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BEFORE THE

SUBCOMMITTEE ON MANAGEMENT, INTEGRATION, AND OVERSIGHT

COMMITTEE ON HOMELAND SECURITY

U.S. HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2006



Good afternoon, Mr. Chairman and Members of the Subcommittee. I am Richard L. Skinner, Inspector General for the Department of Homeland Security (DHS). Thank you for the opportunity to discuss our risk management review of the SBInet program initiative.

Today I will discuss performance-based acquisitions, DHS' acquisition management capacity, and the specific risk we see related to the Secure Border Initiative.

To accomplish its mission of securing the homeland, DHS spends billions of taxpayer dollars annually. Of that total, about 30 % of the DHS budget goes to the private sector to procure goods and services. Implicit in each procurement is the desire to accomplish a mission need as reliably and as cost-effectively as possible. One procurement method DHS uses is performance-based contracting. While this method has certain advantages over traditional, specifications-based contracting, it also introduces risks that, unless properly managed, threaten achievement of cost, schedule, performance, and, ultimately, mission objectives.

Key Concepts and Potential Benefits of Performance-Based Contracting

Over the past 25 years, the federal government has attempted to use performance-based contracting. Its basic principals and potential benefits are readily understandable. Nevertheless, successful use of this approach demands additional thought, planning, and oversight measures that may be less necessary in traditional contracting approaches.

A performance-based contract describes needs in terms of what is to be achieved, not how it is to be done. One appeal of performance-based contracting is that it allows the government to focus on identifying needs, objectives, and constraints and allows the private sector to focus on developing a business proposal to meet those needs and objectives. The contracting approach shifts from looking for the low cost, technically acceptable solution to looking for the best-value solution, which is often more innovative than the traditional approach. To determine best value, the government must measure performance trade offs and the cost-effectiveness of the various proposed solutions.

Oversight in specifications-based contracting is a matter of determining whether or not the contractor complies with the explicit terms of the contract. In performance-based contracting, oversight is a matter of determining whether the contractor's solution, when complete, will meet the mission needs specified in the contract. Oversight focuses on program performance and improvement from a defined baseline, not contract compliance.

A trivial example highlights the simplicity of these concepts, but also the need for a precise statement of the performance objectives. A traditional, specifications-based contract for lawn maintenance might require weekly watering and mowing, quarterly fertilizing, and annual aeration. A performance-based lawn maintenance contract might specify that the lawn should never be more than 3 inches high, have no more than 5 % weeds, and never turn brown. The traditional contract tells the contractor how to do its

job; the performance-based contract tells the contractor what the owner wants to see when looking at his lawn. With the traditional contract, the owner may or may not get the desired lawn, but the owner would know exactly what he paid for.

If the performance-based contract specified its objective as a “golf course quality lawn,” the performance-based approach would be riskier than the traditional one. When the owner does not have a well-defined, measurable performance objective, the owner cannot predict how much it will cost, how long it will take, and what the end result will be. The contractor may have a different understanding of how much it will cost and how long it will take to achieve the golf course quality.

Therein lies the critical importance of describing mission needs, and the yardsticks by which to measure achievement, completely and precisely. Without clear agreement between the government and the contractor about what the procurement is to achieve, the government is vulnerable to cost overruns, delays, and, in the end, not receiving a good or service that meets its needs.

Mitigation of Risks

Performance-based contracting may have additional risks, but with forethought and vigorous oversight, the risks can be managed. “[R]isk management is the art and science of planning, assessing, and handling future events to ensure favorable outcomes. The alternative to risk management is crisis management, a resource-intensive process” with generally more limited options.¹

While no one has yet formulated the perfect risk management solution, risks can be controlled, avoided, assumed, and transferred. For example, programs can develop alternative designs that use lower risk approaches, competing systems that meet the same performance requirements, or extensive testing and prototyping that demonstrates performance. Risk mitigation measures usually are specific to each procurement. The nature of the goods and services procured, the delivery schedule, and dollars involved determine what mitigation is appropriate.

Acquisition Management is a Major Challenge for DHS

Building an effective acquisition management infrastructure for the significant level of contracting activities in the department is a major challenge. DHS must have an acquisition management infrastructure in place that allows it to oversee effectively the complex and large dollar procurements critically important to achieving its mission. Acquisition management is not just awarding a contract, but an entire process that begins with identifying a mission need and developing a strategy to fulfill that need through a thoughtful and balanced approach that considers cost, schedule, and performance.

¹ *Risk Management Guide for DOD Acquisition*, Department of Defense, Defense Acquisition University, Fifth Edition (Version 2.0), June 2003.

The urgency and complexity of the department's mission will continue to demand rapid pursuit of major investments. We have conducted audits and reviews of a number of individual DHS contracts. Common themes and risks emerged from these audits, primarily the dominant influence of expediency, poorly defined requirements, and inadequate oversight.

Little disagreement exists about the need for our nation to protect itself immediately against the range of threats, both natural and manmade, that we face. At the same time, the urgency and complexity of the department's mission create an environment in which many programs have acquisitions with a high risk of cost overruns, mismanagement, or failure.

The department's need for increased institutional capacity to manage such risks is a common theme in the audits we have conducted. The department does not have a cadre of skilled program and acquisition management personnel, as well as robust business processes and information systems, to meet its urgent schedule demands and complex program objectives in a timely and effective manner.

Programs developed at top speed sometimes overlook key issues during program planning and development of mission requirements. Also, an over-emphasis on expedient contract awards may hinder competition, which frequently results in increased costs. Finally, expediting program schedules and contract awards necessarily limits time available for adequate procurement planning and development of technical requirements, acceptance criteria, and performance measures. This can lead to higher costs, schedule delays, and systems that do not meet mission objectives.

In our FY 2005 assessment of procurement operations for Secretary Chertoff, we recommended that DHS: (1) require expanded procurement ethics training for senior program and procurement officials; (2) monitor departmental procurement activities for potential standards of conduct violations; (3) create and staff a DHS organization to develop program management policies and procedures; provide independent technical support and share best practices; (4) optimize procurement organization resources across DHS; and, (5) provide the Chief Procurement Officer with sufficient staff and resources to effectively oversee DHS procurement operations.² DHS concurred with each of these recommendations. To a great extent, the Chief Procurement Officer's agenda reflects the issues in our report.

A Systems Approach To Border Security

The challenges the department faces are complex and require comprehensive solutions. Implementing effective solutions to homeland security vulnerabilities requires a systems approach that collectively reduces risks, not just shifts them. Reducing America's vulnerability to terrorism by controlling the borders of the

² DHS OIG, *Department of Homeland Security's Procurement and Program Management Operations*, OIG-05-53, September 2005.

United States is one of DHS' primary missions. Accomplishing this mission requires a comprehensive solution and concerted effort across the department and its federal, state, and local partners. This mission is shared by a number of agencies within DHS and is dependent on the coordinated accomplishment of each agency's roles, as well as joint efforts with other agencies.

The department recognizes the need for a coordinated systems approach to securing the border. During FY 2006, the White House and DHS announced a comprehensive multi-year plan to secure the borders and reduce illegal immigration – *The Secure Border Initiative (SBI)*. DHS created a program executive office within the policy directorate to plan, coordinate, and oversee implementation of SBI across DHS.

Maintaining a coordinated systems approach to addressing the challenge of securing our borders will be a major challenge as DHS components implement the various plans comprising SBI. The major planned efforts under SBI are led by the three lead components for immigration and border security.

- Immigration and Customs Enforcement leads efforts to improve the apprehension, detention, and removal of illegal aliens, and to expand worksite enforcement. Improvements in alien detention and removal efforts require coordinated efforts across DHS and collaboration with the Department of Justice and other agencies sharing responsibility for this function.
- Citizenship and Immigration Services leads initiatives for a temporary guest worker program; streamlining immigration benefits processes; and expanding the employment verification program. CIS efforts focus on automating and improving processes to: (1) increase efficiency and alleviate chronic backlogs in benefit application processing and adjudications; and (2) handle anticipated increases in applicants under proposed expanded guest worker initiatives.
- Customs and Border Protection leads the SBInet major investment program to gain control of the borders using a mix of technology, infrastructure, personnel, and processes. While SBInet is a new program, it replaces two previous efforts to gain control of the borders – the Integrated Surveillance Intelligence System (ISIS) and the America's Shield Initiative (ASI) – with a more comprehensive solution.

Other DHS components share border security responsibilities and are necessarily part of a comprehensive solution to border and immigration control. For example, the US-VISIT Program is responsible for developing and fielding DHS' entry-exit system. It also coordinates the integration of two fingerprint systems: DHS' Automated Biometric Identification System and the Federal Bureau of Investigation's Integrated Automated Fingerprint Identification System. Border

security also depends on information about terrorists kept on various watch lists, which are managed by several federal agencies. Those agencies and DHS need to coordinate access to the lists to ensure valuable information flows to field personnel on the line.

Observations about the SBInet Major Acquisition

The SBInet program is intended to gain operational control of the nation's borders through improved use of technology, infrastructure, and personnel. While SBInet is a new major acquisition program, it replaces two previous efforts to gain control of the borders: the Integrated Surveillance Intelligence System (ISIS) and the America's Shield Initiative (ASI). The department's performance-based acquisition strategy was to solicit solutions from industry and select a systems integrator to develop solutions to manage, control, and secure the borders using a mix of proven, current and future technology, infrastructure, personnel, response capability, and processes.

The department awarded the SBInet contract to the Boeing Company in September 2006. The department awarded an indefinite delivery, indefinite quantity contract, leaving the work tasks and deliverables largely undefined until the government negotiates a specific delivery task order. The contract base period is three years with three 1-year options. The initially awarded task is for Boeing to provide and integrate equipment to achieve operational control of a segment of the border near Tucson, Arizona, by June 2007.

While the department has recently taken steps to establish adequate oversight of this contract, we see risks similar to those occurring in other DHS acquisitions where contract management and oversight has failed. Prior to award of the SBInet contract, the department had not laid the foundation to oversee and assess contractor performance and control costs and schedule of this major investment.

Management and Oversight Capacity. The department's acquisition management capacity lacked the appropriate work force, business processes, and management controls for planning and executing a new start major acquisition program such as SBInet. Without a pre-existing professional acquisition workforce, CBP had to create staffing plans, locate workspace, and establish business processes, while simultaneously initiating one of the largest acquisition programs in the department. At the time of the contract award, the organizational structure was in flux and key positions were still being identified and filled.

Only recently has the department performed the work breakdown analysis needed to define and stabilize the SBInet organizational structure and restructure the organization to reflect this analysis. The emerging organization proposed 252 positions; however, it is unclear whether that organization will be up to the challenges ahead. Staffing the SBInet program office has been and continues to

be a critical problem for the department. We identified other specific management oversight risks at the time the award:

- ❑ Whether organizational roles and functions will be assigned appropriately for employees and contractors. While contractors are appropriate for support services, only federal employees should perform inherently governmental functions.³ The emerging organizational structure identified 65% of the 252 positions as contractors. This appears excessive for the management control environment that will be needed for such a large, complex acquisition.
- ❑ Whether the staff will have the appropriate qualifications and necessary training in acquisition management, as well as the right skill mix. A question remains whether the emerging organizational structure will adequately provide for the use of integrated product teams, as required by OMB capital budgeting regulations.⁴
- ❑ How workforce turnover and fluctuations will be managed. As a stopgap measure, CBP is detailing agents and other staff on temporary assignment to identify and perform tasks they are not experienced or trained for. The program office has no clear plan for replacing the detailees and transferring their institutional knowledge. Without turnover procedures and documentation of decisions and deliberations, new personnel will be at a disadvantage in managing implementation.

Additionally, the investment review processes required by department directive⁴ were bypassed and key decisions about the scope of the program and the acquisition strategy were made without the prescribed review and analysis or transparency. The department has since announced plans to complete these reviews. The department's Investment Review Board and Joint Requirements Council provide for deliberative processes to obtain the counsel of functional stakeholders. To ensure the program is on the right track, and to bolster support for revising its FY 2008 budget estimates, CBP intends to present program plans and the appropriate program documentation for Joint Requirements Council review within 60 days of award and the Investment Review Board within 90 days.

Operational Requirements. Until the department fully defines, validates, and stabilizes the operational requirements underlying the SBInet program, the

³ OMB Policy Letter 92-1 and Circular A-76 describe inherently governmental functions as those so intimately related to the public interest as to mandate performance by government employees.

⁴ OMB Circular A-11 requires use of Integrated Product Teams (IPTs). IPTs bring a variety of functional disciplines to the task, ensuring full consideration of perspectives in making program decisions, so that the potential impacts are identified and trade-offs understood. At issue for SBInet is whether the appropriate mix of technical and business disciplines, such as engineers, logisticians, contracting officers, and cost analysts will be available to staff the IPTs.

⁴ DHS Management Directive 1400, Investment Review Process.

program's objectives are at risk and effective cost and schedule control are precluded.

The department deferred fully defining operational requirements until after award of the systems integration contract. In selecting the systems integrator, the department used a broad statement of objectives as part of its acquisition strategy in order to allow industry to be creative in its solutions and, consequently, deferred setting contract requirements, including performance metrics, until delivery task order negotiations.

While the SBInet broad statement of objectives is an appropriate algorithm⁵ for encouraging the systems engineering desired, success in accomplishing this macro algorithm cannot be practically measured. By not setting measurable performance goals and thresholds, the government was at increased risk that offerors would rely on unproven technologies and high-risk technical solutions that would delay implementation or be unaffordable.

To mitigate this risk, the solicitation asked for solutions that used commercial-off-the-shelf and government-off-the-shelf solutions, even as the department publicly encouraged use of high-risk, developmental items, such as unmanned aerial vehicles. Also, the department required submission of quality assurance plans as part of the proposals to mitigate this risk. However, it remains to be seen whether the contractor's quality assurance plan will satisfy the department's needs or whether the department's criteria for gauging program success is sufficient to evaluate the contractor's performance. To control this risk, the department needs to refine, validate, and set stable operational requirements for SBInet, enabling the program office to define and set contract requirements in task order negotiations, including the performance metrics needed to ensure accomplishment of the program's objectives.

The department also needs to define and document the underlying operational requirements, i.e., translating mission needs, describing shortcomings with the status quo systems and tactics, setting thresholds and objectives for key performance parameters including affordability, and prioritizing among competing needs and conflicting goals. Without operational requirements, the department will not have a common understanding of what it is to accomplish, and program managers will not have the guidelines needed to balance competing objectives in cost, schedule, and performance objectives through the life of the program. Furthermore, until operational requirements are fully defined and validated, providing firm support and validated assumptions for the program's cost estimates, the credibility of budget estimates is undermined.

⁵ The macro algorithm is to "detect entries, identify and classify, respond, resolve." The SBInet system is to detect entries when they occur; identify what the entry is; classify its level of threat (who are they, what are they doing, how many, etc.); effectively and efficiently respond to the entry; and bring the situation to the appropriate law enforcement resolution (apprehension, interdiction, transport to interdiction processing point, etc.).

The department took steps during the competition for the systems integration contract to compensate for the lack of fully defined, validated, stabilized, and documented requirements. While the participating DHS and CBP officials had a strong sense of the underlying operational requirements they expected the SBInet program to fulfill, such an understanding was not reduced to writing and conveyed to others. However, the department provided industry with a library of documents and videos that describe mission goals, current operations, and desired improvements over current operations. Also, the department conducted an extensive “due diligence” process and held oral presentations and question and answer sessions with the competitors to exchange information. Additionally, the department developed a structure to frame analysis of the offerors’ approaches. The department then modified the solicitation, requiring offers to be mapped to this structure; thereby clarifying proposed approaches, assumptions, and costs and facilitating comparisons. Eventually, this work break down analysis should facilitate comparison of the winning industry approach to the validated operational requirements.

However, until the operational requirements are validated and stabilized, the SBInet program will be vulnerable to changing direction. Changing the program’s direction will likely require contract changes and equitable adjustments, rework of the contractor’s planning, management, and systems engineering efforts, and add cost and delay.

With firm requirements, the program office can and should move quickly to implement a performance management processes. A deferred, but critical, first step in establishing control of cost, schedule, and performance is the setting of an “acquisition program baseline.” This baseline of performance and schedule requirements and total cost estimates is needed to monitor the health of the program. The absence of an acquisition program baseline is a significant risk to the success of the SBInet program. The department deferred setting a baseline until after contract award because of the uncertainties related to industry solutions. Without an “acquisition program baseline,” however, it is impossible to gauge the effectiveness of the program. An acquisition program baseline is a necessary first step in implementing “earned value management.” The department plans to rectify this omission through the Investment Review Board and Joint Requirements Council review and approval process.

“Earned value management” is a comprehensive management information and analysis system, fed by cost accounting data arrayed against work break down structures and program schedules. It is essential to the department’s understanding of the program status, the contractor’s performance, and reliability of program budgets and cost estimates. The program manager must know at all times how the actual cost of the work performed compares to the budgeted cost of the work scheduled. Automated analyses of this data across the many tasks and activities being undertaken by all personnel working on the program should focus

management attention where needed and trigger early corrective action. “Earned value management” is not only a best practice; it is an OMB capital budgeting requirement.

The department included provisions for “earned value management” in the solicitation and the program office is developing plans to start and implement the process. However, to date the system is not in place and, until it is put in place, the department does not have a sound basis for its program cost estimates. Early, effective “earned value management” implementation will be key to understanding the impact that changes will have on the program, including trade-offs needed to balance progress across the many components of the program.

In conclusion, the department’s mission will continue to require rapid deployment of new equipment, technology, and processes. These efforts will frequently entail procurements with ambitious cost, schedule, and performance goals. For this reason acquisition management will continue to be a priority for my office and an area where we plan to focus considerable resources. We will examine crosscutting acquisition issues, in addition to individual programs, such as SBInet and Deepwater. For example, during the upcoming fiscal year we intend to review DHS’ use of sole source contracts and the training and qualifications of its acquisition workforce.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions that you or the Subcommittee Members may have.

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