



ECPP

European Conference on
e-Public Procurement



Observatório de Prospectiva
da Engenharia e da Tecnologia



Associação Portuguesa dos Mercados Públicos



Universidade Lusáda

4th European Conference on e-Public Procurement

Electronic Marketplaces: Addressing the Quality Conundrum

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George Washington University Law School



Traditional and online courses in public procurement, for students in law and management

**Government Procurement Law
Program, 1960 -**



Buy American – Hire American

The Context



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amazon

Market

Congress

Centralized
Purchasing
Agency

Users

Online
Solution

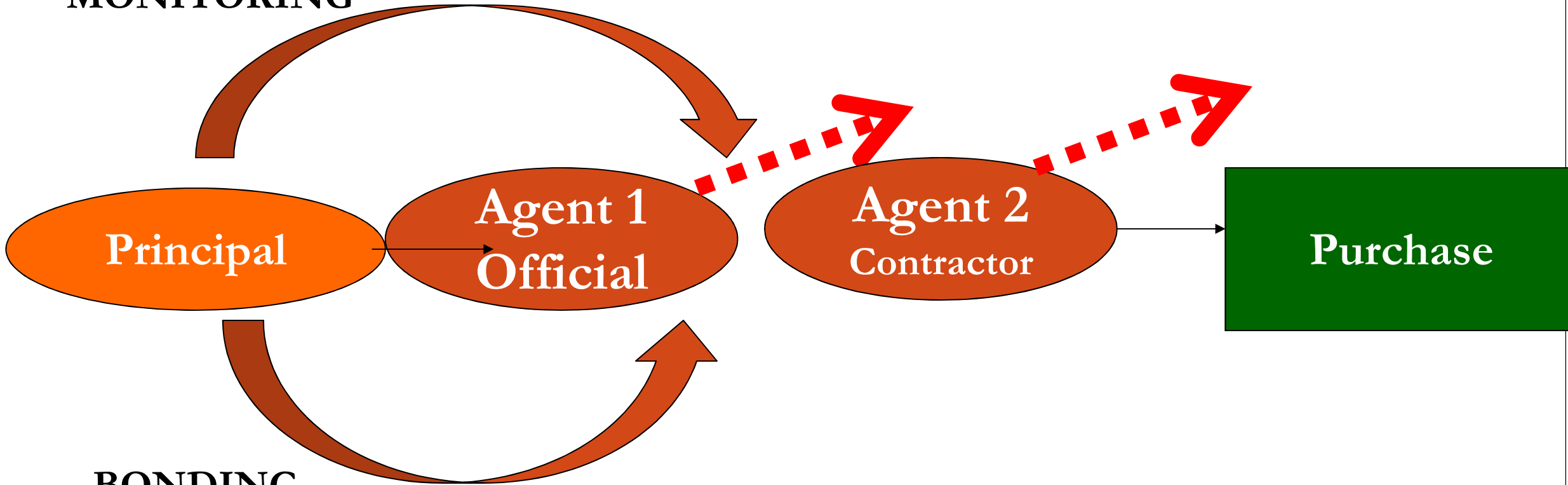


The Players

The Problem

Principal-Agent Model

MONITORING

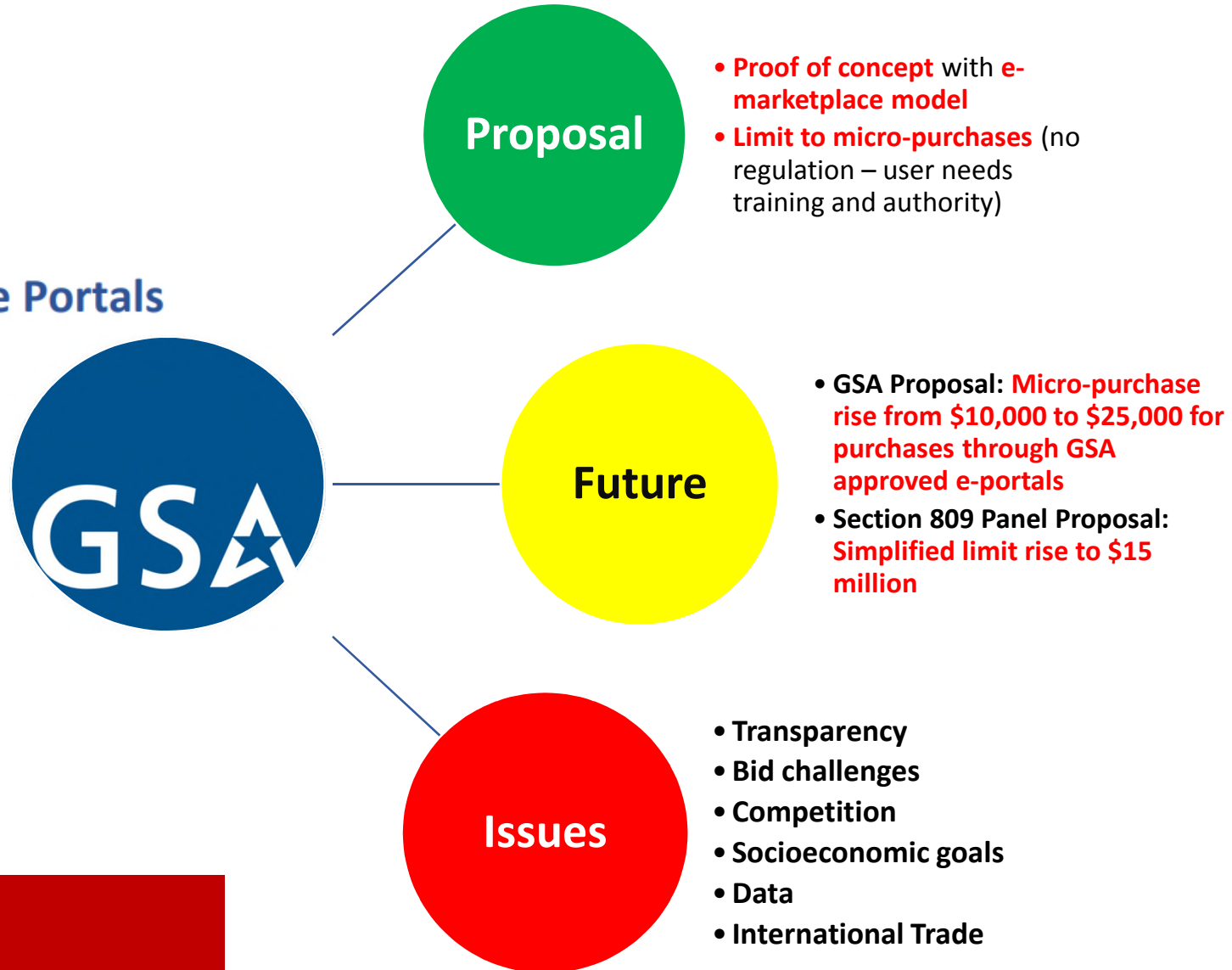


BONDING
(PUNISHING)

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Procurement Through Commercial E-Commerce Portals

Phase II Report: Market Research & Consultation



The Proposal

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Conclusion

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Research resources

GSA Phase II report:

<https://interact.gsa.gov/sites/default/files/Phase%202%20Market%20Research%20and%20Consultation%20%28Section%20846%29%20-%20FINAL%20April%202019.pdf>

Public responses to GSA [request for information](#) (2018): <https://www.regulations.gov/document?D=GSA-GSA-2018-0002-0013>

U.S. Government Accountability Office analysis of Phase I (2018) report: <https://www.gao.gov/assets/700/693504.pdf>

Section 809 Panel Volume 3 report: <https://section809panel.org/volume-3-report/>

Section 838 of [Public Law No. 115-232](#), the John McCain National Defense Authorization Act for Fiscal Year 2019 (2018):

SEC. 838. MODIFICATIONS TO PROCUREMENT THROUGH COMMERCIAL E-COMMERCE PORTALS.

(a) IN GENERAL.—Section 846 of the National Defense Authorization Act for Fiscal Year 2018 ([Public Law 115–91](#); [41 U.S.C. 1901](#) note) is amended—

(1) in subsection (f), by adding at the end the following new paragraph:

“(5) A procurement of a product made through a commercial e-commerce portal under the program established pursuant to subsection (a) is deemed to satisfy requirements for full and open competition pursuant to section 2304 of title 10, United States Code, and section 3301 of title 41, United States Code, if—

“(A) there are offers from two or more suppliers of such a product or similar product with substantially the same physical, functional, or performance characteristics on the online marketplace; and

“(B) the Administrator establishes procedures to implement subparagraph (A) and notifies Congress at least 30 days before implementing such procedures.”; and

(2) in subsection (h), by striking paragraph (3) and inserting the following:

“(3) agree not to use, for pricing, marketing, competitive, or other purposes, any information, including any Government-owned data, such as purchasing trends or spending habits, related to a product from a third-party supplier featured on the commercial e-commerce portal or the transaction of such product, except as necessary to comply with the requirements of the program established in subsection (a).”.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the implementation of any e-commerce portal under such section 846 to procure commercial products will be done in a manner that will enhance competition, expedite procurement, and ensure reasonable pricing of commercial products;

(2) the implementation of the e-commerce portal will be completed with multiple contracts with multiple commercial e-commerce portal providers; and

(3) the Administrator of the General Services Administration should require any e-commerce portal provider to take the necessary precautions to safeguard data of all other e-commerce portal providers and any third-party suppliers