Chapter 9

PUBLIC PROCUREMENT PARTNERSHIPS

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INTRODUCTION

Public procurement does not take place in a societal vacuum. Social, economic and political trends largely define the context in which public procurement takes place. Over the last 70 plus years, evolutionary changes in social, economic and political thinking have significantly altered how government is conducted and consequently how public procurement is carried out. Public procurement partnerships appear to be the next evolutionary step in what can be called "21 Century governance." This new paradigm can be thought of as a synthesis of the government approach and the market.

Beginning in the 1930s, if not before, government was seen as the answer to most societal problems, particularly market failure. The size of government increased in direct proportion to the number of societal problems needing to be addressed. Government provided the majority of its activities in-house with public employees. Consequently, the primary mission of public procurement was the acquisition of goods, supplies and equipment to enable public employees to successfully discharge their responsibilities.

In the late 1970s and 1980s, government began to be identified in the minds of many as the problem. Privatization, contracting out, public-private competition, vouchers and other new tools (Salamon, 2002) of a reinvented and entrepreneurial government (Osborne & Gaebler, 1992) began to appear. This new approach was predicated on the belief that competition and market forces could be harnessed to serve the public interest. The mission of public procurement changed as a result of this new social, economic and political thinking. The job of public procurement changed to one of helping to facilitate the delivery of core government services by independent contractors.

The business excesses of the 1990s lead to a questioning of the newfound trust that had been placed in competition and market forces. This reevaluation led to yet another social, economic and political reappraisal and to an uncomfortable realization: ***if*** government was not the solution and ***if*** the market was not the solution, ***then*** what was the solution?

With the advent of the 21st Century, a new paradigm began to appear. In this new paradigm, public procurement is encouraged to abandon its old 'bid and bash' approach and move toward more relationship contracting (Welch, 2003). The age-old focus on the process of buying should shift to the goals of what the acquisition is trying to accomplish. This shift means that administering the contract after the contract award becomes of much greater importance (Kelman, 2004).

The new paradigm goes by many names: collaborations, networks, strategic alliances, partnerships, and others (Agranoff, 2003; Gribben, Pinningon & Wilson, 2001; Salamon, 2000; Bailey & Kooney, 2000). What these terms—and the concepts they represent—all share in common is a search for a middle ground between government and the market. This new paradigm is predicated on the belief that the world has become too complex, too interdependent and too risky for a society to rely solely on either government or the market to insure domestic tranquility. In the words of the Copenhagen Center (2003, p. 89): "no single actor, public or private, has the all-encompassing knowledge, overview, information or resources to solve complex and diversified problems."

The new paradigm argues that what is needed for effective "21st Century governance is a non-competitive form of cooperative interaction between government, business and the nonprofit sector designed to combine and harness the collective energies and expertise of all three sectors (Salamon, 2002; Gribben, Pinnington & Wilson, 2001). The inclusion of the nonprofit sector incorporates into the new paradigm the 'civil society' and 'social capital' schools of thought which are predicated upon similar assumptions (e.g., Martin, 2005; Robinson, 1997).

Even though the need for these various forms of relationships that constitute this new paradigm has been identified, the specific characteristics that are relevant to public procurement have not. Welch (2003) for example suggests that public procurement officers should communicate with private sector contractors, striving to understand how the marketplace works. As a result of this increased understanding, it is more likely that both public and private agencies will be more committed to using performance based acquisition "where both parties are focused on the results to be achieved." However, he does not provide additional details about how the relationship

should evolve or develop, nor does he indicate the nature of an effective or successful relationship.

This study attempts to add to knowledge about the various means by which the public, private, and nonprofit sectors can work together in the procurement process. First, there is more detailed discussion of the nature of the partnership, contrasting these partnerships with traditional contracting relationships. Partnerships are needed as the complexity of what must be purchased increases. Much higher levels of risk have changed the nature of how partners must interact with each other if partnership goals will be achieved successfully.

The need for partnerships is never greater, as various trends and pressures are impacting modern procurement processes and relationships. Fewer procurement officials, along with an expanded role, have created a procurement workforce crisis. There are severe challenges that face public managers who wish to acquire information technology based systems. These challenges require the most flexible form of procurement: competitive negotiations approaches. Partnerships are required because public managers may not sufficiently understand how to use cutting edge technology to create systems. Concurrently, the much higher levels of risk inherent in these partnerships must be effectively managed in ways that are unfamiliar to many public officials.

In the face of these tremendous changes, there are many examples of innovative procurement partnerships that exist throughout American state and local governments. The ones briefly illustrated in Table 1 represent

TABLE 1
Public Procurement Partnership Innovations

Innovations	**Partnership Arrangements**	**Trends Illustrated**
Invitation to Negotiate-Florida Department of Transportation	Public-Private	IT Acquisition Competitive Negotiations Risk Management
Bid to Goal-City of San Diego Wastewater Treatment	Public-Public	Competitive Negotiations Long Term Contracts
Award Fee Employee Set Asides—White Sands Missile Range	Public-Private	Competitive Negotiations Risk Management Long Term Contracts
Family Services of Metropolitan Orlando	Profit-Non-Profit	Procurement Workforce Changing Procurement Official Role Risk Management

various responses to the public procurement trends and pressures that all public managers are experiencing. They also illustrate the wide range of partnerships that can be created in response to these challenges.

DEFINITION OF PUBLIC PROCUREMENT PARTNERSHIPS

No definition of "public procurement partnerships" is known to exist. In general, definitions of inter-sector partnerships are not easily identifiable, vary considerably from place to place and do not travel well, particularly when international borders are crossed. Nevertheless, some attempt to define the term public procurement partnerships appears warranted.

Gribben, Pennington and Wilson (2001, p. 8) provide a useful definition of the term "partnership" that is sufficiently broad, yet sufficiently precise to provide both direction and clarity and thus can be pressed into service as a definition of public procurement partnerships: "People and organizations from some combination of public, business and civil constituencies (non-profits) who engage in voluntary, mutually beneficial, innovative relationships to address common societal aims through combining their resources and competencies."

Applied to public procurement partnerships, the definition clearly suggests a departure from the more traditional procurement relationships predicated on a buyer/seller relationship. In traditional procurement relationships, the government seeks to transfer the risk for performance failure to the contractor. In a partnership relationship, however, the partners should share in the risks as well as the rewards. A public procurement partnership, then, alters the nature of: risk, risk assessment, and risk management. In the past, risk management often did not occur. Now, risks for all partners must be clearly identified and managed in the context of assigning roles and activities that contribute to a successful partnership.

The Nature of Public Procurement Partnerships

Public procurement partnerships are formed and operate differently than more traditional contracting relationships. Some of the prominent features of public procurement partnerships include:

- A recognition that the goal or end outcome of the procurement cannot be solved by traditional means (NAPA, 2003);
- A higher degree of uncertainty about how to best achieve the goals or end outcomes of the procurement and the partnership (Lawther, 2003a);
- A higher degree of risk (Hardcastle & Boothroyd, 2003); and

- A significant change in partnership roles, including a sharing of responsibilities: all partners must consider each other as equals (DeBlasio et. al. 1999; Agranoff, 2003).

These major salient features create administrative and implementation challenges for public procurement professionals that are not found in more traditional procurements.

These characteristics offer significant challenges to public procurement. If public procurement efforts are to be successful, these characteristics must be accepted by all participants. The instances of innovation discussed below illustrate efforts that recognize that different approaches are required to move procurement beyond traditional contracting relationships.

TRENDS, CHANGES AND CHALLENGES FOR PROCUREMENT PARTNERSHIPS

The partnership characteristics are further discussed as trends and changes that are impacting public procurement.

The Procurement Workforce Crisis

The 1990s may well go down in history as the downsizing decade. After Osborne & Gaebler (1992) admonished governments to "steer" rather than 'row,' federal, state and local public agencies rushed to see which could downsize the most and the fastest. Downsizing fell particularly hard on the public procurement workforce and in particular the federal workforce (Martin, 2002). Between 1990 and 2001, the public procurement workforce of the Department of Defense was reduced by more than 50 percent (USGAO, 2003).

Even as public procurement began to recover from its downsizing experience, the field came face-to-face with its next crisis: the impending brain drain (USGAO, 2003). Various estimates of the proportion of the federal procurement workforce eligible to retire after the year 2005 range from a low of 22 percent to a high of 50 percent (Martin, 2002:8; Gransler, 2002, p. 7; CAP, 2001, p. 7). As this expertise walks out the door, the public procurement workforce is going to have to learn to work smarter, not harder, and to do more with less.

The Changing Role of the Procurement Officer

At the same time the public procurement workforce is getting smaller and being asked to do more with less, the nature of the job is also changing. Put simply, the job of the public procurement officer is no longer what it

was. Services, information technology and knowledge development are just three of many new types of contracting expertise that public procurement officers are now expected to master. The growth in services contracting is arguably the biggest change. At the federal level services contracting has increased by an estimated 33 percent at civilian agencies and some 14 percent at the Department of Defense (Roberts, 2004, p. 8).

Services contracting, information technology acquisitions and contracting for knowledge development all require specialized skills. The public procurement workforce of today is supposed to master all these skill areas and be able to conduct operations in a 'partnership' environment rather than a market environment (Gribben, Pinnington & Wilson, 2001).

Contracting for Information Technology-Based Systems

Given the often ill-defined scope and highly complex nature of procuring information technology (IT) services, a high degree of risk exists in terms of escalating costs, delays, and final products that do not perform as expected. Examples of such experiences include the Intranet system for the Navy, the billing system for the City of Portland (Oregon) Water Department, and the core and logistics computer system for the Department of Veterans Administration (Cachere, 2004; Learn, 2002; McGlinchey, 2004).

From the start, the public manager faces several hurdles when dealing with purchasing IT. The rapidly changing nature of the technology means that what software is appropriate at the beginning of a project may not be the most relevant by the end of the project. Identifying appropriate design criteria, system requirements, and acceptance standards may be very difficult because of these changes.

Concurrently, the technology changes increase the ability to innovate and be creative in reaching government and/or agency goals. This innovation must be understood by those from the government who are in charge of making purchasing decisions. The danger is that during the process agency personnel may become aware of different capabilities of the software and desire changes that raise the price above the original contract cost. These changes in user requirements are a major cause of project delays and cost overruns (Brown, 2001).

To achieve a successful public procurement, both public managers from the using agency and public procurement officials must first agree to work together throughout the entire contracting management process. Too often, agencies are anxious to have their IT system 'up and running,' giving

insufficient thought to implementation problems, software testing, and other key considerations. Project managers are often handed the IT system project after the purchasing decisions have been made, and told to implement it.

The ideal partnership between governments and IT contractors is characterized by a relationship built on trust, confidence that implementation problems will be fixed, and an ongoing dialogue. Continual exchange of ideas and information as well as collaborative efforts are the hallmarks of successfully implementing complex information technology-based projects. Establishing this partnership depends heavily on employing one or more competitive negotiation approaches to choose the appropriate private partner.

Competitive Contact Negotiations

Accompanying the trend towards acquiring partners to solve problems and increase efficiency is the implicit understanding that the choice of partners and the specific boundaries of the partnership relationship must be negotiated. A movement away from attempting to regulate process in favor of jointly agreed upon goals or outcomes requires new and different procurement approaches. Traditional public procurement approaches (e. g., Invitation for Bids) with their assumption of standardized uniform products and processes and a focus on lowest bid or price simply do not work! Alternative approaches are needed.

In some cases, alternative public procurement approaches have been part of federal, state and local procurement codes for some time. However, they may have been rarely used. As increasingly complex technology provides the tools for public managers to create systems that deliver services with greater efficiency and higher quality, these heretofore rarely used procurement approaches are becoming more common. These procurement approaches have one major aspect common: they require negotiations before and after contract award.

When procuring complex services, IT or knowledge generation, the inability to develop detailed contract specifications means that the contract award decision must be made using criteria in addition to price or cost.

The challenge for public managers is to acquire sufficient knowledge to successfully choose the contractor or partner who will deliver the best service. This knowledge may not be present for several reasons:

- Private firms have more specialized knowledge that reflects the state of currently employed technology;

- There may be a range of potential means to accomplish the goals identified in the request for proposals (RFP), some of which may involve unproven technology (Lawther, 2003b);
- There is often an unclear understanding of how previously applied technology can be 'customized' to meet the needs of the agency;
- Private vendors do not fully understand how to provide the requested service, but respond to an RFP with the hope that they will learn how to provide what is needed as the project evolves.

The uncertainty inherent in understanding what is required means that the RFP approach does not always provide sufficient flexibility to allow public managers and procurement officials to effectively partner with private vendors. Additional approaches provide sufficient flexibility that allows public managers to gain needed knowledge.

Risk Management

Risk occurs when either the outcome or the consequence of any decision is judged to be uncertain to any degree (Hardcastle and Boothroyd, 2003). All decisions, or groups of decisions leading to achievement of a desired goal or outcome, have varying degrees of uncertainty and resulting risks. As such, risk is a concept that can be measured along continua from low to high.

Major Risk Types

For the purposes of this study, there are three major types of risk most relevant for procurement partnerships. These are:

Service Interruption. A government is ultimately responsible for the delivery of many services that impact the daily lives of its citizens. When the service is contracted out to a private supplier, there is always a risk that equipment problems, lack of appropriate personnel, or bankruptcy could lead to an interruption in the service provided. In a traditional contracting out relationship, the government attempts to limit this risk in several ways, including checking past contractor experiences, monitoring and approving changes in key contractor management personnel, and providing performance incentives and sanctions.

In procurement partnerships, risk is much greater by definition for both public and private partners. The public partners must take greater responsibility for the success of the partnership, and act proactively to ensure that the goals of the partnership are met. The negative impact of a

failed partnership is much greater, as the public partners must be held accountable and assume a portion of the blame if the partnership fails.

Financial Risk. Risk is present in terms of the financial support of the partnership project or goals. In many partnerships, all partners contribute money and/or in-kind services. The amount contributed will vary. In one example, the public partner will purchase an IT-based system. Contributions from the private partner may be minimal. The public partner accepts a high level of financial risk, as project cost overruns may require additional funding.

In other types of partnerships, especially those involving heavy investment of high cost capital projects, the private partners can contribute substantial resources. For project development public partnerships, those created to build a toll road, for example, private partners will bear the construction costs, expecting a return on investment that justifies the resources risked (Levy, 1995; Stainbeck, 2000). In these cases, if the private partner will operate the facility/provide the service after the construction is completed, then operations and maintenance costs must be accurately calculated (Hardcastle & Boothroyd, 2003).

Acceptance of Service or Product/Demand Risk. For services that are new, such as those associated with e-government, acceptance of the service by citizens or potential users is a major goal of a partnership. If the service is not used, or is not perceived as accurate or reliable, then not only would taxpayer dollars be wasted, but also public policy goals would not be met.

Once a toll road is built, there is always the risk that travelers will choose alternative routes to avoid paying tolls. The private sector firm created to build and operate toll collection on the Dulles Greenway (operating since 1998), for example, defaulted on its original loans. Refinancing occurred in 1999, extending the debt repayment period and resulting in lower interest payments. Revenue forecasts have not been met, as in its fifth year of operation ridership is only 35% of that originally estimated. (USGAO, 2004).

The public partners are ultimately responsible for the service even if a large number of citizens decline to use the service. To lessen demand risk and prevent failure of the partnership, public partners must commit to marketing and public outreach efforts to increase usage as much as possible. This requires a role that is unfamiliar to many public managers (Lawther, 2004).

In procurement partnerships, program managers and procurement officials must accept the higher levels of risk and manage them effectively.

A key aspect of risk management is not only to identify risks as part of partnership responsibilities, but also to assign or agree upon which partner is responsible for resolving or mitigating these risks.

Risk Management Programs

In traditional contracting-out relationships, there is no need for a risk management program, as most significant risks are transferred to the private contractor. Since the risks are much higher for most procurement partnerships, though, adoption of a risk management program is essential. The following are the most important characteristics and considerations:

- Risk Analysis,
- Risk Response,
- Risk Monitoring and Control, and
- Risk Outcome Recording and Evaluation (Edwards & Bowen, 2003).

All partners should participate in these four efforts. Even if a lack of relevant data does not permit quantitative analysis, brainstorming and exchange of ideas is necessary. This dialogue should occur throughout the partnership experience, not just prior to contract award. A document should be produced that identifies the risks, judges the probability that the risk may occur, and assigns responsibility for response to any problems that may occur (National Academy of Sciences, 2002).

It is a challenge for the program manager and procurement officials to identify and assess the most relevant types or categories of risk for each given acquisition. The risks that need to be identified will vary greatly depending on the nature of the goods or services to be acquired.

INNOVATIVE PROCUREMENT EFFORTS

The Invitation to Negotiate Approach: The State of Florida

This public procurement partnership, known as the Invitation to Negotiate (ITN), involves considerable negotiation among public managers and private contractors for purchase involved information technology and other complex systems.

When “it is not practicable for the agency to specifically define the scope of work,” Florida Statutes (287.0012) (22) indicate that the ITN approach can be used. The major characteristics of the ITN include: first, that every offeror proposal must meet the general or functional

specifications; second, that evaluative criteria must be spelled out; and third, that negotiations can occur to achieve the 'best value.'

When ITN is used to choose a partner, cost should be secondary to the offeror's technical expertise. Also, both scope of services and cost can be negotiated prior to contract award. Under the ITN process, two negotiation methods are allowed: single negotiations or concurrent negotiations.

There are two parts to each method. First, similar to both, a rating process must be established to create a shortlist of offerors. This shortlist seems similar to the creation of a 'competitive range' as defined by the Federal Acquisition Regulations (15.306), defined as the proposals that are the most highly rated.

For the single negotiations method, a rating or evaluation committee rates and ranks the offerors. The agency then negotiates with the top rated proposer or offeror. If agreement is not forthcoming, then negotiations begin with the second highest rated proposer, and so on, until agreement is reached.

With the concurrent negotiations method, the shortlist is determined without ranking the offerors. One of two alternatives can then be chosen. The agency can choose to revise the scope of services. This revised scope is then redistributed to all shortlisted offerors. It is allowable to require additional oral presentations. Negotiations then occur with all offerors concurrently, with 'a best and final offer' expected from each. In the second approach, the agency decides not to revise the scope of services, moving directly to negotiating the best and final offer (FDOT, 2000).

There is a great deal of flexibility provided by the ITN process, as the agency could at any time switch between either method. More realistically, however, one method is chosen prior to the ratings that determined the shortlist, or it could be chosen after the ratings were made and prior to negotiation. The choice of single or concurrent methods should depend on a variety of factors, including:

- The anticipated amount of time spent in negotiation,
- The confidence that any of the shortlisted offerors could provide the service;
- The agency personnel knowledge of the service complexity and content; and
- The degree to which the scope of services as outlined in the ITN document identifies specific content that is achievable.

Two examples are provided from the Florida Department of Transportation. Both involved the acquisition of Advanced Traveler Information Services (ATIS). These services employ information technology based software systems. After a brief discussion of the nature of ATIS, these examples will be discussed.

Advanced Traveler Information Services

ATIS contain information systems that can include different means of providing timely information to the traveling public regarding traffic congestion. There are essentially four parts to an ATIS:

- The content of the information collected and passed along to the public;
- The information collection processes and devices;
- The data collection or fusion hardware/software; and
- The information dissemination means (Hallenbeck, 1998).

Data relevant to traffic congestion can be collected from several sources, including police accident reports, both via radio or on a website, inductive loops embedded in the highways, traffic cameras feeding visible images to traffic management or operations centers, 911 centers, service patrols, travelers using cellular telephones, and traffic helicopters and airplanes. The ATIS may collect and provide information on a region wide basis. If so, data will be furnished from local traffic management centers that are under the jurisdiction of a local government or special district.

All of the information will be sent to one data fusion operations center. This data is categorized using software and hardware, translated into a readily understandable format, such as voice messages, and transmitted to the traveling public using a variety of means. These messages contain information about accidents, road construction, bad weather conditions and other reasons for delay. In some cases, the messages may suggest that motorists take alternative routes.

These messages can be sent out via several means. With the deployment of the 511 number to be used for traveler information services, a traveler calls 511, indicates roadways for what information is desired, and listens to a voice message. Other means include highway advisory radio, variable message signs posted along the highways, and website information.

Single Negotiations: Acquiring the iFlorida Conditions System

In March 2003, the State of Florida was chosen to become involved in a highly innovative project by the Federal Highway Administration. Formally named the Surface Transportation Security and Reliable Information System Model Deployment, its more commonly accepted name is 'iFlorida.' The focus is primarily on the Central Florida region, with Florida Department of Transportation (FDOT) District Five given the lead management responsibility. iFlorida's goal is to provide a highly integrated system of information concerning traffic congestion that draws upon several data sources.

One of the key components of this project is the conditions system: comprised of software that will fuse all the data sources and place the information on a website accessible by the traveling public. FDOT District Five issued an ITN document on September 9, 2003, with bids due October 10, 2003. The seven responding bids were rated, resulting by October 20, 2003 in a shortlist of three private company offerors: Castle Rock Consultants, PB Farradyne, and Southwest Research Institute. Negotiations were held with Castle Rock Consultants (CRC) on December 8 and 9, 2003. These negotiations proved successful as the contract was awarded on January 12, 2004.

Offerors to the ITN provided three documents: price and technical proposals, plus answers to a questionnaire that contained 21 questions requesting information about the offerors capability, and previous experience in developing software systems. This information was evaluated using a two-step process.

First, evaluation committee members reviewed all three documents and rated each offeror by using a rating scheme that was based on answers to the questionnaire. Cost was not a consideration in this initial assessment. This first step resulted in a short list of three firms. Second, a smaller evaluation committee comprised of three senior officials rated these three firms, giving the price proposal a weight of 25%.

The subsequent negotiations with the highest rated offeror, CRC, accomplished a variety of goals. First, there was the need to emphasize the importance or intent of several aspects of the project. For example, the importance of meeting the May 1, 2005 deadline for final acceptance was stressed several times. It was suggested that CRC may have to adjust its testing schedule to ensure the final deadline was met.

The process of problem resolution was also a key issue. During the development of software and the testing process, CRC was encouraged to

create a log identifying problem occurrence and resolution. To assist in the problem solving process, public managers agreed to categorize problems as high priority and low priority. In this manner, the public managers can have confidence that the problems are solved, especially for the most important problems.

Overall, there was a sense that the public managers wished to work closely with CRC. Echoing words in the ITN, it was stated that CRC needs to identify what aspects of the functional requirements cannot be met, or would be difficult to meet. If it proved too difficult or costly to meet a given requirement, and it was a low priority item, the public managers may waive the requirement.

Concurrent Negotiations

The choice of concurrent negotiations was made by FDOT public managers in South Florida in order to choose a private supplier that would collect traffic data from a variety of sources and disseminate it to travelers. An ITN was issued, with proposals due June 24, 1999. The private supplier was to deploy a telephone advisory service—in both English and Spanish—at no cost to local callers (FDOT, 1999).

There were key differences between acquiring the South Florida ATIS service and the iFlorida conditions contract discussed above. First, although the private contractor would be furnishing software as the basis for the fusion and dissemination process, human operators would 'collect' the data via websites, radios and telephones, and broadcast this information via the telephone and website. This use of human operators would not require the same customization of software required by iFlorida.

Second, the deployment of ATIS was much more in its infancy in 1999. Not all of the technology required to collect data had been deployed elsewhere. The three private contractors who bid on the South Florida ATIS all proposed different approaches: SmartRoute Systems—using cameras; PBSJ—using traffic sensors based on a microwave technology; and DTI—using the transponders on the SUNPASS system. As a result, the public managers were less confident about a proven approach in 1999 than were their counterparts in iFlorida four years later.

For the South Florida ATIS, four negotiation sessions were held with each of the three private contractors between September 28, 1999 and November 16, 1999. After the final session, the private contractors provided a last best offer. On December 19, 1999, the contract was awarded to Smart Route Systems.

The negotiation sessions were much less concerned with the process of ATIS system development than they were with the conditions around which information would be disseminated and what means were used. Information was gleaned from one negotiating session and used to extract promises and changes in what other offerors would provide. Specifically, two major changes occurred: first, the hours of operation were changed to 24 hours/7 days per week; and second, broadcasting traffic information via television was added.

In no instances was proprietary information provided by negotiators to competing offerors. The changes identified by the negotiations were not deemed to have significantly changed the overall scope of services. The changes that did occur were communicated to the offerors prior to the last and best offer deadline.

Conclusion

The choices made by each process were felt to be the most appropriate at the time the ITN approach was implemented. In 1999, there were few ATIS systems in place nationwide. There was a great deal of uncertainty concerning the best way to collect the data and deliver the ATIS services. Through the use of concurrent negotiation, the raters learned much more about the service delivery process and gained confidence that the contract award was made to the firm best able to meet partnership goals.

In contrast, almost five years later, experience with the creation and deployment of ATIS systems has greatly increased. FDOT District Five program managers had more clearly identified the scope of services, and did not expect that changes would be necessary. Also, the contract was awarded to a private firm that had demonstrated successful similar deployments in 15 other states. Therefore the public managers felt much more confident that the service would be provided as promised.

Bid-to-Goal Program—City of San Diego Wastewater Treatment Division

The-bid-to-goal approach, as illustrated by the City of San Diego's efforts, focuses on "the development of a cost- and service-conscious collaboration between public employees and management" (Council of Excellence, 2003). In doing so it ensures that public employees are heavily involved in a process that is supported by the city from the start. Rather than investing in building capacity toward potentially competing with private sector firms, bid-to-goal reflects a commitment to maintain public

employment along with concurrent levels of accountability and increased service quality.

Bid-To-Goal Program Characteristics

There are four characteristics of the bid to goal program (Williams, 2001). These require that public employees and program managers work closely together.

1. Identify a savings goal that is competitive with private sector service delivery. As part of the acquisition process, an independently formed 'mock' budget is created that would reflect the private sector version of service delivery. Industry performance and pricing information provide the data needed to estimate savings.

This initial step is best accomplished by experts in the service delivery field. These may be in-house staff. However, choosing outside consultants that have a nationwide reputation may have the advantage of increased credibility in the eyes of stakeholders in the community, some of whom may represent private firms who would favor a managed competition approach (Harris, 2004). Three steps are crucial to a identifying a viable savings goal:

- ***Identify current costs for personnel and operations***. Operations costs would include those for fuel, energy and equipment. Some estimate must be made of the extent to which equipment is operating at full capacity. Support costs, including financial services, divisional administration, and facilities maintenance, are part of this assessment (Williams, 2002a).
- ***Estimate private sector costs and potential bid.*** Market labor costs can be estimated from existing data. Optimal performance levels are estimated, along with likely operations costs. If existing operational service levels are deemed satisfactory, lower operating costs may result from achieving process efficiencies. This results in an estimate of a likely minimum bid from a private firm.
- ***Calculate a competitive range.*** Finally, an effort is made to include an amount that reflects private firm profit, overhead costs, travel expenses, etc. This amount is often 20-30% above the minimum calculated bid.

The data used as the basis to calculate the mock budget may create an 'uneven playing field' between existing public expenses and the potential private sector costs. For example, it is likely that employee benefit costs, e.g., contributions to employee pension funds, will be lower for the private 'mock' bid than those found in the public sector (Ravitch and Lawther,

1999). Calculation of labor costs for the private bid may be lower as well if average national salaries for given labor costs are lower than those for the existing public sector service delivery. These items that balance the playing field in favor of the private bid, however, are off set by the estimated profit that is included as part of the mock budget.

Public employees must be given the opportunity to review and challenge any of the costs that are outlined in this budget. Negotiations may occur that would lead to changes in the savings goal initially identified. These negotiations may occur concurrently with those that lead to a creation of a scope of work that results in savings.

2. Create a Scope of Work that would produce the savings. Scope of work changes may involve a wide range of activities. It may mean agreement to eliminate or rewrite administrative rules and policies that have contributed to inefficiency (Council of Excellence, 2003). It may mean cross-training, deploying programs that limit overtime costs, achieving economies of scale by changing procedures to reflect more up to date practices, and shift reconfiguration (Williams, 2002).

The savings goal is then matched to a specific scope of work with performance levels. The goal represents a minimum level of savings for the city, but additional levels can be identified as incentives. A gain sharing program can provide additional benefits to employees. Also, accumulated savings could be placed in a reserve fund to be used for future upgrades of capital stock.

3. Agree upon a schedule that reflects needed changes. A specific timeline should be implemented that incorporates the efforts leading to cost savings. A shortened timeframe, no more than one or two years for example, could provide additional incentives to implement the changes.

4. Complete a document with terms and conditions that all parties sign. The suggestion here is to limit the time frame to no more than five or six years. The agreement can take the form of a memorandum of understanding or be part of a contract between the government and a labor union. The advantage of the shorter timeframe is to counter claims from private vendors about a lack of fairness. Plus, the limited time frame could provide a sufficient incentive to maintain high levels of service.

The City of San Diego Experience

The initial bid-to-goal program with the Wastewater Treatment Operations and Maintenance Division began in 1996 with a two-year competitive assessment study. The resulting document included process

streamlining, centralization of heavy maintenance and warehousing, a pay-for-performance program, and an enhanced management-labor partnership (City of San Diego, 2002)

This document served as the basis for a public operations contract that was approved in 1998 as a six-year pilot program. It has saved the city an estimated $115 million over the subsequent five-year time period and was renewed in 2003 (Harris, 2004). As a result of this success, a second Bid to Goal effort was begun in the Wastewater Collections Division on July 1, 2001 that is projected to save $4.5 million per year while reducing annual sewer system overflows by 34%. This contract ends in fiscal 2007 (City Manager, 2003; Harris, 2004).

A notable feature of all bid to goal programs is the creation of an Employee Assurance Program, a gainsharing effort that allows employees to allocate savings achieved that are above the minimums designated in the memorandum of understanding (MOU). In the initial bid to goal program, $8 million in additional savings resulted in FY 2000. Employees spent these funds in several ways, including providing bonuses to employees; purchasing additional buildings and computer equipment; and supplemented training efforts (Williams, 2001).

The bid to goal approach attempts to combine the strengths of a private business approach with the advantages of maintaining the service in the public sector. The emphasis on identifying and maintaining a commitment to efficiency while maintaining high levels of service quality demands commitment to a best business practices approach.

Use of Award Fee Employee Set Asides by the White Sands Missile Range

In public purchasing partnerships, it is often the case that the ultimate success or failure of the effort turns on the commitment of the contractor's staff. How can a government agency go about increasing the probability that a contractor's staff will actively support a public purchasing partnership? The White Sands Missile Range (WSMR) has found a creative solution to this challenge that involves the use of award fee contracts.

WSMR is a part of the Department of the Army's Army Test & Evaluation Command. Located about 50 miles west of Alamogordo, New Mexico, WSMR contracts for a number of critical support services. A few years ago, the Department of the Army convened a process action team to study ways to incentivize contracts. One suggestion coming out of this study

was for the Army to make more use of award fee contracts. An 'award fee' is specifically defined in the *Federal Acquisition Regulation*:

> An award amount that the contractor may earn in whole or in part during performance and that is sufficient to provide motivation for excellence in such areas as quality, timeliness, technical ingenuity, and cost-effective management. The amount of the award fee to be paid is determined by the Government's judgmental evaluation of the contractor's performance in terms of the criteria stated in the contract. This determination and the methodology for determining the award fee are unilateral decisions made solely at the discretion of the Government.

Cheryl Cretin, Chief of the Contracting Office at WSMR, decided to utilize the award fee approach, but with a new twist: the award fee would be targeted, or set aside, to compensate the contractor's employees for superior performance. In discussing the genesis of the idea, Cretin (2004) explains: "I have long thought that the award fee should be shared with the employees because they are the ones who actually earn the performance award. On a firm fixed-price contract, the contractor includes a fair and reasonable profit in the fixed price. Therefore, the award fee is strictly a performance bonus."

One particularly interesting award fee contract developed by WSMR is with the Caelum Research Corporation of Rockville, Maryland. The contract is for "information systems operations and support services" and covers a variety of activities, including: communications security, software development and maintenance, data processing, telecommunications center operations, help desk, and other related services. The contract represents a true public purchasing partnership in that the multi-year term contract can run for upwards of 15 years, from June 2003 to July 2018. The firm-fixed price level of effort contract calls for a total payment of some $4.3 million for the period of July 2003 to July 2004. The award fee for this period is set at an estimated cost of $114,286, with a contract provision that a minimum of 60% of the award must be "set aside" for the contractor's employees.

Cretin reports that this unique approach to award fee contracting has been used with other contractors, some of whom have actually proposed employee set asides greater than 60%. At least one contractor used 10% of the award fee to create an interest-free loan program for employees needing to take emergency leave due to a family crisis. Chief Cretin notes that this creative use of award fee contracting has had a definite positive impact on employee morale and contractor performance.

Risk and risk assessment is one of the great unexplored areas when it comes to public procurement partnerships. How does one go about conducting a risk assessment of a potential 15-year public procurement partnership? This question was put to Chief Cretin. Cretin noted that the WSMR assessed 'performance risk' in two ways: first, the contractor's past performance was evaluated; and second, the contract incorporates an 'award term' structure.

While this public procurement partnership can, and may, last the full 15 years, the contractor's performance will be evaluated in the second-year and at periodic intervals over the life of the contract. For example, the contract calls for a second-year evaluation of contractor performance. During the second year evaluation, if the contractor's performance is rated satisfactory, the contract may be extended as an 'award term' bonus for up to four additional years. As Cretin points out, "I think that the risk associated with a 15-year contract is mitigated by the fact that the contractor must earn these award terms" (Cretin, 2004).

Purchasing Partnerships: Family Services of Metro Orlando

In the human services, the outsourcing movement has intersected with the community-based care movement. For example, in the State of Florida, the legislature has mandated the use of outsourcing as a mechanism to move to community-based care. The Florida Legislature has also mandated that community based care be accomplished through the use of 'lead agencies.' The result of the intersection of outsourcing, community-based care and lead agencies is creating some interesting public procurement partnerships.

Community-based care is a philosophy that goes beyond privatization and outsourcing to a model of fully integrated services for children and families (Kurth, Vermillion & Mawoussi, 2003). Many states (e.g., Arizona, Illinois, Kansas) as well as many countries (e.g., France, Germany, Sweden) have embraced privatization and outsourcing in conjunction with community-based care (Martin, 2004). However, when it comes to services for abused and neglected children, the State of Florida stands out. The Florida Legislature has mandated that the majority of child welfare services (foster care, adoptions, child protective services and others) be converted to contracts and community-based care by the end of calendar year 2004 (Regier, 2004).

While the move to community-based care may be beneficial for abused and neglected children, it requires significant additional work on the already overworked professional procurement workforce of the Florida Department of Children and Families (Florida DCF). Community based non-profit

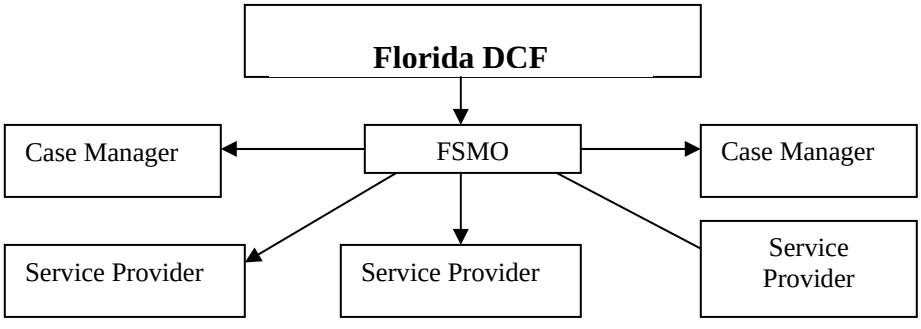
organizations generally provide excellent care, but they are also known for: (1) being small in size and thus unable to take advantage of economies of scale; and (2) lacking in administrative and financial expertise. The idea of the Florida DCF's public procurement workforce having to deal with multiple small administratively and financially unsophisticated contractors posed a real challenge for the move to community-based care. How can a government agency go about moving to community-based care without creating a burdensome amount of additional work for its public procurement workforce? The State of Florida's solution to this dilemma is a public procurement partnership based on the concept of a 'lead agency.'

The lead agency model is borrowed from construction and defense contracting, where one organization serves as the prime contractor and one or more other organizations function as 'sub-contractors.' However, the lead agency model as applied to human services goes beyond the simple idea of a prime contractor and various subcontractors.

The lead agency model, also referred to in human services as 'network' contracting, focuses not only on service delivery, but also on decentralization and community level coordination and collaboration (Kamerman & Kahn, 1998). In Florida's Orange and Osceola counties, the designated lead agency is Family Services of Metro Orlando (FSMO), a faith-based organization with ties to the 107-year old Central Baptist Children's Home of Illinois (FSMO, n.d.). Under this public procurement partnership with the Florida DCF, FSMO serves as the prime contractor (Figure 1).

Through a system of subcontracts with other community-based nonprofit organizations, FSMO concentrates on the overall day-to-day

FIGURE 1
Public Procurement Partnerships between FDCF and FSMO



management and administration of the child welfare system in the two-county area as well as promoting community networking and collaboration. Relieved of much of the managerial and administrative responsibilities, the nonprofit subcontractor partners are free to concentrate more on service delivery issues.

The net result of this public procurement partnership is that the Florida DCF is spared considerable work, time and cost associated with the procurement and administration of multiple contracts. Instead, the Florida DCF deals with one lead agency. Conversely, lead agencies are given increased discretion in the approaches they take to child welfare services and in how they approach the development of partnerships with their subcontractors and the community at large.

What does this type of public procurement partnership look like from the perspective of a lead agency? Mr. Greg Kurth is Executive Vice President of FSMO and the person charged with implementing the lead agency model in Orange and Osceola counties. Two questions were put to Kurth.

First, How is the lead agency model different than a simple administrative services (ASO) organization? Kurth responds that a lead agency is much more than an ASO. "In addition to its administrative and financial responsibilities, a lead agency is also a change agent" (Kurth, 2004). Kurth notes that a lead agency is responsible for developing partnership relations not only with its subcontractors, but also with local governments and the business community. "A lead agency is a community change agent charged with bringing more local partners and resources to the table to help deal with the issue of child welfare.

Second, and in keeping with the theme of risk and risk management, the question was posed: 'How does a private sector agency assess the risk of becoming involved as a lead agency in a public procurement partnership?' Kurth points out that it is difficult, perhaps impossible, to conduct what might be called a traditional risk assessment of becoming a lead agency. According to Kurth, trust becomes a more important issue. "I think it comes down to a matter of trust. Do you trust the leadership of the organization you are doing business with to do the right thing?" (Kurth, 2004).

CONCLUSIONS AND FUTURE EXPECTATIONS

The fast changing world of information technology has given public managers the opportunity to solve problems that were once believed to be unsolvable. As recognition of this opportunity has become more

widespread, there is increasing realization that traditional means of acquiring goods and services are not applicable. Partnerships among public, private and nonprofit managers, not traditional contracting relationships, are increasingly required to solve complex problems. Competitive negotiations, in which there is a dialogue among public managers and prospective partners that results in increased knowledge that continues past contract award, are now required in order to create partnerships that will best achieve appropriate goals. There are higher levels of risk that are associated with all procurement partnership efforts, and these must be recognized and managed in ways that guard against partnership failure.

All of these trends are occurring when numbers of public procurement officials are dwindling and the need for them to assist public managers in creating and maintaining these partnerships is growing. In response, a number of public procurement innovations have been implemented nationwide. It is expected that the lessons learned from these efforts will be successfully applied elsewhere.

ACKNOWLEDGEMENT

This research is partly funded by the IBM Endowment for the Business of Government.

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