



CONTRACT MANAGERS ARE UNIQUELY QUALIFIED AND POSITIONED TO TAKE ON A MORE PROACTIVE, OVERSIGHT-TYPE ROLE—MOVING FROM TODAY'S FRAGMENTED, COMPARTMENTALIZED CONTRACT MANAGEMENT APPROACH TO ONE THAT IS SEAMLESS, STRATEGIC, AND COST-EFFECTIVE.

CRADLE-TO-GRAVE CONTRACTING
MEETS THE "KEY PERSONNEL" CLAUSE



**BY
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LARGE, COMPLEX GOVERNMENT CONTRACTS CAN SPAN YEARS, RESULTING IN NUMEROUS CHANGES IN THE NAMES AND FACES OF THOSE INVOLVED, AS WELL AS REQUIREMENTS, THROUGHOUT THE LIFE CYCLE OF A CONTRACT. "I INHERITED THIS CONTRACT!" IS THE FRUSTRATED REFRAIN OF FAR TOO MANY CONTRACT MANAGERS IN BOTH THE PUBLIC AND PRIVATE SECTORS.

However, such frustration can be dramatically reduced, if not completely eliminated, by committing to a "cradle-to-grave" contracting environment that builds an effective, consistent contract management process from the earliest stages of the acquisition to the final contract closeout. This will become increasingly important as the U.S. federal government moves to increase oversight and reduce wasteful spending.

SPINNING WHEELS

Today's contract management environment is often one of competing agendas. Many companies and agencies operate under a "stovepipe" organizational structure, where each department focuses on a specific piece of an acquisition without a full understanding of how its piece fits into the overall process.

Contracts may indeed involve a wide range of functional areas that generally include a diversity of groups, such as engineers, budget

and finance officers, inspectors, legal counsel, auditors, subcontract managers, property managers, and a host of other specialists. Since each group has its own interests, priorities, and procedures, it becomes difficult to motivate them toward a common goal of successful contract management.

There are some reoccurring and fundamental reasons that today's contract management approach breaks down over the long haul; and they all tie back to personnel changes:

- Managers tend to move people in and out of key positions without recognizing the real breakdowns that such turnover creates, such as lack of continuity over the course of the contract and personnel transitions that lead to important issues falling through the cracks;
- Consistency suffers as new people enter the process along the way, interpreting contract requirements differently than their predecessors;
- A lack of accountability occurs when the players are frequently shifting, and there is no true ownership of the contract as it moves from person to person and office to office;

- Personnel changes lead to a lack of productivity, since new people must get up to speed after acquired knowledge walks out the door with exiting parties; and
- With changing names and faces serving as the contract lead, there is little chance to establish solid, long-term relationships between customer and contractor, which are critical for successful contract management.

Certain events and changes are difficult to control, however. There is a natural level of turnover in organizations due to an increasingly mobile workforce, retirement, reorganizations, and downsizing. Such events make it challenging to establish and maintain a dedicated team throughout the life cycle of an acquisition. But professionals must rise to the challenge, especially since new government mandates call for change in order to improve the quality and consistency of contract management.

PRESIDENT OBAMA ADDRESSES THE ISSUE

President Barack Obama sent a clear message that his administration is committed to improving our "broken" procurement system. On March 4, 2009, the Obama administration issued a Presidential Memorandum titled, "Memorandum for the Heads of Executive Departments and Agencies, Subject: Government Contracting." Two passages in the memo are particularly germane to our topic. The first passage states:

The federal government must have sufficient capacity to manage and oversee the contracting process from start to finish, so as to ensure that taxpayer funds are spent wisely and are not subject to excessive risk.

The second passage states:

[I]t is essential that the federal government have the capacity to carry out robust and thorough management and oversight of its contracts in order to achieve programmatic goals, avoid significant overcharges, and curb wasteful spending. A [Government Accountability Office] study last year of 95 major defense acquisitions projects found cost overruns of 26 percent, totaling \$295 billion over the life of the projects. Improved contract oversight could reduce such sums significantly.

With this memo, President Obama instructed the director of the Office of Management and Budget (OMB), in collaboration with the heads of departments and agencies, and with input from the public, to develop and issue governmentwide guidance by

September 30, 2009, to address, along with other issues, the oversight of contracts. The memo also indicates a high level of awareness of serious deficiencies in contract management, and it will be interesting to see the forthcoming guidance.

However, we do not need to await an official document to address our problems. We have seen a long stream of acquisition reforms, initiatives, and policies issued in years past. The problem is not so much a lack of guidance as it is a lack of will, action, and leadership.

ELEVATING THE ROLE OF THE CONTRACT MANAGER

In light of the above noted challenges, it is imperative that federal and corporate managers provide the continuity that is too often lacking in contract management by clearly identifying, committing, and supporting the primary owner of the contract. The owner of any given contract should be a person within the organization who is the key stake-

holder and has a professional investment in ensuring that the contract is successfully managed. This is the person who is at the table during contract negotiations (and at all subsequent consequential meetings) and who is the central point of contact, establishing communication flow and assisting in smooth succession planning when the inevitable personnel changes occur.

In short, the owner of a contract is the "go-to" person who has a complete, current picture of the contract at any given time, and who is also able to coordinate team activities, provide continuity, and exercise ultimate responsibility for the contract. Clearly, this is the job of a professional contract manager. Too many contract managers carry the title, but in fact they serve in clerical and administrative roles, rather than controlling the contract process and overseeing activities of the entire team from start to finish.

One step that will immediately elevate the role of the contract manager is for the government to require the contractor to identify a contract manager and subject that position to a "Key Personnel" clause within the contract. For example, the *Health and Human Services Acquisition Regulation (HHSAR)* clause at 352.270-5 reads as follows:

The key personnel specified in this contract are considered to be essential to work performance. At least 30 days prior to diverting any of the specified individuals to other programs or contracts (or as soon as possible, if an individual must be replaced, for example, as a result of leaving the employ of the contractor), the contractor shall notify the contracting officer and shall submit comprehensive justification for the diversion or replacement request (including proposed substitutions for key personnel) to permit evaluation by the government of the impact on performance under this contract. The contractor shall not divert or otherwise replace any key personnel without the written consent of the contracting officer. The government may modify the contract to add or delete key personnel at the request of the contractor or the government.



CONTRACT MANAGERS NEED TO HAVE THE KNOWLEDGE AND SKILLS TO STEP UP AND TAKE TRUE OWNERSHIP OF CONTRACTS.

Program managers, project managers, and functional area leads are often identified as "key personnel," and appropriately so. However, for cradle-to-grave contracting to move from idea to action, the contract manager should also be considered key personnel and thus noted as essential to the work performance and overall contract compliance.

Typically, government key personnel clauses do not address pre-award assignments. However, for successful cradle-to-grave contracting, contract managers must be engaged at the start of the acquisition life

cycle and guide the organization through the entire process.

Currently, members of the government acquisition team are not bound by the key personnel clause. However, federal acquisition leaders should commit to the same principle: contract managers must be designated as key people on the government team and should not be diverted or removed from their assigned contracts without solid justification.

Unfortunately, making contract managers key personnel will not entirely eliminate

the problem of workforce turnover during a contract. But it will significantly reduce turnover of the people who have primary responsibility for overall contract success.

TAKING OWNERSHIP

Contract managers need to have the knowledge and skills to step up and take true ownership of contracts. When it comes to the government workforce, the Defense Acquisition Workforce Improvement Act and the Office of Federal Procurement Policy Letter 05-01 establishes training and certification requirements designed to develop competent, capable contract managers. Contractors are well served to require similar training from their contract managers so that they have comparable knowledge and skills to their government counterparts.

To take on the mantle of key personnel for a contract, contract managers need timely training in the following areas.

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- Michael C. Gass, President and Chief Executive Officer, United Launch Alliance
- Bill McNally, Assistant Administrator for Procurement and Deputy Chief Acquisition Officer, NASA (invited)
- Eleanor R. Spector, Vice President, Contracts, Lockheed Martin

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Fundamentals of Federal Contracting

Contract managers need a "big-picture" understanding of government contracting with an emphasis on the regulatory environment, unique compliance requirements, and methods for staying current in a changing field.

Negotiation Training

Contract professionals should get updated tips on effective strategies, tactics, and techniques for negotiation, especially since each phase of the acquisition process presents opportunities for negotiations within and between contracting parties.

Contract Pricing

Contractors establish prices and the government evaluates prices. So, pricing may be fairly straightforward in a competitive market-based environment, or extremely complex involving extensive submission and audit of cost data. Buyers and sellers need to know their rights and responsibilities related to pricing.

Contractor Selection

Agencies follow specific rules when selecting contractors. Contract managers need to understand the regulations, policies, processes, and procedures of best value source selection.

Contract Administration

The post-award phase is often neglected. Contract managers need to know the elements of successful contract administration from day-to-day practices, risk management, and performance monitoring to early detection, correction of performance problems, and payments and modifications (and let's not forget about contract closeout).

WANTING THE RESPONSIBILITY

Well-trained, competent contract managers must be authorized, empowered, and recognized as the key people responsible for cradle-to-grave contracting. Rather than using the refrain "I inherited this contract!"

as a way to explain why things are going so badly, dedicated contract managers who guide the contract from start to finish under cradle-to-grave contracting will likely say "I own this contract!" and mean it. **CM**

ABOUT THE AUTHOR

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