

STATEMENT OF
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BEFORE THE
SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

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Chairman McCaskill, Ranking Member Bennett, and members of the Subcommittee, I appreciate the opportunity to appear before you to discuss the President's Memorandum on Government Contracting and our shared interest in improving our Federal acquisition practices. On March 4, 2009, the President directed agencies, in clear and unambiguous terms, to give greater management attention to contracting activities so that we may achieve the best results possible from the more than \$500 billion in taxpayer dollars that are spent annually for contracted goods and services. The current fiscal challenge underscores the urgency of the President's direction.

My focus as the Deputy Director for Management is on creating a culture that is focused on implementation and achieving results. For acquisition, our efforts are focused on three goals. First, we will find annual savings of \$40 billion through better acquisition program practices. We will work with agencies to improve their processes and practices to identify where the most significant inefficiencies are and take immediate action to achieve real and sustainable improvement. Second, we will take the steps necessary to achieve the best mix of public and private labor resources to serve the American people. Our rules and practices must recognize the proper role for each sector and draw on their skills to help optimize government performance. Third, we will support a strong and well-equipped acquisition workforce. The quality of their skills is inextricably tied to how we will achieve the best long term results from our contracting activities.

This afternoon, I would like to highlight the key actions to create an acquisition system that better serves the needs of our taxpayer by delivering our services more efficiently and effectively.

Acquisition savings

To achieve immediate results, OMB directed agencies to take two actions: first, develop acquisition savings plans; and, second, reduce use of high risk contracting authorities for new contract actions. These directions are laid out in OMB Memorandum M-09-25, *Improving Government Acquisitions* which was issued on July 29, 2009.

Savings plans. OMB's guidance calls on agencies to save 7 percent of baseline contract spending by the end of FY 2011. This approach is built on the premise that every agency can and must immediately operate in a more cost-effective manner and reduce inefficiencies and waste from their practices and programs. At the same time, this approach recognizes that each

agency has different missions and acquisition requirements, as well as strengths and weaknesses, and therefore needs to tailor actions that best serve their specific circumstances.

There are many ways in which an agency will achieve savings from their acquisition activities. For example, agencies may:

- end contracts that do not meet program goals or that support projects that are no longer needed;
- migrate work from a T&M contract, where incentives to control cost are weak, to a fixed-price contract where the risk is on the contractor to perform efficiently;
- forego exercise of an option to extend a non-competitive contract in favor of a competition made possible after contracting and requirements officials identified new solutions to meet the agency's needs that could be met by two or more sources;
- switch from their own stand-alone contracts to contracts that were strategically sourced using the government's aggregate buying leverage to lower the prices agencies individually pay for contracted goods.

Savings plans are due to OMB by November 2, 2009, and will lay out the specific steps an agency will take along with projected savings for each identified step. To establish projected savings, agencies will explain the difference between what would have been spent in the absence of the savings initiative and what the agency expects to spend as a result of pursuing the initiative. The plan will serve as a baseline for agency action and OMB will periodically review progress on the plans.

High risk reduction targets. Noncompetitive and cost-reimbursement contracting carry potential risk of overspending taxpayer resources. Noncompetitive contracts place agencies in the position of having to negotiate contracts without the benefit of a direct market mechanism to help establish reasonable pricing. Cost-reimbursement contracts, as well as time-and-materials and labor-hour (T&M/LH) contracts, provide limited incentive to control costs.

OMB's guidance requires agencies to establish reduction targets for high risk contracting. Specifically, the guidance instructs agencies to reduce by at least 10 percent (using FY 2008 as the baseline) the combined share of dollars obligated through new contracts that are noncompetitive, cost-reimbursement, or T&M/LH.

To help agencies meet their risk reduction targets and achieve sustained improvement in their acquisition practices, OMB's Office of Federal Procurement Policy (OFPP) has established initial guidelines to help Chief Acquisition Officers (CAOs) and Senior Procurement Executives (SPEs) as they think about ways to reduce high risk contracting. The guidelines are framed by the following three key questions:

- (1) How is the agency maximizing the effective use of competition and choosing the best contract type for the acquisition?

(2) How is the agency mitigating risk when noncompetitive, cost-reimbursement, or T&M/LH contracts are used?

(3) How is the agency creating opportunities to transition to more competitive and lower risk contracts?

The guidelines also include a set of considerations that OPPP developed for CAOs and SPEs to identify opportunities for improvement. For example, the guidelines encourage agencies to:

- Consider “hybrid” contracts for larger-scale projects that allow the agency to choose between a fixed-price, cost-reimbursement, or T&M/LH basis for payment based on the nature of the requirement (e.g., the level of uncertainty, complexity, pricing history).
- Analyze the comparative benefits of awarding a new contract using full and open competition as opposed to placing an order under an existing contract -- what some would refer to as “prequalified” or “limited competition.” At a minimum, agencies should evaluate their requirements against each competition strategy to determine which one optimizes their ability to get the best results from the marketplace.
- Use contract review boards and/or peer reviews to challenge plans for meeting requirements through high-risk authorities and move the agency to lower risk contracting and smarter strategies to produce better results.

OFPP will review progress against the 10 percent reduction targets on a semiannual basis in FY 2010. The best practices and strategies of successful agencies will be shared with those who experience challenges so they may take appropriate corrective actions to improve results. OFPP will then set new targets for FY 2011 and beyond. Through this focused and structured effort, I am confident we will reduce our reliance on high-risk contracting authorities.

These efforts are being complemented by the expansion and further clarification of existing government-wide rules on the use of high-risk contracting authorities. Earlier this month, for example, the Federal Acquisition Regulation (FAR) was amended to address long-standing weaknesses in award fee contracting practices, including the practice of roll over. Roll over allowed contractors a second chance to earn fees in a subsequent performance period that were not earned initially and was cited repeatedly in GAO and other management reports as contributing to waste of taxpayer dollars. The FAR now prohibits this practice.

This past summer, the FAR was amended to strengthen the use of contractor performance information in source selection evaluations. An agency’s regular evaluation of contractor performance for consideration in future awards motivates contractors to perform well and reduces the likelihood that taxpayer resources will go to waste. Unfortunately, collection methodologies have been fragmented (e.g., some agencies have used paper processes while others have used internal databases that are inaccessible to other agencies) and agency records often contain insufficient information to appropriately inform subsequent contracting decisions. The FAR has remedied these problems. It now requires agencies to submit electronic records of

contractor performance into a single, web-based government-wide repository -- the Past Performance Information Retrieval System (PPIRS) -- and identify agency officials responsible for preparing evaluations. Beginning in February 2010, OFPP will conduct regular compliance assessments and quality reviews to ensure agencies are submitting to PPIRS timely performance evaluations. Statistics on agency compliance will be made public so taxpayers can see how well agencies are meeting their responsibilities for good stewardship.

Management of the multi-sector workforce

In order for the government's "multi-sector" workforce of federal employees and contract employees to operate at its best, we must have clear rules and effective management practices that recognize the proper role of each sector's labor force. In July, OMB initiated steps to develop and implement policies, practices, and tools for managing the multi-sector workforce. As our first three steps, we: (1) established a new framework for managing the multi-sector workforce, (2) kicked off a workforce planning pilot, and (3) provided guidance to help agencies manage in-sourcing when the results of reasoned planning establish the need for such action. These steps are discussed in OMB Memorandum M-09-26, *Managing the Multi-Sector Workforce*, which was issued on July 29, 2009.

A new framework for managing the multi-sector workforce. We have provided agencies with a new framework of guiding principles for considering how best to manage the multi-sector workforce. Too often, assessments of the multi-sector workforce are driven by a desired outcome, rather than by a reasoned consideration of an organization's true needs as determined by an analysis of its goals and priorities. The new framework asks agencies to conduct strategic human capital planning to identify the functions that are needed by the organization. From this starting point, agencies can more effectively determine a desired skill mix, total labor requirement, and the sector to fill each identified position. Equally important, the framework emphasizes that management is a shared responsibility, requiring continuous and timely collaboration between the program, human capital, acquisition, and budget and finance offices. Each has a role to play in helping the agency achieve a high-performing workforce with a strong internal core of federal employees supported by the expertise of contractors.

Multi-sector workforce pilot. Few, if any, tools currently exist to perform the type of holistic assessment described in the framework. We tend to think about each sector and its development separately: human capital specialists focus on attracting, retaining, and developing federal talent; acquisition professionals focus on buying professional, technical, and other services from contractors. The multi-sector workforce pilot gives each agency the opportunity to create the tools and internal collaborations that are needed to plan and develop the workforce as a whole. Specifically, agencies will complete a pilot by the end of next April under which they perform a multi-sector human capital analysis of at least one organization where there are concerns about the extent of reliance on contractors and take appropriate steps to address any identified weaknesses. The pilot will provide agencies with an opportunity to develop processes and practices -- from mapping the organization in its current and "to be" state to identifying appropriate remedies to improve the organization's performance.

We have more than 20 pilot participants, each of whom has selected at least one pilot project. OMB is partnering with the Office of Personnel Management to support a cross-functional team of human capital, acquisition, and finance specialists to provide technical support to agencies and to capture lessons and best practices. Together, we will build a community of knowledge, including step-by-step practices and tools that may be replicated and used to inform development of additional guidance. These tools and techniques will be used to drive better government performance, which will be achieved in various ways, such as hiring new employees or retraining existing employees, in-sourcing, or adding resources to contract management.

Criteria on in-sourcing. OMB has developed criteria to facilitate the sound application of in-sourcing, so that agencies will be able to consider and successfully use this tool where such remedy is appropriate. The criteria are built around requirements laid out in the FY 2009 Omnibus Appropriations Act, which established a set of parameters for the consideration of in-sourcing.

In the pilots, in-sourcing may be an appropriate remedy where an agency's human capital analysis shows that an agency lacks sufficient internal expertise to maintain control of its mission and operations. At the same time, in-sourcing is just one of a number of tools to be considered in addressing the multi-sector workforce. For example, if an organization's performance problems stem from inadequate management of contracted activities, the best remedy may be allocate additional resources to contract management.

Next steps on multi-sector workforce management. The initial steps I have just described lay the foundation for important progress, but we must also address ongoing confusion in how the boundaries are drawn between federal and private sector performance. For example, we must reconcile differences in the definition of "inherently governmental" function and clarify the meaning of different terms used in connection with non-inherently governmental function, such as "critical function." These issues will be addressed over the next several months and we will seek public comment before new rules are promulgated or existing rules are changed.

A stronger acquisition workforce

A strong workforce is the backbone of our acquisition system. The quality of their skills and judgment is inextricably tied to whether we achieve the best results for our contract dollar. To achieve sustained improvements in competition, we must have the capabilities and capacity within our contracting and program workforce to understand the marketplace and develop appropriate types of informative requirements. Similarly, to effectively manage the risk associated with cost-reimbursement contracts, we must have the broader range of skills these contracts demand – including finance, accounting, cost and price analysis, and program management.

This summer, I shared with the Committee our vision for strengthening the acquisition workforce and preparing them for the challenges ahead. Our vision is built on three pillars: (1)

rigorous strategic workforce planning, (2) improved training and development, and (3) increased recruitment and retention.

As to strategic workforce planning, OFPP has developed an Acquisition Workforce Development Strategic Plan. This Plan will help civilian agencies align their workforce needs with their acquisition profiles to determine the capacity and capability they need over the next five years. The Plan calls for agencies to take immediate steps to increase their contracting workforce and establishes an annual planning process, led by OFPP, to focus specifically on long-term planning that addresses the growth and development needs of the broader acquisition workforce that also includes program managers and contracting officer technical representatives. Equally important, we actively engaged our acquisition and human capital leaders for the express purpose of helping us shape an actionable approach that agencies could easily adopt to immediately begin addressing the development needs of the acquisition workforce at the entry, mid, and senior levels. The civilian agency acquisition workforce grew by 6.5% in FY 2008 and we expect a similar increase in FY 2009. In the guidance we issued this week, we concluded that an increase in the acquisition workforce of 5 percent is needed at most if not all civilian agencies.

Agencies' first human capital plan for acquisition will be due by March 31, 2010, and annually thereafter, and will serve as the basis for budget preparation. We are committed to a sustained management focus on growing both the capability and capacity of this important workforce so that we can improve acquisition outcomes and agency performance.

Moving forward

The Administration is fully committed to improving our acquisition system and providing agencies with the tools and resources they need to get the job done right. Our goals are results-oriented: find \$40 billion per year in savings, strengthen the government's ability to manage the multi-sector workforce, and provide for a strong acquisition workforce. Our approach for working with the agencies is equally focused on getting to the bottom line. For each initiative I have outlined today – i.e., implementing an acquisition savings plan, meeting high risk reduction targets, conducting a workforce planning pilot, and developing a strategic human capital plan for the acquisition workforce – the agency will have the responsibility of coming up with approaches that solve their individual challenges and produce real results. OMB will have the responsibility to make sure agencies have the tools and resources they need to break down the barriers that have stymied progress for too long. We will review progress and hold agencies accountable for results.

Agencies are identifying savings of 7% and have already begun saving money through better sourcing decisions; they have started pilot efforts to study their multi-sector workforce so they can make reasoned choices to rebuild a critical capacity or to save money; they have grown the acquisition workforce over the past several years and we are working with them to provide for additional growth in FY 2011 to support better acquisition outcomes. We are making good progress on each of these fronts, but this is just the beginning. OMB is committed to ensuring that agencies achieve their goals through a dedicated focus on implementation, regular progress reviews with agencies, and engagement with senior agency leadership.

The challenges facing our acquisition community require strong and responsible leadership. Earlier this month, the President nominated Daniel Gordon as the Administrator of OFPP. Dan's many years as a career contracting expert and senior official at the Government Accountability Office have given him a strong understanding of the fundamental principles on which our acquisition system is built and a keen appreciation of the keys to good management in the federal sector. I look forward to welcoming Dan to the management team at OMB and hope the Senate will act swiftly to confirm him as OFPP's next Administrator. I am confident he will provide the type of leadership our acquisition community needs to get the most out of every contract dollar we spend.

We look forward to working with this Committee and your Congressional colleagues in building an acquisition system that delivers the service our country needs and our taxpayers deserve. This concludes my remarks. I am happy to answer any questions you may have.