



IBM Center for
The Business of Government



Six Practical Steps to Improve Contracting

By Dr. Allan V. Burman
Adjunct Professor
George Mason University





Rethinking How to Improve Contracting

Contracting issues will be on the front burner of the Obama administration, and the stakes are large. The Administration has already committed to greater transparency, stronger ethics, more competition, and rethinking the roles of contractors and government employees.

The growing interdependence of public and private workforces for federal programs has been a trend for decades so that today the federal government spends almost half a trillion dollars a year on contracted support. This comprises over two-fifths of all discretionary spending. Moreover, federal agencies are critically dependent on an effective acquisition process to accomplish their missions. At the same time, many observers feel the federal government's contracting system is broken, mired in cost overruns, accountability lapses, and questionable outcomes. In addition, those operating within the system see the environment as "toxic," characterized by fear and mistrust, and with oversight bodies such as agency inspectors general second-guessing their every action.

George Mason University's Public Administration Program and the IBM Center for The Business of Government convened an Acquisition Reform Working Group, which met multiple times during 2008 to address government contracting oversight issues.

Pages 3 and 4 present a set of practical steps for the new Administration. They include hiring more staff, providing more effective training, emphasizing requirements development, and better contract management. For these recommendations to be effective, senior agency officials need to lead the charge and bear the responsibility for making the business case for these changes—and be given the authority to carry them out. Department secretaries and agency heads ultimately bear responsibility to support steps to create an effective acquisition environment in his or her purview. However, a well-qualified chief acquisition officer will likely be the point person for making it happen.

Pages 4 through 8 present challenges raised by the Acquisition Reform Working Group.

The New Administration Should Require All New Agency Heads to Take the Following Steps

1. PROVIDE SUFFICIENT ACCOUNTABILITY AND AUTHORITY.

Give agency chief acquisition officers the responsibility and authority for overseeing both the contracting and program management communities to ensure effective collaboration in all elements of the acquisition process, from developing requirements to awarding contracts, to assessing contractor performance.

2. DESIGNATE CAREER DEPUTIES.

Designate career senior procurement executives as deputies to chief acquisition officers to ensure full coordination of agency-wide acquisition functions.

3. PLAN STRATEGICALLY FOR PEOPLE.

Put in place a robust human capital strategic planning process that provides a full picture of all federal and contractor resources likely to be needed to accomplish agency missions.

4. INVEST IN THE RIGHT TALENT.

Provide sufficient resources to ensure that the right people with the right talent are in place to carry out all aspects of the acquisition function (including seeing that contractors are producing the business results sought).

5. CREATE AGENCY BUSINESS COUNCILS.

Establish a new business council that reports directly to the agency head at each civilian agency. This council should be chaired by a deputy secretary and meetings should be attended by the chief acquisition officer, chief financial officer, chief information officer, and chief human capital officer of the agency. Each chief should have an equal vote on internal human resources, operational, programmatic, and funding issues.

Congress and the Office of Management and Budget (OMB) Should Transform the Role of the OMB's Office of Federal Procurement Policy

6. TRANSFORM OMB'S ROLE.

Turn OMB's Office of Federal Procurement Policy into an Office of Federal Acquisition Policy and include agency program managers under its policy purview. The Office then would have government-wide responsibilities parallel to those of agency Chief Acquisition Officers. Doing this and ensuring the Office is adequately resourced would probably do more than anything to bring about the kind of collaboration between program and contracting staff that the Working Group saw as critical to effecting real acquisition reform across the government. This is the only recommendation that would require legislation.

BACKGROUND

The Acquisition Reform Working Group was comprised of government, private sector, and academic leaders well versed in the field of public administration and acquisition reform. (A list of participants is appended.) This group of experts was challenged to lay out an agenda of practical steps that the leaders of the new administration could take to improve how agencies acquire and use goods and services via contracts. The group met on seven different occasions to address known challenges in:

- The size and competence of the acquisition workforce
- The management of contracts after their award
- The use of interagency contracting vehicles
- The use of performance-based acquisition approaches
- The duties of agency chief acquisition officers
- The evolution of the multisector workforce
- The appropriate role of contractors

Each working group meeting generated an issue paper outlining the challenges. These issue papers contain practical recommendations that participants thought would be useful ways to act on the challenges. A list of the issue papers is also appended.

The Size and Competence of the Acquisition Workforce

The federal government's acquisition workforce is about 60,000 civil servants. While funding for acquisition support has doubled over the last decade, the number of staff responsible for both making and overseeing these awards has remained about the same. This has resulted in an increased use of contractors to help run the acquisition system.

While the number of civil servants available to manage contracts has not kept up with the growth in the use of contracts, the contracting process itself has become much more complex. As a result, the competency of the acquisition workforce is seen as an issue.

Additionally, staff cutbacks in prior years have led to gaps in mid-level management. Staff salaries, when compared to those of their private sector counterparts, are seen as inadequate. Career growth opportunities are limited. Training is short-changed. Operations are stove-piped. And this all occurs in an environment of mistrust and second-guessing.

Given these conditions, today's acquisition environment does not present a pretty picture. The Working Group felt that government leaders need to move from studying the problem to actively addressing it. The Working Group recommends that government leaders implement the following:

- Establish sound career ladders for acquisition professionals to create a clear and easy-to-see path for advancement
- Provide direct hire authority to agencies so they can recruit and acquire staff in a timely fashion
- Put in place intern, mentoring, and coaching programs to enhance training and build confidence that staff can do the job
- Design recruiting programs to bring in mid-career leadership from outside the government
- Offer joint program officer and contracting staff training programs to promote a collaborative working environment
- Establish effective succession planning to cope with impending retirements

The Need for More Collaboration and Effective Management Tools

Program and acquisition staff must work together more effectively toward a common goal. Program and technical staff are responsible for defining the requirements that contractors must meet. They also help contracting officers overseeing contractor efforts. Contracting officers have expertise devising the best contracting approach to ensure a successful outcome—for example, striving to see that competition is a basic element in any procurement.

Assessing contractor performance after a contract has been awarded often gets short shrift relative to effort devoted to awarding the contract itself. But awarding a contract is only a first step. If an agency fails to focus on contractor performance, the effort spent at the front end of the acquisition process is at risk. Similarly, if government staffing is inadequate to support post-award contract management or oversight, how can the agency be assured of getting the right results or even the solution it paid for?

A performance-based acquisition approach offers one way to ensure that desired business outcomes are effectively considered at the beginning of a contract and that performance is actually assessed. However, lack of expertise and training for federal staff in the use of this technique significantly reduces its effectiveness.

Similarly, using current inter-agency contracting vehicles is another readily available tool to streamline the acquisition process and get good results for an agency. However, complaints by inspectors general and others that these vehicles have been inappropriately used as a way to evade good acquisition practices have recently overshadowed the benefits they bring.

The 2007 Report of the congressionally chartered Acquisition Advisory Group points to the lack of good communication between program and contracting staffs and cites poorly defined requirements and a lack of post award contract management as major failings in today's acquisition operations.

The Role of Chief Acquisition Officers and Effective Oversight

A continuing problem, particularly in the civilian agencies, is that the senior official responsible for acquisition, unlike a chief financial officer or chief information officer, is often placed well down in the agency bureaucracy, making it that much harder to get his or her views heard.

As one way to address this problem, Congress established the new position of chief acquisition officer when it passed the Services Acquisition Reform Act of 2003. The expectation was that this individual, as a highly placed non-career appointee, would advise the agency head on business strategy and focusing on acquisition in the broadest sense of the term. The chief acquisition officer would then be carrying out a role very similar to that of the Defense Department's under secretary for acquisition, technology, and logistics, who has the ability to determine whether or not programs should be allowed to move forward. This position offered the prospects of helping to "restore management and oversight capacity" in the contracting realm, as proposed by the incoming administration.

However, there is no one either in the individual civilian agencies or looking across all the agencies that has the overall responsibility and authority to hold program management staff and contracting staff accountable for working together to get the best business results possible. It should be the responsibility of this chief acquisition officer to see that the acquisition management function is adequately resourced, as well as to ensure that effective strategic planning is being done. That is not happening. Moreover that planning becomes even trickier as agencies today carry out much of their work through contractors and not federal employees.

Establishing a business council with all of the key senior players, as noted in Recommendation Five, can ensure the effective collaboration that is so essential to effective agency mission outcomes.

Rather than carrying out the critical acquisition management function, all too frequently the chief acquisition officer is tasked with "other duties as assigned" by a senior political appointee who lacks acquisition experience and already has many other demanding responsibilities.

The Role of Contractors and the Multisector Workforce

Agencies such as the Department of Education, the Environmental Protection Agency and the Department of Energy rely to a huge extent on contractor support to carry out agency objectives and meet mission needs. There are a number of reasons for this increased use of service providers, including the following listing from the 2007 report of the congressionally-chartered Acquisition Advisory Panel:

- Limitations on the number of authorized government positions
- The lack of availability of desired expertise among federal workers
- Agencies' desires for operational flexibility
- The need for a surge capacity

What had once been an “arms-length” relationship between government staff and contractors has become a relationship where these parties are virtually indistinguishable as they carry out agency missions. The close relationship between contractors and government staff poses two concerns:

- Are governmental responsibilities being unacceptably transferred to contractors?
- What are the management implications of contractors and federal employees focused on the same mission objectives but working, as the National Academy of Public Administration notes, “under substantially different governing laws, different systems for compensation, appointment, discipline and termination; and different ethical standards?”

The current policy on inherently governmental functions states that an “inherently governmental function means, as a matter of policy, a function that is so intimately related to the public interest as to mandate performance by government employees.” Based on this policy a contractor would not be allowed to carry out the following types of activities:

- Binding the United States to take some action by contract, policy or regulation
- Determining United States' interests by military or diplomatic action
- Significantly affecting the life, liberty or property of private persons

- Appointing or directing officers or employees of the United States
- Exerting ultimate control over the acquisition or use of property of the United States, including the collection of federal funds

The policy, however, does not prohibit contractors from gathering information or providing advice to government officials or affecting functions that are primarily ministerial in nature. Yet today it seems that contractors are involved in just about every aspect of government operations. Is the current policy that is so honored in the breach realistic, or is a new policy or a more effective implementation scheme necessary?

The Duncan Hunter National Defense Authorization Act of 2009 charges the administration to revisit this issue and update and clarify the definition of inherently governmental functions. The legislation also tasks the administration with developing new policies that directly address the issue of organizational and personal conflicts of interest as a way to deal with these multisector workforce ambiguities and concerns.

These review efforts, and the ensuing policies resulting from them, should help to clarify what is the appropriate role for contractors and civil servants who are operating in this new environment. They also should help mitigate the risks that government decision-making is influenced by inappropriate or biased interests.

In addition, Congress has tasked the administration to identify critical positions that are not inherently governmental but that federal employees should fill to see that agencies retain “sufficient organic expertise and technical capability” to do their work.

CONCLUSION

The common thread in responding to all of the various challenges described throughout this paper is the need for more effective leadership, better strategic planning and a strong push for improved management capacity. And while chief acquisition officers and others can help to lay the groundwork, only the new Administration, working with Congress, can make them happen.

Appendix I

LIST OF ISSUE BRIEFS SUMMARIZING EACH SESSION

Issue Brief 1: The Acquisition Workforce: What Agency Chief Operating Officers Need to Know

Issue Brief 2: Post Award Contract Management: Who's Minding the Store?

Issue Brief 3: Interagency Acquisitions: What Is the Problem?

Issue Brief 4: Performance-Based Acquisition: What Is the Problem?

Issue Brief 5: The Multi-Sector Workforce: How Can We Manage It Better?

Issue Brief 6: The Role of Chief Acquisition Officers: What Should They Be Doing?

Issue Brief 7: The Role of Contractors in Government: Have We Gone to Far?

The briefs are available on The Center's website at www.businessofgovernment.org/publications/contracting.asp.

DEFINITIONS

Acquisition: The process by which the Federal Government acquires goods or services from the private sector, beginning with defining a need and concluding with closing out a contract. Both program staff (i.e., those that establish requirements and monitor contractor performance) as well as procurement or contracting staff (i.e., those with the authority to enter into, administer and terminate contracts) participate in this effort.

Procurement: The operational process of acquiring or obtaining goods or services (e.g., purchasing, contracting, and negotiating directly with the source of supply) carried out by contracting staff.

Contracting: The procedural process of obtaining goods or services via a contract.

Appendix II

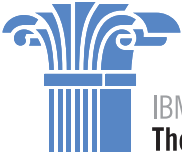
PARTICIPANTS IN THE ACQUISITION IMPROVEMENT WORKING GROUP

George Mason University and the IBM Center for The Business of Government convened a series of seven forums with recognized experts in the field of acquisition and contracting.

The participants took part in their personal capacity, not as representatives of their organizations, agencies, or the government. The views, conclusions, and recommendations expressed in this paper represent those of Allan Burman, Adjunct Professor, George Mason University.

| | |
|-------------------|---|
| Mark Abramson | Leadership Inc. |
| Lisa Akers | General Services Administration |
| Ken Allen | ACT/IAC |
| Anne Armstrong | 1105 Group |
| Mathew Blum | Office of Management and Budget |
| Jonathan D. Breul | IBM Center for The Business of Government |
| Marty Brown | Department of Health and Human Services |
| Allan V. Burman | George Mason University |
| Peter Burr | General Services Administration |
| Robert Burton | Venable |
| Alan Chvotkin | Professional Services Council |
| Tim Clark | Government Executive Magazine |
| Chris Dorobek | FedTalk Radio |
| David Drabkin | General Services Administration |
| David Elizalde | National Science Foundation |
| Kay Ely | Office of Personnel Management |
| Cali Ence | Partnership for Public Service |
| Jon Etherton | Etherton Associates |
| Lesley Field | Office of Management and Budget |
| Dick Fogel | Lockheed Martin |
| Ed Girovasi | Logistics Management Institute |
| Brad Golson | Partnership for Public Service |
| Bill Greenwalt | Department of Defense |
| Lee Gregory | General Services Administration |
| Ted Haddad | General Services Administration |
| Trey Hodgkins | ITAA |
| Patricia Hoover | Internal Revenue Service |

| | |
|-----------------------|---|
| John Kamensky | IBM Center for The Business of Government |
| Deidre Lee | Compusearch |
| Alethea Long-Green | National Academy of Public Administration |
| Gregory McKinney | George Mason University |
| William McNally | National Aeronautics and Space Administration |
| Emory Miller | Robbins Gioia |
| John Needham | Government Accountability Office |
| Shirl Nelson | Acquisition Solutions |
| Joseph Neurauter | Department of Housing and Urban Development |
| Kathy Newcomer | George Washington University |
| John Palguta | Partnership for Public Service |
| Glenn Perry | Department of Education |
| Joseph Petrillo | Petrillor & Powell |
| Karen Pica | Federal Acquisition Institute |
| Paul Posner | George Mason University |
| Corey Rindner | Department of State |
| Joshua Schwartz | George Washington University |
| Amelia Shachoy | Government Accountability Office |
| Thomas Sharpe | Department of the Treasury |
| Maureen Shauket | US Agency for International Development |
| Edward Simpson | Department of Energy |
| Hannah Sistare | National Academy of Public Administration |
| Curtina Smith | Office of Management and Budget |
| Stan Soloway | Professional Services Council |
| Frank Spampinato | Department of Energy |
| Marty Wagner | IBM Center for The Business of Government |
| Molly Wilkinson | Small Business Administration |
| Jim Williams | General Services Administration |
| Julia Wise | Office of Management and Budget |
| Eric Won | General Services Administration |
| Bill Woods (observer) | Government Accountability Office |



IBM Center for
The Business of Government

About the IBM Center for The Business of Government

The IBM Center for The Business of Government connects public management research with practice. Since 1998, we have helped public sector executives improve the effectiveness of government with practical ideas and original thinking. We sponsor independent research by top minds in academe and the nonprofit sector, and we create opportunities for dialogue on a broad range of public management topics.

For additional information, contact:

Jonathan D. Breul
Executive Director
IBM Center for The Business of Government
1301 K Street, NW
Fourth Floor, West Tower
Washington, DC 20005
(202) 515-4504, fax: (202) 515-4375
e-mail: businessofgovernment@us.ibm.com
website: www.businessofgovernment.org



About the Department of Public and International Affairs at George Mason University

The Department's Master of Public Administration (MPA) program is designed for people who hold or aspire to hold leadership positions in organizations that participate in the development and implementation of public policy. The mission of the MPA program is to give graduate students the opportunity to build their knowledge of politics, policy, and management and to enhance their analytic, problem solving, and communication skills.

For additional information, contact:

Paul Posner
Professor and Program Director, Public Administration Program
Department of Public and International Affairs
Robinson A201
MSN 3F4
Fairfax, Virginia 22030
(703) 993-1400
e-mail: pposner@gmu.edu



IBM Center for
The Business of Government

