendors. Look at GSA schedules and commercial catalogs. If

the item is widely available to the public and the government can accept the standard terms, Part 12 is likely appropriate. Document the rationale.

- **Use a phased approach for services.** Many services can be broken into commercial and non-commercial components. A base contract for commercial training, for example, could be done under Part 12, while a separate option for customized curriculum development goes under Part 15. This avoids conflating the two.
- **Train your team on Part 12 specifically.** Most acquisition training focuses on Part 15. Make sure your staff understands the nuances of commercial items procurement, including how to evaluate price reasonableness without cost data, and how to handle commercial terms and conditions.

These strategies are not theoretical. I have seen them applied in real buying organizations with measurable results. In one case, a federal agency reduced its average procurement lead time for commercial IT hardware from 180 days to 45 days simply by committing to Part 12 for all buys that met the commerciality test. They also reduced protest risk because the solicitations were simpler and the vendors understood the rules.

The Role of Data in Making the Choice

One reason the choice between Part 12 and Part 15 feels so subjective is that acquisition teams often lack good data on their own performance. They do not track which buys used which part of the FAR, how long they took, how many protests they generated, or how satisfied the customers were. Without that data, every decision is a guess. A tool that analyzes historical acquisition data can reveal patterns. It might show, for example, that a particular category of buys routinely gets protested when done under Part 12, suggesting that those buys are not truly commercial. Or it might show that Part 15 buys for routine services are taking twice as long as necessary, indicating an opportunity to shift.

That kind of insight is exactly what a platform like SpendLogic can provide. By examining past acquisitions, it helps contracting officers see which approach has worked and which has not. It does not replace professional judgment, but it informs it. And in a field where the rules are complex and the stakes are high, better information leads to better outcomes.

Conclusion Is Not the Right Word

There is no one-size-fits-all answer to the Part 12 versus Part 15 question. The right choice depends on the specific requirement, the market, and the government's needs. But the cost of getting it wrong is real. Misapplying Part 12 can lead to protests, rework, and loss of trust. Defaulting to Part 15 when Part 12 would work wastes time and money and frustrates everyone involved. The key is to treat commercial items procurement as a skill, not a checkbox.

It requires market knowledge, judgment, and a willingness to use data. When done well, it speeds up acquisitions, reduces risk, and delivers better value to the government and the taxpayer.