

GAO Points Out Potpourri of Problems with Pentagon Procurement Process

Written by Administrator

Tuesday, 02 February 2010 00:00

On January 20, 2010, GAO offered testimony before the House Committee on Appropriations, [Subcommittee on Defense](#) (John Murtha, D-PA, Chair). The testimony, which can be found

[here](#)

, had the rather misleading title of “Managing Risk to Achieve Better Outcomes.” The testimony was not really about risk management; instead, it was more of a recap of various DOD acquisition issues that the GAO has been criticizing for years—most of which are rather obvious.

Highlights of the GAO testimony—

- The first opportunity to reduce acquisition risk is in the early planning phases.
- Risk can be reduced through selecting the appropriate contract type.
- Risks that are not effectively managed in the pre-execution phase of a contract may become costly problems during execution.
 - Acquisition risk management is dependent on a “capable” acquisition workforce; yet “DOD lacks key information about the current number and skill sets of its acquisition workforce and what it needs.”
 - Because DOD relies so heavily on contractors to support its acquisition process, and lacks insight into the roles its contractors are fulfilling, the Department cannot make effective decisions regarding its acquisition workforce staffing—thus “increasing the risk of transferring government responsibilities to contractors.”

The testimony reiterated familiar themes, such as—

Risk is inherent in any major acquisition, whether a weapon system or complex service acquisition. But it is only through the thoughtful management of risks throughout all phases of the acquisition process that successful outcomes can be achieved. Clearly, however, DOD has not adequately managed such risks. For example, its major weapon systems continue to take longer to develop, cost more, and deliver fewer quantities and capabilities than originally planned. ...

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Despite decades of reform efforts, these outcomes and their underlying causes have proven resistant to change and, in fact, both DOD weapon system acquisition and DOD contract management have been on our high-risk list for nearly 20 years.

Much more interesting than the reiteration of simplistic observations is the summary of GAO bid protest statistics. Although released

[separately](#)

, the testimony included

an overview of the recent history of GAO's "quasi-judicial" function as arbiter of bid protests. (Readers will note that the U.S. Court of Federal Claims also performs in a similar capacity.)

We

[previously](#)

have wondered out loud whether the Department of Defense has "lost its ability to evaluate proposals fairly and in accordance with the written evaluation criteria."

The

GAO

testified

that—

There has been a substantial increase in spending on acquisition programs and

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services, while the number of civilian and military personnel in DOD's acquisition workforce has remained relatively constant. Program offices have reported that workforce shortfalls have resulted in degradation in oversight, delays in certain management and contracting activities, and increased workloads for existing staff. To supplement its in-house acquisition workforce, DOD relies heavily on contractor personnel. For example, we have found that in some program offices contractor personnel outnumber DOD personnel.

Have DOD's acquisition workforce problems contributed to degradation in the ability to conduct fair and equitable evaluations of bidders for major defense acquisition programs?

One way to assess the situation would be to look at GAO's bid protest decisions, to see whether the sustention rate is elevated when compared to historical norms.

According to the GAO 2009 bid protests are up 20% over the prior year—1,764 vs. 1,458. Comparing 2009 to 2005, bid protests are up nearly 40%--1,764 vs. 1,262. (Readers should take GAO's numbers with a grain of salt, however. GAO counts every "docket number" as an individual protest; a single protest can have multiple docket numbers. Moreover, the quantity of protests filed really tells us nothing. Government spending also increased during that period, so one might logically expect an increase in bid protest activity.

In addition, GAO recently received expanded bid protest jurisdiction over task

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orders, which accounting for 49 of its 2009 bid protests
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Sustention of bid protests is measured against “merit decision” (not the number of cases filed) and the numbers show that the sustention rate actually *dropped* during that period—from 71/306 (23%) to 57/315 (18%). So rather than a degradation, the evidence points to an improvement in the Government’s ability to carry out its acquisition function!

Looking just at the Defense Department, the number of protests filed was up nearly 50 percent—from 706 to 1,050. But as before, the percentage of sustained protests actually decreased from 18% to 12%.

GAO also reports an “effectiveness rate”—which is defined as a situation when a protester receives some form of relief from the Government agency conducting the procurement, even if it did not have its protest sustained. Looking at the reported effectiveness rates, there has actually been some increase, from 27 percent (2005) to 45 percent (2009). It’s difficult to determine what this means without further details.

So the statistics may be meaningful, or not. We’ll leave any conclusion(s) to our readers’ judgment. But we maintain that anecdotal evidence is mounting that DOD is having trouble evaluating bidders for major defense acquisition programs without opening the door to a successful bid protest. As GAO notes in its report, such recent programs as CSAR/X, Aerial Refueling Tanker, FMTV, and TRICARE were interrupted by successful protests by the losing bidders. And as we have noted with respect to two of those programs listed by GAO, the errors cited by GAO were of the “blocking and tackling” variety, and not of the “difficult and complex” variety. We hope DOD gets its act together, soon.

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