

Taking Partnership to the Next Level

Written by Nick Sanders
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From time to time we complain that the Federal government has, over the past two decades or so, moved away from a policy of “partnership” with its contractors, replacing it with a new policy of “arms-length” neutrality—or even (sometimes) treating contractors as adversaries. In this 2012 [article](#) we spent some time discussing the deteriorating relationship between Pentagon and its contractors. We predicted an increase in litigation as contractors disputed government policies and contracting officer decisions.

Now, with eight years of hindsight, it’s tough to tell if we were right or wrong. Certainly, there were some significant cases heard that resulted in contractor “wins.” (Thank you Raytheon, Lockheed Martin, and Sikorsky.) But was it a “tsunami” of litigation? It’s tough to tell—if only because some of the more egregious disputes were settled out of court without being heard on the merits.

Whether we were right or wrong eight years ago is left to the reader’s judgment. But we maintain that the issues we raised have persisted. We all know that contract outcomes are improved when customer and performer enter into a partnership; however, the Federal government (especially the DOD) seems (on the whole) reluctant to do so.

But sometimes – sometimes – a contracting officer and a contractor take the notion of partnership to the next level. Today, we will discuss a recent example of taking partnership to a problematic level. Our discussion comes courtesy of a recent Dept. of Justice [press release](#) . The press release announced the indictment of two individuals. An indictment is a formal charge; however, it is not a finding of guilt. All individuals are innocent until proven guilty in a court of law. Therefore, in what follows you must read “allegedly” into each statement.

Two individuals were arrested in July, 2020, and charged with conspiracy and theft of government funds. In addition, one of the individuals was charged with making false declarations before a grand jury.

One of those individuals (Bouchard) was a contracting officer in charge of the U.S. Army Natick Contracting Division. The other individual (Boyd) was an employee of a government contractor (Evolution Enterprise, Inc.) In that role, Boyd acted as Bouchard’s assistant.

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“In 2014, Bouchard allegedly used his long-standing relationship with Evolution Enterprise, Inc. ... to have Boyd hired for a “no show” job as an assistant that specifically supported Bouchard. Boyd’s position cost the Department of Defense more than \$490,000 during her time at Evolution from 2014 to 2018, during which she performed little if any useful function.”

During that period –

Bouchard and Boyd took numerous government-funded trips, ranging in duration from two to 15 days, under the guise that they were work related. This included 31 trips to Orlando, Fla., among other locations such as Clearwater Beach, Fla., and Stafford, Va., during which Boyd performed little if any work. For many of the trips, Bouchard and Boyd stayed in the same hotel room and spent time at the pool and Disney parks – all during business hours. It is alleged that in order to conceal the personal nature of the trips, Bouchard altered and created false travel expenses for Boyd, which Bouchard approved to reimburse Boyd for out-of-pocket expenses.

The conspiracy charge provides a sentence of up to five years in prison and a fine of 250,000. Each charge of theft of government funds (and there were 10 charges) provides for a sentence of up to 10 years in prison and a fine of \$250,000. The charge of lying to a grand jury provides a sentence of up to five years in prison and a fine of \$250,000.

Partnership. It’s a good thing. But sometimes it can be taken too far, as these two individuals demonstrated.