



# COMMISSION ON MILITARY AND NATIONAL SECURITY FACILITIES

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## Contractors Workgroup

October 19, 2010 • 9:30am – 11:30am  
Center for Innovative Technology  
Herndon, Virginia

### **I. Attendees**

Attendees: Secretary Jim Cheng, former Congressman Tom Davis, Richard Anderson, Mike Hardy, Mark Sickles, Keith Wire, Dario Marquez, Jr., Barry DuVal, Bobbie Kilberg, Al Edmonds, Gary Nakamoto

Guests of the Workgroup: Sudakar Shenoy, Dona Storey, Rich Wilkensen

Staff: Carrie Cantrell, Generra Peck, Keith Boswell

### **II. Meeting Called to Order at 9:42am, Welcoming Remarks & Introductions**

Secretary of Commerce and Trade Jim Cheng requested each attendee to introduce themselves. Secretary Cheng provided brief remarks thanking each member for their time and commitment. Secretary Cheng also referenced the letter from Congressman Skeleton and reminded members that we need to be focused on this for the long term. Secretary of Technology Jim Duffey welcomed members and guests to the work group and future discussions. He encouraged the group to focus on the principle issue: jobs. He thanked those in attendance for their time and dedication.

### **III. Overview of the Contracting Landscape**

Mr. Rich Wilkensen of Deltek provided an overview of the contracting landscape in the Commonwealth. He provided attendees with a handout outlining the current environment (on file in the Office of the Governor).

#### **IV. The Congressional Perspective**

Former Congressman Tom Davis provided insight on the congressional strategy and how intergovernmental stakeholders view this situation. Congressman Davis outlined the need for a coordinated response, over time. He noted that as jobs disappear the regional economy will see drastic changes and we need to account for all possible situations.

#### **V. The Small Business Outlook**

Mrs. Doña Storey, president of GOVtips.biz presented the small business perspective.

Many regulatory and congressional changes are afoot. Many of these new policies are very beneficial to small firms but in most cases most government contracting officials have barely been trained in those regulations currently in place.

-Since the acquisition workforce is relatively new, young, and lacking in experience, they are also lacking in guidance leaving them risk averse more than the norm. They become less likely to take a gamble on small businesses in two key areas...first time contracts and allowing firms to grow to the proverbial expansion/developmental or “next level” contracts.

When government commands or organization are reduced in a region all of these expansion opportunities are lessened in greater proportion in the small business sector. This is our greatest risk to have budgets cut in the Hampton Roads region. Many successful firms cut their teeth in the business world with government contracts giving them the unique qualifications to expand in bigger cities and around the country while maintaining their headquarters in Virginia.

IDIQ's are redundant and have not proven their worth to either contractors or government's acquisition staffing levels...another vehicle to expand relationships with large businesses and less completion rather than more. Small firms do not have the competitive resources to bid the many win and wait IDIQ vehicles that are being maintained.

The federal government has the power to provide marketplace balance and diversity of portfolio of contracts to small businesses.

Growing small firms creates jobs and wealth in the commercial sector due to the ping pong effect...finely-tuned business processes are developed in government contractors that serves the commercial sector very well in providing a pool of well-developed diverse companies from which to draw on for their contracts and acquisition needs...their strategic sourcing.

Accountability of primes executing proposed small business plans as bid or proposed. Large corporation in many cases reflect the same bureaucracies that describes most government organizations. By supporting by strategy the growth and sustainability small firms we sustain and grow innovation...innovation creates jobs. Accountability of

government policies to make sure small business plans are executed we expand opportunity as well as flexibility in commerce.

## **VI. The Professional Services**

Mr. Alan Alan Chvotkin, Executive Vice President and Counsel of the Professional Services Council, discussed the current landscape and outlook for contractors in Virginia.

The Department of Defense has embarked on several important and ambitious initiatives to reduce its overhead costs, eliminate unnecessary work, and properly balance its workforce. Mr. Chvotkin commented his appreciation for the opportunity to share his views on those initiatives. As these initiatives unfold, it is in everyone's interests to ensure that they do so in a transparent, evidence-based, mission-focused manner. Moreover, those attributes should exist in advance of any decision or action, not as a post-hoc rationalization. This approach was clearly spelled out in the October 7, 2010, letter to Secretary Gates from House Armed Services Committee chairman Ike Skelton.

Mr. Chvotkin made it clear that they fully recognize the imperatives the Secretary of Defense has identified and support his commitment to ensuring that the department optimizes its resources and appropriately aligns its workforce needs. There is no question that there are savings to be had and that, in this time of exceptional fiscal pressures, every effort needs to be made to identify and capitalize on those opportunities. Moreover, the members and staff of the Professional Services Council stand ready to work closely with the department in the development and implementation of strategies that will enable the department to meet its goals. PSC has already have had some of those discussions but many more are needed. Conversely, the Secretary's ambitious objectives will not likely be met if the department attempts to operate in a vacuum, solely through directives, or on the basis of arbitrary goals. In all cases much work remains to be done to ensure they truly meet the tests of transparency, rigorous analysis, and collaboration.

### Insourcing: A Good Idea Gone Awry

Insourcing is a management and workforce strategy. It is not always the wrong strategy nor is it always the right strategy. Except in narrow circumstances, a decision to insource must be based on a strategic framework and rigorous analysis.

In April 2009, Secretary Gates announced an initiative to rebuild the department's critical workforce skills, particularly, but not solely, within the acquisition workforce. The Secretary expressed concern that a combination of factors, including workforce demographics and a broken hiring and personnel system, had created an over-reliance on contractors. At that time, the Secretary outlined a strategy to increase the department's organic workforce with those critical skills by approximately 35,000 people. He said that roughly half of the increase would result from insourcing and the other half would represent new hires. As part of the implementation of the Secretary's action, the DoD Comptroller issued a classified "Resource Management Decision 802" (RMD 802) that provided budgetary guidance to the military departments and defense agencies. That

RMD has never been made public.

There is no question that the department simply does not have adequate internal capability or skills to design, award, or manage contracts for its many and diverse missions. As such, PSC was supportive of the Secretary's April 2009 plan. Although a number of companies recognized that some of their work could be affected, the consensus among our member companies then was that the Secretary's actions were on the right track. Unfortunately, the implementation of his plan has not accurately reflected either his stated intention or addressed the department's most pressing needs.

In January 2010, the department finally issued "guidance" in the form of a Directive Type Memorandum, or DTM, to provide a methodology that would enable a more accurate assessment of the relative costs of contract performance versus in-house federal performance. However, as we outlined in an extensive analysis we provided to the department,<sup>1</sup> the DTM provides neither a workable methodology nor a comprehensive listing of all of the identifiable costs that must be considered in any objective process. Other analyses have also concluded that the DTM contains a number of inexplicable contradictions.

With the combination of established numerical headcount quotas and specific dollar savings assumptions, along with the lack of a workable, analytically rigorous process for assessing relative costs, the department's insourcing process has been marked more by efforts to meet those targets and survive presumptive budget cuts than by strategic workforce efforts focused on the kinds of skills the department needs most and that the Secretary set out to address. By the department's own estimates, at least half of the positions identified to date for insourcing fall outside of the kinds of critical skills the Secretary was targeting in his original directive. That means that the department has based at least half of the insourcing decisions reached to date on incomplete and highly questionable cost analyses and thus is insourcing contracted positions performing entirely routine work rather than obtaining the critical skills that were identified by the Secretary in 2009.

#### A Lack of Transparency

In addition to the apparently arbitrary and undisciplined manner in which DoD insourcing has progressed, we are deeply concerned about the continued refusal of the department's components to publicly share the analyses that have led to individual decisions. With very few exceptions, DoD activities have not even been willing to share the bottom line conclusions they reached in their analyses, let alone the analyses themselves.

This is not to in any way demean the value or importance of the civil service. Rather, it is merely to reinforce the importance of conducting, on a case-by-case basis and in a

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<sup>1</sup> See the PSC June 16, 2010 letter to The Honorable Christine Fox, director of Cost Assessment and Program Evaluation, available at [http://www.pscouncil.org/AM/Template.cfm?Section=Policy\\_Issues&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=5562](http://www.pscouncil.org/AM/Template.cfm?Section=Policy_Issues&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=5562).

manner consistent with the missions involved, meaningful and complete cost comparisons.

#### The Secretary of Defense Acknowledges That Insourcing Savings Have Not Materialized

In light of the issues and concerns outlined above, it is not surprising that the Secretary of Defense on August 9 acknowledged that insourcing has not resulted in the desired savings. As a result, with the appropriate exception of some critical acquisition skills, he announced a significant de-emphasis on insourcing as part of his efficiency initiative. However, the Secretary's changed strategy applies only to the Office of the Secretary of Defense, the combatant commands and the defense agencies. It has no direct effect on insourcing activities within the military departments, which appear to be continuing apace, despite the clear and compelling evidence that real savings are illusory.

#### Secretary Gates' Efficiency Initiative: Some Answers, Some Questions

On August 9, Secretary Gates announced a new initiative to find \$100 billion in defense budget savings over the next several fiscal years. Among the components of this initiative is a 10 percent reduction in contract support services each year for the next three years.

We support efforts to achieve the Secretary's desired results. The department has no choice but to reduce its overhead costs and eliminate unnecessary spending if it is to meet its mission needs. While we take no position on his specific decisions to close Joint Forces Command (JFCOM), the Business Transformation Agency (BTA), or the Network Information and Integration (NII) office, there are too many unanswered questions about the strategic analyses underpinning these decisions. Regardless of whether those are decisions that are at the discretion of the department or whether there are additional statutory procedures that must be followed, all stakeholders should be privy to the factors considered and the justification.

In his August 9 statement, when addressing JFCOM, the Secretary talked specifically about how the command was "contractor heavy." Whether closing JFCOM is or is not the right action, the justification for any action lacking. In our view, WHO is doing the work has nothing to do with whether the work being done remains important and valuable to the mission. It is the mission need and not the badge of the worker that should drive such a decision. In that vein, obviously it would be very helpful to understand more about the analytical underpinnings of this decision. The same rigor should underpin the decision to close BTA and NII.

The same concerns apply to the Secretary's direction that contract support services be reduced by 10 percent each year for the next three years. There are already conflicting reports as to what contracted services are included in this directive. Is it all service contracting? Is it specific subcategories? How was the 10 percent goal determined? The Secretary's September 24, 2010 memo asked for an inventory of services contracts before taking action while the Army's September 2, 2010 memo directed action to be taken.

Most importantly, what is magical about contract support services? Why target only contractor-performed work rather than the totality of the work being done by the

department? Why does the directive not seek a more holistic approach to all work being performed by DoD in an effort to find areas of redundancy or changed needs, regardless of who is performing that work?

In short, our principal concern with the 10 percent per year target is its arbitrary nature and its failure to look comprehensively and strategically within each defense activity at all of the work being performed by the total force of uniform military, civil servants and contractors.

Finally, as these reductions are executed, questions remain as to whether the execution strategies will be developed through a collaborative process in which the contractors and the department work together to find ways to reduce the overall costs of performance or will be implemented through prescriptive direction. Again, the best hope for effective implementation is the kind of communication and collaboration that marks the best in customer/supplier relationships. Unfortunately, in today's environment, our public-sector partners too often feel that they are under increasing pressure to reduce, not enhance, their communications with industry. This violates common sense and the most fundamental premises of good business relationships. In fact, the problem became so severe that Deputy Secretary of Defense William Lynn issued a memorandum in June reminding the department's workforce of the essential importance of constant and open communication with their private-sector partners.<sup>2</sup>

### Conclusion

My goal today is not to question the objectives Secretary Gates has set forth through any of these initiatives. What he is seeking to do is the right thing to do and he deserves our strong support. At the same time, to the degree actions taken in the field run contrary either to his guidance or to the best chances of successfully implementing his initiatives, it is important for us to speak out. We have reached out to the department on many occasions with some limited success. And we look forward to more detailed and ongoing dialogue.

The decisions being made today and in the months ahead will have enormous repercussions for the department, the taxpayer and the thousands of high performing companies supporting our national security mission. As such, those decisions must be analytically rigorous and the process behind them must be open and transparent to the degree our national security interests allow. Without such analyses or transparency, the likelihood of falling well short of the Secretary's important goals is increased many times over.

Thank you again for your time and the opportunity to provide this information and our perspective. I would be happy to answer any questions you might have.

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<sup>2</sup> "Policy for Communication with Industry" memorandum from Deputy Secretary of Defense William Lynn, attached.

**VII. Next Steps**

Congressman Davis, Secretaries Cheng and Duffey recapped the conversation, discussed strategies with the group and thanked attendees for their participation.

**VIII. The initial meeting of the Workgroup adjourned at 11:30am.**



**DEPUTY SECRETARY OF DEFENSE**

1010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1010

**JUN 21 2010**

**MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARIES OF DEFENSE  
DEPUTY CHIEF MANAGEMENT OFFICER  
COMMANDERS OF COMBATANT COMMANDS  
ASSISTANT SECRETARIES OF DEFENSE  
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
DIRECTOR, OPERATIONAL TEST AND EVALUATION  
DIRECTOR, COST ASSESSMENT AND PROGRAM  
EVALUATION  
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE  
ASSISTANTS TO THE SECRETARY OF DEFENSE  
DIRECTOR, ADMINISTRATION AND MANAGEMENT  
DIRECTOR, NET ASSESSMENT  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES**

**SUBJECT: Policy for Communication with Industry**

The commercial base on which the Department depends should be knowledgeable of and aligned with the Department's strategic and tactical objectives. Early, frequent, and clear communication among the Department and its current and potential suppliers helps promote our national security. Ensuring this communication is fair, even, and transparent helps the Department: maximize materiel and service support to the Warfighter; set realistic expectations and technologically achievable requirements; enhance the ability of organizations to meet cost, schedule and performance objectives; and establish policies and business practices that promote the long-term viability and competitiveness of the commercial base supporting defense. Such dialogue helps industry make informed investment and business decisions necessary to meet near- and longer-term requirements of the Department.

The Department's policy is for representatives at all levels of the Department to have frequent, fair, even and transparent dialogue with the commercial base on matters of mutual interest, as appropriate, in a manner which protects sensitive information, operation, sources, methods, and technologies. For the Department, this includes representatives of end users and requirements generators as well as those within acquisition organizations. Traditional and non-traditional suppliers are to be included in such dialogue. Matters of mutual interest include, but are not limited to: DoD and

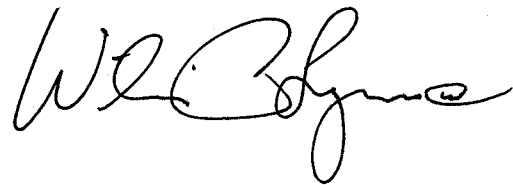
**OSD 06333-10**



industry business practices and policies; removal of barriers to competition; technology trends and development objectives; security challenges; and the performance of organizations, contracts, projects and programs.

Offices of General Counsel will assist their supported commands to facilitate planning for both formal and informal communications with industry. Subject to sound business judgment and the attached statutory limitations on the government's ability to exchange information, officials within the Department are encouraged to communicate with industry as necessary to conduct official business. Ethics laws and rules *per se* do not prohibit communications with industry representatives; they do mandate fair and even treatment such that communication opportunities with DoD officials must be made available to all interested outside parties. All methods of communication, unless statutorily prohibited, are permitted. Communication with a wide and diverse variety of businesses of all sizes and with industry organizations is often the best overall strategy to ensure the communication is fair, even and transparent.

Early and frequent communication, as appropriate, in a manner which protects sensitive information, operation, sources, methods, and technologies, is to be promoted across the breadth and depth of the Department. It is not required, desired, or practicable that industry outreach be centrally managed. Nevertheless, to be productive, communication by the Department with outside parties must be clear and consistent. DoD organizations will ensure their communications represent DoD positions.

A handwritten signature in black ink, appearing to read "W. C. Byrne". The signature is fluid and cursive, with a large, stylized initial "W" and a long, sweeping underline.

Attachment:  
As stated

## ATTACHMENT

### **Communications with Industry**

The following are statutorily based limitations on communicating with firms and representatives of the defense industrial base.

- Conflict of Interest Prohibition (18 U.S.C. § 208)
  - Government officials may not participate in a matter that presents an actual or apparent conflict of interest.
- Procurement Integrity Act (41 U.S.C. § 423)
  - Government officials may not disclose proprietary or source selection information.
- Competition in Contracting Act (10 U.S.C. 2304)
  - Government officials may not give unauthorized preferential treatment to one firm but must treat all firms equally.
- Trade Secrets Act (18 U.S.C. §1905)
  - Government officials may not disclose trade secrets or other proprietary information without permission of the owner of the information.
  - Government officials must protect procurement-sensitive information and information that would not otherwise be disclosed to the public under the Freedom of Information Act.
- Federal Advisory Committee Act (5 U.S.C. App.2)
  - Government officials must comply with the Federal Advisory Committee Act when seeking consensus advice or recommendations from a group that includes non-government employees.