Government Contracting Risk Management, Part 3:

BY GREGORY A. GARRETT AND SHAW COHE
An analysis of the seven major sources of risk when delivering professional services to the U.S. government, as well as proven-effective best practices for mitigating such risks.
In fiscal year 2008, the U.S. federal government spent more than $531 billion acquiring products and services from contractors and subcontractors. Over 60 percent of the $531 billion was spent purchasing a wide variety of professional services.1

Over the past decade, the government’s acquisition of professional services has far outpaced its spending on purchasing commercial-off-the-shelf products. The leading professional services government agencies typically acquire include:

- Information technology,
- Systems engineering,
- Project management,
- Maintenance,
- Logistics management,
- Accounting and financial management, and
- Acquisition support services.

This article analyzes the seven major sources of risk for delivering professional services to the U.S. government, as well as proven-effective best practices for mitigating such risks.

1. The Government’s Difficulty in determining its Requirements
The single greatest challenge of successfully delivering professional services to the government is the government’s own difficulty in effectively determining and communicating its specific requirements in terms of desired results and outcomes. Further, government agencies are known for frequently changing both their formal contract requirements and informal expectations. The underlying problem is that the professional services requirements are often developed by a variety of people in different functional groups within a government agency—each with varying needs, goals, and desires. This situation often results in the government procurement office awarding task orders to contractors for professional services that are not well defined, thus making it hard for the contractor to successfully deliver the services in a manner that fully meets the government’s needs.

2. Selecting the Right Type of Contract
The selection of the appropriate type of contract or pricing arrangement is supposed to be based on the level of risk versus reward. Therefore, if a contractor agrees to perform a well-defined, commercially available service (e.g., janitorial services, lawn maintenance services, security guard services, etc.) with specific tasks, for a set period of time, then a firm-fixed-price (FFP) type contract would be deemed appropriate.

The FFP contract is the government’s most preferred type of contract for the acquisition of products and services. However, if a government agency needs to acquire more complex and less defined services—such as advanced research and development—with broad tasks and a wide variety of highly skilled labor categories, then a cost-reimbursement type contract (e.g., a cost-plus-fixed-fee contract) may be more appropriate.

If the nature of the services, level of complexity, and definition of the scope fall somewhere in between these two examples, then a time and materials (T&M) contract may be more appropriate. For example,
most engineering, accounting, financial management, and law firms, among others, operate largely on the basis of the philosophy that “time is money.” They use T&M contracts because they allow such firms to sell their services on a “best-effort” basis.

Increasingly, government agencies are choosing to acquire a wide range of professional services when the scope of work and necessary tasks are not well-defined but the level of expertise (education, experience, and qualifications) needed is high, resulting in a dramatic increase in the use of T&M and cost-reimbursement contracts. However, these two contract types are not the government’s preferred types of contracts because the government has less cost control and greater financial liability. Conversely, FFP contracts can be less lucrative for government contractors, such as when government agencies decide to use FFP contracts for acquiring research and development.

3. Overly Optimistic Delivery Schedules

Government agencies tend to be in a real “zeal for the deal” and rush to acquire contractor professional support services as quickly as possible. However, as the saying goes: “If you want it bad, then you will probably get it bad.”

Frequently, government agencies create or drive the creation of overly optimistic delivery schedules, which may result in higher costs and late deliveries. Therefore, it is essential for the government and its selected prime contractors to mutually develop realistic and achievable schedules.

According to U.S. Government Accountability Office studies in 2007 and 2008, about 45 percent of the major defense acquisition programs are both behind schedule and over budget. Likewise, some government programs have been delayed due to changing government requirements and/or delays in funding, resulting in slipping schedules and increasing costs over their original budgets.

4. Poor Quality of Services

On occasion, the government receives poor-quality professional services from its selected contractors and subcontractors. Poor-quality services arise due to many factors, which may include:

- A poorly defined scope of work;
- Inadequate planning;
- Poor supervision;
- Unavailable resources;
- Insufficient training or skills;
- Changing customer requirements;
- Rotating, removing, or losing key personnel;
- Excessive focus on speed of delivery;
- Lack of focus on quality;
- Misrepresentation of skills or qualifications;
- Difficult work environment;
- Adverse/severe weather conditions;
- Labor union strikes or work slowdowns;
- Poor-performing subcontractors;
- Poor administrative support services;
- Personality conflicts; and
- Emergency situations.

5. Lack of Project Management

Project management is essential to the on-time delivery of quality services within a defined budget. Successful project management is based on:

- Defining the scope of work,
- Creating specific tasks,
- Assigning work tasks to designated individuals,
- Developing a budget for each task,
- Managing and mitigating project risk,
- Tracking performance results, and
- Making corrective actions as needed.

One of the biggest reasons why professional services do not meet the government’s performance needs, are delivered late, and/or are over budget is because of a lack of effective project management. Therefore, both government agencies and government contractors need to possess and apply strong, proven, and effective project management practices to achieve successful results.

6. Multisector Workforce Challenges

Sometimes referred to as the “blended workforce,” the multisector workforce is a term adopted by the National Academy of Public Administration (NAPA), and is defined as follows:

[The multisector workforce] describes the federal reality of a mixture of several distinct types of personnel working to carry out the agency’s programs... [Use of the term] recognizes that federal, state, and local civil servants (whether full or part-time, temporary or permanent); uniformed personnel;
pressures would affect the market for professional and technical services. However, in 2006, the Professional Services Council was “convinced that the government’s growing mission and continued human capital challenges were combining to create a new market dynamic,” which was “less directly reflective of overall government budgets and more reflective of the ongoing shift of service delivery from the organic federal workforce to private sector providers.”

This trend is certainly prevalent in terms of the workforce engaged in support of federal acquisition and project management services. In his statement to the Acquisition Advisory Panel in November 2005, Stan Soloway, president of the Professional Services Council, noted that “the widely accepted fact [is] that we have too few acquisition professionals in the right places with the right skills.” For the federal acquisition workforce, these demographic challenges are pronounced. Therefore, the demographic profile of the federal workforce is a powerful contributing force behind the increased reliance on contractors to meet federal mission needs. To this end, the Obama administration is focused on “insourcing” many positions, which have been performed by contractors, and expanding the definition of “inherently governmental” positions within the federal acquisition workforce.

7. Inadequate Acceptance Criteria
The factors which constitute the completion of work for a professional service typically include any one of the following:

- A period of time,
- Delivery of a specific report, or
- Performance of specified tasks.

Regardless of which factor is used, it must be documented and mutually agreed to by the parties involved—namely, the government agency and the prime contractor. Too often acceptance criteria are not defined at the inception of the contract. As a result, the completion of the work may be subject to differing interpretations by the parties to the services contract.

and contractor personnel often work on different elements of program implementation, sometimes in the same workplace, but under substantially different governing laws; different systems for compensation, appointment, discipline, and termination; and different ethical standards. According to NAPA, “The trend toward using workers who are not part of the federal civil service to carry out federal missions has escalated greatly in recent years.” The Professional Services Council agrees with this assessment, and has for some time. Some feared that the tightening federal budget

<table>
<thead>
<tr>
<th>Customer &amp; Supplier Key Performance Areas</th>
<th>Checklists of Key Customer &amp; Supplier Performance Metrics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial</td>
<td>Return on investment.</td>
</tr>
<tr>
<td></td>
<td>On budget (planned expenses vs. actual expenses)—</td>
</tr>
<tr>
<td></td>
<td>Implementation costs,</td>
</tr>
<tr>
<td></td>
<td>Operations costs,</td>
</tr>
<tr>
<td></td>
<td>Maintenance costs,</td>
</tr>
<tr>
<td></td>
<td>Support costs.</td>
</tr>
<tr>
<td></td>
<td>Return on assets.</td>
</tr>
<tr>
<td></td>
<td>Net present value.</td>
</tr>
<tr>
<td></td>
<td>Cost performance index.</td>
</tr>
<tr>
<td></td>
<td>Revenue generated (annual and quarterly).</td>
</tr>
<tr>
<td></td>
<td>Days of sales outstanding.</td>
</tr>
<tr>
<td></td>
<td>Revenue or expense to headcount.</td>
</tr>
<tr>
<td></td>
<td>Inventory turns.</td>
</tr>
<tr>
<td>Schedule</td>
<td>Number of milestones on time.</td>
</tr>
<tr>
<td></td>
<td>On-time-delivery percentage (mutually agreed-to date).</td>
</tr>
<tr>
<td></td>
<td>Number of days cycle time (order to delivery).</td>
</tr>
<tr>
<td></td>
<td>Earned value method—</td>
</tr>
<tr>
<td></td>
<td>Budgeted cost of work schedule,</td>
</tr>
<tr>
<td></td>
<td>Budgeted cost of work performance.</td>
</tr>
<tr>
<td></td>
<td>Schedule performance index.</td>
</tr>
<tr>
<td>Technical</td>
<td>Capacity volume.</td>
</tr>
<tr>
<td></td>
<td>Operating time/usage.</td>
</tr>
<tr>
<td></td>
<td>Capabilities/features.</td>
</tr>
<tr>
<td></td>
<td>Speed.</td>
</tr>
<tr>
<td></td>
<td>Number of product failures/outrages.</td>
</tr>
<tr>
<td>Quality</td>
<td>Capacity volume.</td>
</tr>
<tr>
<td></td>
<td>Operating time/usage.</td>
</tr>
<tr>
<td></td>
<td>Capabilities/features.</td>
</tr>
<tr>
<td></td>
<td>Speed.</td>
</tr>
<tr>
<td></td>
<td>Number of product failures/outrages.</td>
</tr>
</tbody>
</table>

Source: Managing Complex Outsourced Projects, Gregory A. Garrett (CCH Inc., 2004).
To increase the depth and breadth of learning opportunities for our members, NCMA has entered into formal partnership with leading training and education providers. Whether your goal is an advanced degree, specialized training courses, or certification, these Charter Education Partners can help.

<table>
<thead>
<tr>
<th>Education Partners</th>
<th>Address</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition Solutions</td>
<td>1655 N. Fort Myer Drive Suite 1000</td>
<td><a href="http://www.acqsolinc.com">www.acqsolinc.com</a></td>
</tr>
<tr>
<td>American Graduate University</td>
<td>733 N. Dodsworth Avenue Covina, CA 91724</td>
<td><a href="http://www.agu.edu">www.agu.edu</a></td>
</tr>
<tr>
<td>American Military University</td>
<td>111 West Congress Street Charles Town, WV 25414</td>
<td><a href="http://www.apus.edu">www.apus.edu</a></td>
</tr>
<tr>
<td>Bellevue University</td>
<td>1000 Galvin Road, South Bellevue, NE 68005</td>
<td><a href="http://www.bellevue.com/acquisition">www.bellevue.com/acquisition</a></td>
</tr>
<tr>
<td>Centre Consulting</td>
<td>1953 Gallows Road Suite 650 Vienna, VA 22182</td>
<td><a href="http://www.centreconsult.com">www.centreconsult.com</a></td>
</tr>
<tr>
<td>Certified Contracting Solutions, LLC</td>
<td>PO Box 270352 Louisville, CO 80027</td>
<td><a href="http://www.certifiedksolutions.com">www.certifiedksolutions.com</a></td>
</tr>
<tr>
<td>ESI International</td>
<td>901 North Glebe Road Suite 200 Arlington, VA 22203</td>
<td><a href="http://www.esi-intl.com">www.esi-intl.com</a></td>
</tr>
<tr>
<td>FedBid, Inc.</td>
<td>8500 Leesburg Pike Suite 602 Vienna, VA 22182</td>
<td><a href="http://www.fedbid.com">www.fedbid.com</a></td>
</tr>
<tr>
<td>Federal Market Group</td>
<td></td>
<td><a href="http://www.gbs-ilc.com">www.gbs-ilc.com</a></td>
</tr>
<tr>
<td>Federal Contracts Training Center</td>
<td>2700 Lake Cook Road Riverwoods, IL 60015</td>
<td><a href="http://www.FCTCenter.com">www.FCTCenter.com</a></td>
</tr>
<tr>
<td>Federal Publications Seminars</td>
<td>1100 13th Street, NW Suite 200</td>
<td><a href="http://www.fedpubseminars.com">www.fedpubseminars.com</a></td>
</tr>
<tr>
<td>Graduate School, USDA</td>
<td>600 Maryland Avenue, SW Suite 120</td>
<td><a href="http://www.grad.usda.gov">www.grad.usda.gov</a></td>
</tr>
<tr>
<td>Institute for Supply Management</td>
<td>PO Box 22160 Tempe, AZ 85285-2160</td>
<td><a href="http://www.ism.ws">www.ism.ws</a></td>
</tr>
<tr>
<td>Management Concepts</td>
<td>8230 Leeburg Pike Vienna, VA 22182</td>
<td><a href="http://www.managementconcepts.com">www.managementconcepts.com</a></td>
</tr>
<tr>
<td>Next Level Purchasing</td>
<td>PO Box 901 Moon Township, PA 15108</td>
<td><a href="http://www.nextlevelpurchasing.com">www.nextlevelpurchasing.com</a></td>
</tr>
<tr>
<td>Northwest Procurement Institute, Inc.</td>
<td>PO Box 1328 Edmonds, WA 98020</td>
<td><a href="http://www.npi-training.com">www.npi-training.com</a></td>
</tr>
<tr>
<td>Saint Louis University</td>
<td>3322 Olive Street Saint Louis, MO 63103</td>
<td><a href="http://www.slu.edu">www.slu.edu</a></td>
</tr>
<tr>
<td>University of California–Irvine Extension</td>
<td>Irvine, CA 92697</td>
<td><a href="http://extension.uci.edu/ncma">http://extension.uci.edu/ncma</a></td>
</tr>
<tr>
<td>University of Tennessee–Knoxville Center for Executive Education</td>
<td><a href="http://thecenter.utk.edu">http://thecenter.utk.edu</a></td>
<td></td>
</tr>
<tr>
<td>Villanova University Online</td>
<td>c/o University Alliance 9417 Princess Palm Avenue Tampa, FL 33619</td>
<td><a href="http://www.villanovaU.com/ncma">www.villanovaU.com/ncma</a></td>
</tr>
</tbody>
</table>

Contact:  
CHRIS MARTIN  
410-584-1967 | cmartin@networkmediapartners.com  
BRUCE TACKETT  
410-584-1981 | btackett@networkmediapartners.com
Best Practices for Mitigating Risks in Professional Services Contracts

Eight key best practices that both government agencies and contractors can use to mitigate the risks in professional services contracts described above include the following:

1. Establish an Integrated Project Team,
2. Develop a performance work statement or a statement of objectives,
3. Conduct market research,
4. Use commercial quality standards and metrics,
5. Create contract incentives,
6. Develop quality assurance plans,
7. Implement project management, and
8. Tie pay to performance results.

1. Establish an Integrated Project Team

Government agencies should establish multifunctional teams, also called “Integrated Project Teams” (IPTs), to more effectively develop their professional services requirements. This is the model used by leading organizations that recognize the limitations of clearly defined roles, responsibilities, and organizational boundaries and have adopted the use of acquisition teams that integrate all stakeholder efforts toward one goal: mission accomplishment. It is also the preferred model of the Office of Management and Budget for agencies’ budget submissions.

These principles are also reflected in the Federal Acquisition Regulation (FAR), which recognizes that teams begin with the customer and end with the contractor. The FAR outlines procurement policies and procedures that are used by members of the acquisition team. According to the FAR, contracting officers “should take the lead in encouraging business process innovations and ensuring that business decisions are sound.”

Market research is essential to the government’s ability to buy best-value products and services that solve mission-critical problems.
IPT best practices include:

- Ensure senior management involvement and support,
- Tap multidisciplinary expertise,
- Define roles and responsibilities,
- Develop rules of conduct,
- Empower team members,
- Identify stakeholders and nurture consensus, and
- Develop and maintain the knowledge base over the project life.6

2. Develop a Performance Work Statement or a Statement of Objectives

The two best ways to develop government requirements for the acquisition of professional services are by using a performance work statement (PWS) or a growing methodology built around a statement of objectives (SOO). The PWS process is discussed in most existing guides on performance-based service contracting, as well as the FAR. The alternative process—use of a SOO—is an emerging methodology that turns the acquisition process around and requires competing contractors to develop the PWS, performance metrics and measurement plan, and quality assurance plan—all of which should be evaluated before contract award.

As briefly described in the Department of Defense Handbook for Preparation of Statement of Work (SOW):

The SOO is a government-prepared document incorporated into the RFP [request for proposals] that states the overall solicitation objectives. It can be used in those solicitations where the intent is to provide the maximum flexibility to each offeror to propose an innovative development approach.

The SOO is a very short document (e.g., under 10 pages) that provides the basic, high-level objectives of the acquisition. It is provided in the solicitation in lieu of a government-written SOW or PWS. In this approach, the contractor’s proposals contain a PWS and performance metrics and measures, which are based on their proposed solutions and existing commercial practices. Clearly, use of a SOO opens the acquisition up to a wider range of potential solutions.7

3. Conduct Market Research

Before buying professional services, government agencies should first conduct “market research,” which is the continuous process of collecting information to maximize reliance on the commercial marketplace and to benefit from its capabilities, technologies, and competitive forces in meeting an agency need. Market research is essential to the government’s ability to buy best-value products and services that solve mission-critical problems. Acquisition reform has opened the door to effective new approaches to market research that should be undertaken by the IPT long before attempting to write a PWS.

In the past, it was not unusual for technical staff to conduct market research on marketplace offerings while contracting staff conducted market research focused more on industry practices and pricing. However, a better approach is for the entire IPT to be a part of the market research effort. This enables the members of the team to share an understanding and knowledge of the marketplace—an important factor in the development of the acquisition strategy—and a common understanding of what features, schedules, terms, and conditions are key.8

Market research best practices include:

- Taking a team approach to conducting the research,
- Spending time learning from public sector counterparts,
- Talking to private sector companies before structuring the requirements of the services contract,
- Considering one-on-one meetings with industry,
- Developing Web-based surveys, and
- Using professional market research firms.

4. Use Commercial Quality Standards and Metrics

When acquiring professional services, rather than inventing metrics or quality or performance standards, the IPT should use existing commercial quality standards identified during market research, such as “International Standards Organization 9000” or the Carnegie Mellon Software Engineering Institute’s “Capability Maturity Model.”

FIGURE 1 on page 66 illustrates several customer and supplier performance metrics for a few key performance areas.

5. Create Contract Incentives

When acquiring professional services, government agencies should create appropriate contract incentives. Consequently, incentives may be positive, negative, or both. Deductions represent the value of tasks not performed satisfactorily.

The mutual understanding of positive and negative performance incentives is established in the solicitation and may be discussed during source selection. Incentives reflect reasonable value to the government, and they should not be provided to attain the specified minimum requirements of the contract. Incentives for being innovative and performing in a highly satisfactory manner must be built into the contract. Any discussion with the contractor to change values for deductions should be conducted with careful analysis so that incentives are effective for their intended purpose.

The fundamental purpose of contract incentives is to motivate desired performance in one or more specific areas. Contract incentives are generally classified as either objectively based and evaluated or subjectively based and evaluated. Further, both classifications of contract incentives are
6. Develop Quality Assurance Surveillance Plans

When acquiring professional services, government agencies should develop a quality assurance surveillance plan (QASP). The QASP establishes the plan that will be followed to ensure the government receives the performance it is paying for. The information developed by this plan provides objective evidence of acceptable performance and provides the means whereby deductions may properly be taken for unacceptable performance.

The QASP should be carefully planned. The makeup and depth of the QASP depend on the size and complexity of the contract. Generally, the QASP will contain the following elements:

- A statement of the plan’s purpose;
- The name, specific authority, and responsibility of the technical representative or quality assurance evaluator (including alternates);
- Instructions on how to utilize the plan;
- A surveillance schedule;
- The surveillance methods that will be used;
- Appropriate documentation for each method (e.g., schedule, checklists, reports, etc.);
- A summary of the performance requirements;
- Evaluation guides for each task to be assessed; and
- Deduction and incentive formulas (as appropriate).

Properly written, a QASP can be an excellent communications tool. In fact, it is a good idea to discuss it with the contractor so that all surveillance methods are understood. The QASP should also be included in the solicitation to reinforce the government’s emphasis on quality assurance.

In addition, the PWS and QASP should be prepared together and read together during surveillance. The goal of these documents is to clearly state the buyer’s requirements and how the buyer will determine acceptable and unacceptable performance.

7. Implement Project Management

Both government agencies and prime contractors should implement effective project management practices to ensure the efficient and cost-effective delivery of professional services. As stated earlier, government agencies should establish IPTs and conduct market research to determine their organization’s professional services requirements, which should be communicated through an SOO or PWS to government contractors. In turn, government contractors must form IPTs to accomplish the professional services required by the government, often incorporating the services of independent consultants and other subcontractors.

For each contract, a project plan should be developed by the prime contractor consisting of the following elements:

- Organizational breakdown structure,
- Work breakdown structure,
- Responsibility assignment matrix,
- Master integrated schedule,
- If you want it bad, then you will probably get it bad.
Making legally and ethically appropriate decisions is crucial in today’s highly scrutinized business environment. To help contract professionals improve their skills and knowledge, NCMA has partnered with LRN, the leading ethics and compliance education provider, to develop our new online ethics courses.

Each ethics package contains a suite of five courses. At the end of each course is a ten-question, graded, and tracked review quiz that allows you to test your mastery of the knowledge necessary to earn your Certificate of Ethics Education. Participants earn five continuing professional education (CPE) hours for completion of the certificate.

Cost for each course package:
NCMA Members—$220
Nonmembers—$250
Courses may not be taken separately.

Current packages offered include:
- Introductory Business Ethics Package for Federal Contracting,
- Advanced Business Ethics Package for Federal Contracting,
- Protection of Intellectual Property Package,
- Introductory Business Ethics of International Contracting Package,
- Advanced Business Ethics of International Contracting Package,
- Corporate Governance Package, and
- Critical Business Vulnerabilities Package.
- Project budget, and
- A QASP.

Project management best practices include:

- Selecting a highly qualified and certified project management professional to lead the project;
- Developing a mutually agreed-to project plan;
- Establishing a realistic delivery schedule;
- Ensuring appropriate resources to perform the work;
- Conducting regular project status reviews with all of the concerned parties;
- Revising project plans and staffing as needed to achieve success;
- Motivating and communicating to all parties in a clear, concise, and compelling manner;
- Developing mutually agreed-to acceptance criteria; and
- Documenting lessons learned and best practices.

8. Tie Pay to Performance Results

Both government agencies and prime contractors should largely be focused on common goals when working together to deliver quality products and services to meet the government’s end-user requirements. One of the proven best practices in this area is to link the organizational performance requirements to the contract/project performance requirements and individual project team members’ performance requirements, thus tying an individual’s annual performance assessment process to his or her actual pay.

When government and contractor employees’ individual pay is tied to common contract and project goals, teamwork is stronger and motivation is higher. This often results in the government and industry working more creatively and effectively to achieve high-performance results.

Conclusion

The government’s growing need for quality professional services is essential to support the needs of our nation. Given the government’s shortage of professional skills, the growing demand for services, and the increasing complexity of both products and services, it is readily apparent that effective risk management is vital to the acquisition of such professional services. By being able to identify the seven major sources of risk in acquiring and delivering professional services to and for government agencies, and knowing how to apply the proven best practices described in this article to mitigate such risks, contractors will be better equipped to achieve the vast requirements of the government. CM

ABOUT THE AUTHORS

GREGORY A. GARRETT, CPCM, NCMA FELLOW, C.P.M., PMP, is a managing director of Navigant Consulting, Inc. He is an international educator, best-selling author, highly respected consultant, and is the recipient of numerous national and international business awards. He has authored 14 books and more than 80 published articles. He is also a member of the NCMA Executive Advisory Council.

SHAW COHE, CAPTAIN, U.S. NAVY (RET.), is an executive director of Acquisition Solutions, Inc. He is a highly experienced acquisition professional and has earned the U.S. Department of Defense Level III certifications in contract management and program management. He serves as a guest instructor for the Defense Acquisition University Program Management Executive seminar.

This article is a modified extract from the new book Risk Management for Complex U.S. Government Contracts and Projects by Gregory A. Garrett (NCMA, 2009).

SEND COMMENTS ABOUT THIS ARTICLE TO cm@ncmahq.org. To discuss this article with your peers online, go to www.ncmahq.org/cm1209/Garrett and click on “Join Discussion.”

ENDNOTES

3. Ibid.
7. FPDS, see note 1.
8. Ibid.
9. As discussed in FAR Part 37, “Services Contracting.”
10. FPDS, see note 1.