

A Game of Numbers

Building Strategic Partnerships with Industry

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To fill personnel gaps and keep up with the pace and complexity of acquisitions, DoD must rely more heavily on contractors.

In spite of the efforts to attract and retain talented acquisition professionals, the increases in workload, the complexity of the contracts, and the military operations in Iraq and Afghanistan have resulted in a dramatic reduction in the Department of Defense's capability to meet the difficult challenges thrust upon the acquisition community. Complicating the problem are issues of ethics, which have resulted in congressional action to increase the scrutiny of the contracting field through more regulation and oversight. One of the fundamental root causes of inefficiencies in DoD procurement needing

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to be addressed is the lack of trained professionals to handle the workload. More resources are required to handle the complex DoD acquisitions processes because new hires, leadership development, and training will not suffice to fill the ever-increasing gap in skills needed.

Hiring and Training

DoD faces enormous challenges in building its acquisition workforce. Many proposals to attract new talent have been reviewed, and DoD is continuing its efforts to develop leaders from within the department. The Acquisition Advisory Panel, created as a result of the Services Acquisition Reform Act of 2003, recommended eliminating obstacles to the hiring of new talent and establishing a government-wide acquisition intern program to attract first-rate entry-level personnel into acquisition career fields. The panel also recommended incentives to retain qualified, experienced personnel. Nonetheless, finding the right balance of skills to complete acquisition functions continues to be a challenge. Further complicating the issue is the

pay disparity—experience continues to walk right out the door or right past it for the better-paying private sector.

The issues are pronounced in the Army. *Urgent Reform Required: Army Expeditionary Contracting*, the report of the Commission on Army Acquisition and Program Management in Expeditionary Operations, observed that the Army's acquisition workforce is not adequately staffed, trained, structured, or empowered to meet the needs of

the warfighter. The report also noted that only 56 percent of military officers and 53 percent of civilians in the Army contracting career field are certified for their current positions. A similar situation can be found across DoD.

As the DoD acquisition workforce decreases and the investments in goods and services increase significantly, the role of the acquisition workforce continues to change as well. That workforce must now have the skills and knowledge to manage more complex contracting approaches. However, government acquisition personnel do not have all of the necessary skills and knowledge. Therefore, to fill personnel gaps and keep up with the pace and complexity of acquisitions, DoD must rely more heavily on contractors to fill program management responsibilities, develop requirements, design products, and select major system and subsystem contractors. Although issues exist with contracting out procurement functions, DoD's performance of its acquisition functions can be vastly improved through strategic partnerships with industry.

Finding the Balance and Filling the Gap

"Total force construct," described in the *2006 Quadrennial Defense Review* and the *DoD Civilian Human Capital Strategic Plan 2006–2010*, is the department's strategy to develop the right balance of personnel and skills through integration of all the components of the total force: active and reserve military members, civilians, and support contractors. But before DoD can capitalize on contractors' respective strengths and create ideal outcomes, it needs to better understand what support contractors provide as part of the total force—more specifically, how contractors providing acquisition support fit into the construct. To develop that understanding, DoD has established a total force initiative to enable acquisition organizations to understand how, where, and to what extent support contractors are appropriate.

The human capital plan goes one step further by incorporating strategies to ensure that the contracting community continues to effectively deliver equipment and services to meet the warfighter's needs. For instance, the plan mentions the need to adjust personnel strategies such as recruitment and retention efforts to eliminate gaps. But the plan does not go quite far enough because it does not explicitly state the need to consider contractors in assessments to identify current and future gaps in the acquisition workforce. In short, the plan does not foresee a major role for contractors as part of the strategy.

While DoD implements workforce initiatives as part of its strategic plans, critical missions need to be carried out. The disparity between the number and complexity of federal government programs and the number and skill sets of federal employees available to implement those programs continues to grow. The disparity is exacerbated

by the acceleration of employee retirements. Therefore, DoD and the government as a whole should look to industry to help fulfill the acquisition mission.

Supporting the Mission

Although hiring contractors to support acquisition functions is an ongoing issue, the need to do so is compelling. In its November 2005 report, *Contracting Out Procurement Functions: An Analysis*, the Defense Acquisition University cited four top reasons that federal agencies are contracting out procurement services: The agencies need to meet workload surge requirements, are unable to hire adequate resources to meet workload, can meet workload requirements faster through contracting versus hiring, and can select specific expertise. The DAU study also cited the pressing needs of DoD contracting offices by highlighting the drops in DoD's personnel levels, the increased activity rates for procurement organizations, and the ever-widening gap between the requirements and the government's capability.

To fulfill its acquisition mission, DoD should expand the use of specifically targeted industry resources. DoD particularly needs acquisition professionals with technical skills related to systems engineering, program management, and cost estimation. Obtaining these skills through the use of industry resources will require creating strategic partnerships with industry.

This relationship begins by using the correct mix of government and industry personnel who have the proper training, qualifications, and skill sets. The DAU report stated that as a general rule, contractor employees should not exceed 25 percent of an activity's total procurement workforce. The DAU report also stated that it is reasonable to contract out functions or tasks that are not inherently governmental. However, the DAU report failed to explain the rationale for the percentage mix of government versus contractor personnel or to define the acquisition functions that were deemed inherently governmental. DoD needs to consider these issues as it makes strategic decisions on the proper and effective use of contractors to close the acquisition capability gap.

Lowering Risks and Increasing Performance

Using contractors to perform the DoD acquisition mission does come with risks. In particular, as noted by the Government Accountability Office, contractors could influence the government's control over and accountability for decisions that may be based, in part, on contractor work. GAO also noted two other risks: Contractors may not be subject to the same ethics rules as government employees doing the same job, and the government may enter into an improper personal service contract if an employer/employee relationship exists as a result of the contractor support.



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Because of the risks, some in DoD hesitate to form strategic partnerships with industry to fulfill acquisition functions. However, these risks can be mitigated through oversight, planning, training, and leveling of the acquisition skill sets between contractors and government personnel.

Oversight

To ensure that performance objectives—cost, schedule, and performance metrics—are met, government oversight must be better managed after contract award and through implementation, execution, and closeout. This oversight must be consistent with the contract, and it must be provided through a proper mix of skilled contract employees familiar with the requirements of the customer. GAO has written extensively about this issue, which has been specifically acute during emergency operations such as in the aftermath of Hurricane Katrina and Hurricane Rita. DoD leadership at all levels must do a better job communicating with industry through strategic relationships that ensure mutual success for both the customer and the contractor. This communication would

be particularly beneficial prior to contract award so that both parties have clearly delineated roles and responsibilities for proper authority and program effectiveness.

Planning

Many problems with execution and the proper role of contractors performing inherently governmental functions can be mitigated through planning prior to contract award. This planning should focus on some of the important factors—cited by the GAO as continued risks—that DoD must improve upon. These factors include clearly defining performance objectives, roles, and responsibilities for contractors performing acquisition functions; mitigating risks with personal service contracts; and identifying conflicts of interest.

To help discuss the need for improved communications with industry, a January 2008 memorandum from Shay Assad, director of defense procurement and acquisition policy, described a key element in proper planning and risk mitigation: Improve communication with industry during the source selection process. Assad encouraged government participants involved in source selections to fully engage with industry at all stages of the competitive process, including industry days, requests for information, and draft requests for proposals to provide opportunities for industry and government to exchange data of mutual benefit. Through these types of exchanges, both parties can overcome the issues involving contractor roles, loss of governmental control, and inappropriate relationships between contractors and the government.

Through specific performance objectives, proper oversight, and regular reporting—planned prior to contract award—the two parties can create a mutually advantageous strategic partnership. Early planning also needs to address resource management and the assignment of trained performance monitors to the contract so that proper oversight can begin upon contract award. This type of planning should be done early to ensure contractors are held accountable and to mitigate the inherent risks.

Training

The need to properly train government personnel to perform acquisition functions cannot be stressed enough. GAO has written many reports that identify DoD as being at risk because of inadequate surveillance of contracts. Therefore, government personnel need training on contract surveillance. Another issue noted by GAO was that DoD did not know the content or frequency of ethics

training and counseling, nor did it know which employees received information on conflicts of interest and procurement integrity. To help offset these challenges, the Acquisition Advisory Panel recommended training for contractors and government employees, and development of standard conflict of interest clauses for use in solicitations and contracts. DoD's policy is to provide personnel with timely and effective training to ensure they have the knowledge and other tools necessary to accomplish their missions. Continuous improvements in this area will help alleviate the issues with government personnel and will ensure timely performance by contractors.

Risk Management

Risks can be further mitigated by addressing organizational conflicts of interest. This can be done without any new federal statutes. As recommended by the Acquisition Advisory Panel, conflict of interest obligations should be imposed through contract clauses to ensure ethical conduct. This relates to the creation of the strategic partnership between government and industry, resulting in an open communications policy that will ensure ethical behavior in all aspects of the relationship. Nonetheless, a new Federal Acquisition Regulation ethics rule requires companies doing business with the federal government to adopt a written code of ethics and business conduct, establish an employee ethics and compliance training program, implement an internal control system, and display Office of the Inspector General hotline posters in common work areas and on any Web site used to provide information to employees. The new rule, coupled with self-regulation and proper contract clauses, will ensure the mitigation of conflict of interest issues throughout the life of the contract. As a strategic partner, industry does not want to put itself in a position where it cannot be responsive to customer needs and requirements because of the nature of the work it performs for its customers. That fact, combined with open communications and proper oversight, should help alleviate some conflict of interest issues recently identified by GAO and DoD.

Increased performance and the alleviation of certain barriers to performance may be achieved through the Acquisition Advisory Panel's recommendation of replacing the ban on personal service contracts with guidance on the appropriate and effective use of such contracts. A personal service contract is defined in the FAR as a contract that, by its express terms or as administered, makes contractor personnel appear to be government employees. The Office of Personnel Management further defines them as contracts "that establish an employer-employee relationship between the government and contractor employees involving close and continual supervision of contractor employees by government employees rather than general oversight of contractor operations." The key indicator of a personal service contract, according to the FAR and the Office of Personnel Management, is whether the

government exercises relatively continuous supervision and control over the contractor personnel. Using contractors to perform acquisition functions—clearly a personal service contract—has been an issue that DoD leadership has struggled with to ensure integrity of the acquisition process. However, the increased flexibility that can come from the ban on these prohibitions can help relieve some pressures on both contracting officers and the overall acquisition workforce.

In implementing the panel's recommendation, the government should be allowed to direct or supervise the substance of work or tasks performed by the contractor. This new flexibility, however, should be accompanied by retention of the current prohibitions on government involvement in purely supervisory activities such as hiring, leave approval, promotions, and performance ratings. Because this recommendation is a significant departure from the current practices on the prohibitions on personal services, the panel further recommended that the GAO review the new policy five years after implementation to identify the benefits of the changes and any unintended adverse consequences or abuses by agencies. Through implementation, DoD can have enormous flexibility in creating the strategic partnerships necessary to perform its acquisition functions, while lowering risks and increasing responsiveness to the warfighter.

Leveling of Skills Sets

Through its human capital strategies, DoD needs to ensure that the strategic partnership includes the right mix of contractors and government personnel, aligned with the needed skills to perform the acquisition mission. Contractors performing acquisition functions should have, as a minimum, the equivalent levels of experience, education, training, and certifications that are required of government personnel performing the same tasks to ensure that adequate resources and required capabilities are brought to bear on the acquisition function. DoD should create a path for contractors to be Defense Acquisition Workforce Improvement Act-certified to ensure that the contractors' skill sets meet the government's needs.

Although training, hiring, and balancing of skills will continue to be a priority for DoD in relation to its human capital strategies, the benefits of forming strategic partnerships with industry cannot be overlooked. DoD does not have adequate resources to complete its acquisition mission. Moreover, instances of waste, fraud, and abuse will continue to occur unless DoD works flexibly with industry to close the acquisition skill gap and to ensure the achievement of cost, schedule, and performance goals.

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