Chapter Five: Contracting

Your first step should be to take a strategic look at contracting and align your agency's use of contracting and contractors to support your agency's goals and objectives.

IBM CENTER FOR THE BUSINESS OF GOVERNMENT
WASHINGTON, DC 20005

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: **Contracting**

In addition to managing your own workforce, you will be responsible for managing a large contingent of contractors. You will need to ensure that contractor performance is high and that contractors are meeting and hopefully exceeding your agency's expectations, as set forth in your contracts.

Government today depends more on contractors than at any time in its history. This increase stems from several factors: limits on the number of government employees, a difficult process to hire government workers, and the need for government to frequently ramp up quickly to solve immediate problems. Given this history, you will likely find that your agency now has a large contingent of contractors working to support your agency's operations and mission.

As a consequence, you will face a series of challenges.

Align Contracting Practices with Your Agency Goals and Objectives

For the past decade, government has increasingly contracted out many government operations with little or no overall contracting strategy for the entire organization. Your first step should be to take a strategic look at contracting and align your agency's use of contracting and contractors to support your agency's goals and objectives.

An effective and efficient government requires a strong cadre of government workers supported by a strong cadre of contractors, each in an appropriate role. As part of your strategic assessment of your organization, you will have to work to align roles and responsibilities for both your government employees and your government contractors.

Align Contracting with the Appropriate Number of Government Staff

At the same time that government contracts have gotten more complex and the number of contracts and contractors has grown, the number of government employees to manage contractors has decreased. The government now spends less to manage its contracts (on a percentage basis) than at any point in history. In some cases, this has created poor contract oversight, which has resulted in ineffective and costly contracts.

There is now agreement that government is severely understaffed in the contracting arena. Legislation is pending to create a government-wide acquisition intern program for contract specialists and to increase funds devoted to workforce development and the hiring of contract specialists. The shortage of contracting specialists is due to the downsizing of those positions in the 1990s and to the increasing rate of retirement of "baby boom" contract specialists. You should devote your personal attention to the unique issues and problems facing the acquisition profession. This will include program experts and contracting professionals.

There are specific actions that you can take to strengthen the acquisition cadre in your organization:

- Establish sound career ladders for acquisition professionals so that your agency can retain qualified individuals by providing them with career progression.

- Get direct hire authority for your agency so it can recruit and acquire staff in a timely fashion.
- Put in place intern, mentoring, and coaching programs to increase the capability of your acquisition cadre.
- Design recruiting programs to bring in mid-career acquisition specialists from outside of government.
- Offer joint program and contracting staff training programs to promote a collaborative working environment.
- Establish effective succession planning to respond to impending retirements.

Align Contracting with Industry Best Practices

There is little doubt that government will continue to contract many activities in the future and will continue to work closely with contractors and their staffs. Because of this, you must align your contracting activities with industry best practices. The work of government contractors has substantially changed in recent years, as well as the relationship between government and contractors. These changes are, in part, responsible for some of the recent challenges. Government and contractors are moving into new terrain, and both will need to learn how to deal with changing expectations and new relationships.

In recent years, three major shifts have occurred in the government contracting arena. Shifts one and two are clearly related. The "buying" of services (shift one) will require a new partnership relationship (shift two). Shift three reflects technology as an enabler to provide faster, more cost-effective services.

- **From buying goods to buying services.** While government will continue to buy goods (although it may do it differently, such as purchasing goods via an electronic catalogue), the driving force behind the procurement revolution has been government's increasing need to buy services. When buying services, it is not easy to specify the height or weight of the desired product or deliverable. There is now increasing recognition that the role of government is changing—from the *purchaser of goods* to the *manager of the providers of goods and services*.
- **From a "command and control" relationship to a partnership relationship.** Buying services is a more complex and uncertain activity than buying goods. While buying goods can indeed be complex, there are many more unknowns when buying services. Complexity and uncertainty will determine the type of relationship and interactions required in managing large contracts in the 21st century. The concept of operating as partners is indeed revolutionary for government. It was not part of the traditional model.
- **From a paper-based procurement system to electronic procurement.** The third shift is just as profound and significant as the first two. This shift will also significantly alter the way procurement officials operate. While the first two shifts centered on the impact of the shift from buying goods to buying services, electronic procurement will likely have an important impact on government's ability to buy goods more quickly and efficiently at a reduced cost.

Align Your Expectations with Contracting Realities

Finally, it will be crucial for you to align your expectations in this area. While all the areas discussed in this book will be challenging, contracting presents special challenges. Specifically, challenges include:

- **Dealing with a cumbersome, process-bound system.** For legitimate reasons, there are no "shortcuts" in the world of contracting. You will have to be patient and rely heavily on the advice of your contracting experts. Their job will be to keep your agency procurements moving along while in full compliance with the rules of the system.
- **Dealing in a highly contentious area.** Over the past decade, the pendulum has continued to swing back and forth from flexibility-driven to rule-tightening contracting reforms. You can expect the pendulum to continue to swing; in recent years, it has been moving toward rule-tightening reforms.

Alternative Strategies for Delivering Services

Question: What are alternative sourcing strategies? I thought my only two alternatives were either to outsource via contract or to continue to perform activities in-house with government employees.

Answer: Today, your job has become more complex than in the days when government performed its activities primarily with government employees. Contracts were primarily used to either support government employees or to buy goods and materials. Your job is now to determine how best to accomplish your mission and what sourcing strategies can best fulfill the mission of your organization.

Moreover, your job is to accomplish your mission in the most cost-effective and efficient manner possible. Over the past two decades, government has found that the introduction of some form of competition will likely produce both performance gains and cost reductions. In your review of how best to accomplish your mission, you and your team will consider the following options:

- **Insourcing.** This is when your own employees provide the services. When creating the Transportation Security Administration (TSA), it was decided that TSA employees would be federal civil servants and not "contractors" provided by private sector firms.
- **Competitive sourcing.** This is a public sector–private sector competition to see who can do the job at a lower cost and with better performance. At the Internal Revenue Service (IRS), competitive sourcing was used to rethink its functions and modernize its business processes, which resulted in substantial improvements in service delivery. In two competitive sourcing initiatives, government employees at IRS won both competitions; however, this still resulted in reductions in the number of federal employees in both instances.
- **Outsourcing.** Outsourcing differs from competitive sourcing in that the decision to move work out of the government has already been made. Private sector firms compete to provide greater efficiency, higher performance, and greater costs savings. In recent years, the National Aeronautics and Space Administration outsourced its desktop computing (hardware, software, and support) to a private sector firm, which resulted in significant cost savings.
- **Public-private partnerships.** In selecting a public-private partnership approach, you decide to share the costs, risks, benefits, and profits with a private sector firm. One example of this approach is the Defense Logistics Agency, which selected a "Virtual Prime Vendor" to provide parts and consumables for C-130 aircraft propeller assembly.

In their report to the IBM Center (2004), University of Maryland's Jacques Gansler and William Lucyshyn provide specific recommendations on how you can best accomplish your examination of alternative sourcing strategies in your organization:

- **Leadership.** Your personal involvement is crucial in obtaining and maintaining organizational support for examining alternative sourcing strategies.
- **Planning.** You must ensure that there is adequate planning in order to reap the maximum benefits of alternative sourcing strategies.
- **Change management.** You must recognize that alternative sourcing strategies will drive major changes in your organization, and you must develop approaches and incentives to manage the selected strategy.
- **Communication.** You must develop and maintain comprehensive communication with all stakeholders.
- **Follow-up.** You must follow up to ensure that all contracts and agreements are executed as proposed.

Understanding Alternative Sourcing Strategies

From *Implementing Alternative Sourcing Strategies: Four Case Studies*
edited by Jacques S. Gansler and William Lucyshyn

Competitive Sourcing

The competitive sourcing bidding process determines whether the public or the private sector can do the job faster, at lower cost, and with better performance. Competitive sourcing is a method of introducing competition into government services, replacing the government's traditional monopoly with much greater incentive for improved operational efficiency at significantly lower costs. Jobs that are deemed "not inherently governmental" (i.e., "commercial") are put into bid packages, with the private and public sectors competing for the contract. In cases where the government agency wins the competition, however, there is not a formal "contract award." This occurs only when the private sector bidder wins.

These competitions are held under guidelines established by the federal Office of Management and Budget (OMB). The guidelines are referred to as "A-76 competitions" after the federal circular in which they are published. The private sector bids, along with the proposal from the government organization, are evaluated, and the lowest cost provider (in some cases A-76 allows best-value criteria to be used) is selected to provide the desired services.

Outsourcing

Outsourcing differs from competitive sourcing in several ways. Under outsourcing, the government agency concludes, in advance, that the best way to achieve greater efficiency, higher performance, and substantial cost savings is to contract out the work to a private vendor. There is no competition between the government agency and the private vendor for the work to be performed. The "competition" is among the private vendors bidding for the contract to perform the work or provide the service. Outsourcing has become an increasingly common practice in federal, state, and local agencies.

The private sector has made increasing use of outsourcing over the past decade. Recent press accounts indicate that many private sector companies have moved non-core operations to (mostly) third-world countries, which offer substantially lower salaries to workers in repetitive or low-grade occupations such as order taking, service inquiries, software programming, and telemarketing.

Public-Private Partnerships

Another category of government acquisition is public-private partnerships; these allow the public and private sectors to share the costs, risks, benefits, and profits. Public-private partnerships can take many forms where production work, facilities management, and the investment of capital are functions that can be shared between public and private entities to obtain efficiency and cost savings. Public-private partnership must operate in a competitive environment to be truly effective; otherwise, there are no incentives for improving performance.

One type of public-private partnership that the government has established is known as "prime vendor." This concept originated in the private sector, with the creation and fostering of close working relationships between companies and their suppliers.

Performance-Based Contracting

QUESTION: What is performance-based contracting? What has been the experience of other public sector organizations in using it?

ANSWER: The Office of Federal Procurement Policy (OFPP) has defined performance-based contracting as containing four key elements:

- **Performance requirements** that define, in measurable terms, the work to be accomplished or the service to be provided
- **Performance standards** that define the "acceptable quality level" of performance
- **A quality assurance plan** that specifies the means by which contractor performance will be determined and documented
- **Positive and negative incentives** that are tied to the quality assurance plan

Over the past decade, the use of performance-based contracting has increased in the federal government and there continues to be interest in further increasing the use of such contracts. In recent years, the Office of Federal Procurement Policy has set a goal that at least 40 percent of eligible contracts awarded are performance-based contracts.

Performance-based contracting should be viewed as part of the increasing movement toward a greater performance orientation in government, as discussed in the section on Performance. The success of performance-based contracting will depend, in great part, on how effectively your organization can describe the desired outcomes of the performance-based contract. The goal is to focus on the intended results of the project, not the process. Performance-based contracting includes the use of shared incentives to permit greater innovation and cost-effectiveness.

The use of performance-based contracts is closely related to the procurement partnership model described on pages 100–101. In performance-based contracts, the government specifies the desired outcome of the project, as opposed to methods to be used. The challenge facing governments in developing performance-based contracts is to clearly define the expected "performance" of a contract consisting of contract outputs, quality, outcomes, and various combinations of the three. The goal is also to provide contractors with more agility and flexibility in determining their approach to achieving the desired outcomes.

In his report to the IBM Center (2002), University of Central Florida's Lawrence L. Martin examined the experience of state and local governments with performance-based contracting. He found that state and local governments were experimenting with various approaches to performance-based contracts, including innovations such as share-in-savings contracting, revenue enhancement contracting, and milestone contracting. Overall, Martin found that state and local governments were ahead of the federal government in performance contracting as they had adopted a wider variety of policies, practices, techniques, approaches, and tools all designed to change the behavior of contractors to focus more on performance.

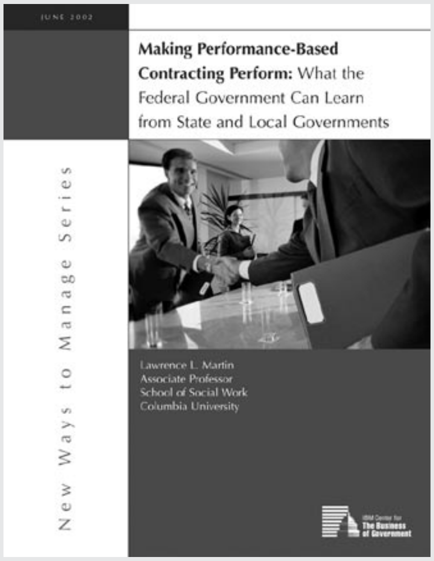
As noted in the *Memo on Contracting*, reform in the procurement process is being driven, in part, by the movement toward contracting for services rather than the traditional contracting for goods. Martin writes, "The transition to service contracting constitutes a fundamental paradigm shift for federal procurement. Federal procurement must find new ways of conducting the federal government's business including the development of new policies, procedures, concepts, and tools to deal with a new service reality."

Examples of Performance-Based Contracting (PBC)

From *Making Performance-Based Contracting Perform: What the Federal Government Can Learn from State and Local Governments*

by Lawrence L. Martin

In his report to the IBM Center (2002), Lawrence Martin found numerous examples of performance-based contracting at the state and local level across the United States. The table below describes how state and local governments are designing contracts to place increased emphasis on performance and to reward or penalize contractors based on that performance.



Examples of Approaches to Performance-Based Contracting in the United States and Canada

Case Example	Description
1. Metropolitan Government of Nashville & Davidson County, Tennessee: PBC for Share-in Savings with Partnering	PBC for change management services using share-in-savings and partnering whereby the contractor and public employees share in the cost savings
2. Arizona Department of Economic Security: PBC with Indefinite Performance	PBC for job training and placement services with indefinite performance where the contractor's compensation and performance standards are tied to the performance benchmarks of another provider
3. City of Charlotte, North Carolina: PBC with Step-Up/Step-Down Incentives and Penalties	PBC for help desk and desk side support services with incentives and penalties that step-up/step-down from the performance standards or acceptable quality levels (AQLs)
4. Oklahoma Department of Rehabilitative Services: PBC for Individual Client Milestones	PBC for employment services using a milestone approach where each person served is treated as an individual project with a start point, end point, and major milestones
5. Pinellas County, Florida: PBC with Penalties for Incomplete Service Data	PBC for ambulance services with penalties for data integrity problems
6. Illinois Department of Children & Families: PBC by Manipulating Contractor Workload	PBC for child permanency placements (family reunification, adoptions, and subsidized guardianship) using workload manipulation to increase contractor performance
7. Ontario (Canada) Realty Corporation: PBC with "Floating" Incentives and Penalties	PBC for multi-year property management services using "floating" incentives and penalties tied to 112 performance requirements

The Procurement Partnership Model

Question: What is the procurement partnership model? How does it differ from the traditional procurement model?

Answer: As you will quickly find out, much of the work of your agency is done via contracts with other organizations (both private sector firms and nonprofit organizations). In fact, you will probably find contractors sitting in offices throughout your building. Without looking closely at their identification badges, you might not even be able to tell the difference between which individuals work for you and which work for a contractor. They often sit right next to each other. Contractors are likely to be assisting in your information technology (IT) offices and directly working with your program staff in delivering services to citizens.

In the past, government contracts were used to buy things (such as the proverbial widget) that were built to government specifications in factories spread across the United States. While the government still does buy many things, the dramatic shift over the past 20 years has been toward the purchase of professional services. Buying services has turned out to be far different from buying commodities. As a consequence, a different relationship is now necessary to best accomplish the goals of government contracts.

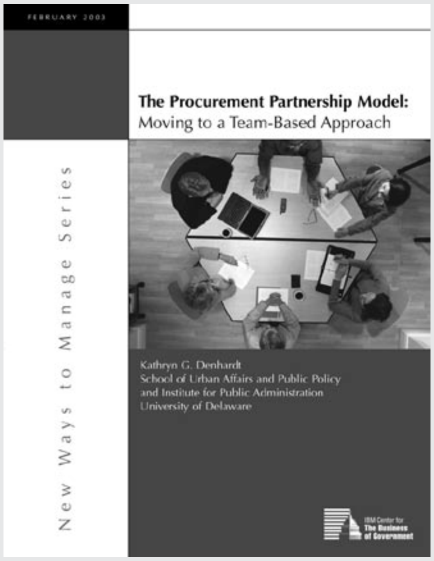
In her report to the IBM Center, University of Delaware's Kathryn Denhardt concluded that a new relationship is now required between the government and its contract workforce. Successful contracts, according to Denhardt, now require arrangements and relationships that have been adapted to a results-driven, resource-constrained government. Denhardt defines four desirable changes from the traditional procurement model to the new partnership procurement model:

- **Moving from low trust to high trust.** Because of the complexity of many government contracts, unexpected problems are likely to occur and developing solutions to these problems will require "a close partnership between the government and the contractor in order to share information, brainstorm ideas, and find mutually agreeable ways to move forward." Trust is required when problem solving is necessary.
- **Moving from a diffusion of leadership to executive leadership.** During interviews for her IBM Center report, Denhardt was told that successful contracts were characterized by having a single executive on both the contractor and government side who was fully committed to making the project successful and who has sufficient authority to make necessary decisions along the way.
- **Moving from stovepipe organizations to team-based approaches.** Because of the increasing complexity of projects as noted above, "integrated solutions" teams are now required. These teams pull together expertise from various parts of your organization: contract staff, program staff, IT staff, financial staff, and other appropriate staff members.
- **Moving from "accountability to rules and audits" to "accountability for results."** This is a major change in the evolution of contracting. Today, performance-based service contracts are increasingly being written to contain clear standards for performance and results.

In his report to the IBM Center, University of Central Florida's Wendell Lawther identified the need for longer-term commitments and relationships as key factors in a successful partnership model. Given the increasing complexity of projects, Lawther found that additional flexibility will be needed to revise projects based on unanticipated problems and evolving knowledge and new technologies.

Understanding New Contracting Vehicles

From *The Procurement Partnership Model: Moving to a Team-Based Approach*
by Kathryn G. Denhardt



The variety of contracting vehicles available to government has expanded. With the right people involved, these vehicles can incorporate both a performance-based management orientation and a partnership approach.

Share-in-savings contracts can be used when contracting for the reengineering of a business process that will substantially reduce costs for the government over time. In some cases, the vendor makes the up-front capital investment and realizes return on investment over a one- to three-year period following the reengineering. The agency pays the vendor through savings from what the agency would have spent under the old system and keeps a share of the savings itself.

Commercial item purchase or service contracts are used for the purchase of items or services available on the commercial market rather than specially developed for the government. Such contracts are appropriate in order to reap the price benefits of competition among multiple providers and to allow immediate purchase of widely accessible products and services. Purchasing commercial items avoids the problematic issue of intellectual property rights that arises when vendors develop solutions for government that also have a commercial value to the vendor. These intellectual property issues present a significant barrier to successful partnerships between government and the vendor, and may be avoided by using commercial items and services. Purchasing commercial items usually results in more timely delivery as well.

CONTRACTING

Government-wide acquisition contracts (GWAC) are contracts intended for multi-agency use. A program manager might utilize a GWAC to access services without going through a new procurement process. Program managers who do not have successful relationships with their own agency's procurement office have been known to utilize GWAC vehicles from another agency.

Fixed-price contracts are appropriate for services that can be objectively defined in the Request for Proposal and for which there is a track record of what such services cost. With fixed-price contracts the vendor maximizes profit by providing the service in the quickest possible fashion, so it is essential to have good performance and quality measures in the contract, or it will be difficult for the project manager to hold the contractor accountable for quality and outcomes.

Cost-reimbursement contracts are necessary when it is impossible to clearly define in advance what will be required of the vendor. In those cases government might enter into cost-reimbursement contracts in which vendors are reimbursed for the actual costs of performing the service. The incentive for the contractor is to have the project take longer in order to maximize profit. Thus, services that have been previously acquired under cost-reimbursement contracts should use that previous experience to convert to a fixed-price contract.

Fixed base price plus performance incentive contracts are appropriate when periodic measures of performance such as target completion dates or levels of quality can be determined and rewarded (or sanctioned) based on actual performance during the contract period.

Public-Private Partnerships

Question: What are public-private partnerships? Should I consider them for my organization?

Answer: Public-private partnerships (PPPs) have been defined as an arrangement of roles and relationships in which two or more public and private entities work together to achieve a common objective. PPPs usually have various public-private cost-sharing arrangements, which potentially provide additional investment dollars for public projects that might otherwise not be available. In the Collaboration section, we discuss the advantages and disadvantages of government participating in partnerships (see page 144). It is clear that it must be in the self-interest of government organizations to participate in such partnerships.

Given the prospect of tight budgets for both civilian and military agencies across the federal government in the years ahead, interest in public-private partnerships is likely to increase. Thus, it might be highly worthwhile for your organization to consider whether a public-private partnership approach is appropriate for the types of activities for which you are responsible. Governments across the world are now exploring new types of public-private partnerships, including partnerships in areas such as health, education, and real estate.

Traditionally, PPPs have been used predominantly for public sector infrastructure projects, such as highway construction. The building of privately financed toll roads across the United States is a prime example of such PPPs. PPPs have been used extensively across the world. Many nations now have much greater experience with PPPs than the United States. Over the last 20 years, the United Kingdom has used its Private Finance Initiative (PFI) to increase the flow of capital projects during a period of restraints on public spending.

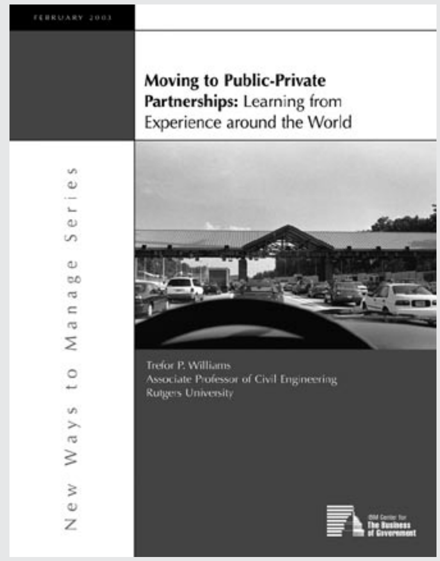
In his report to the IBM Center, Rutgers University's Trefor Williams concludes that the federal government should consider options other than the current procurement model in which government traditionally procures and funds separate services via distinct contracts, such as construction, design, or operating services. According to Williams, PPPs allow for "greater efficiency and cost savings by bringing private sector discipline to new areas of project construction, operation, and financing." Williams also emphasizes that PPPs "attract new private investment…. Projects where no government funding may have been available are allowed to move forward due to private sector investment."

As noted above, the challenge for government leaders like you is to begin to consider new applications of the PPP model to various public sector activities beyond the transportation sector, which has been the dominant user of PPPs. In her report to the IBM Center, Harvard University's Judith Grant Long argues that PPPs could be a powerful means to leverage public buildings and real property to generate investment and long-term revenues for the government. Since federal managers are likely to be facing a critical and ongoing shortage of public funds, Long states, "it is imperative to consider creative financing solutions, such as public-private partnerships that can attract private capital for public property purposes." In the property management arena, PPPs are also a potential response to the government's current heavy reliance on costly leasing.

It should be pointed out that receiving "approval" to create a public-private partnership will be a challenge for you. In some cases, legislation will be required to undertake a public-private partnership. You will also confront an outdated, complicated set of budget rules which does not easily accommodate itself to public-private partnerships. Even though it is difficult, you might conclude that it is worthwhile and cost-effective for your agency to explore the possibility of public-private partnerships.

Types of Public-Private Partnerships

From *Moving to Public-Private Partnerships: Learning from Experience Around the World*
by Trefor P. Williams



Range of Public-Private Partnerships

Fully Public ⟵⟶ Fully Private

Design Build	Design Build Finance Operate	Build Transfer Operate	Build Operate Transfer	Build Own Operate Transfer	Build Own Operate

Models of Public-Private Partnerships

Design-Build	When one entity makes a contract with the owner to provide both architectural/engineering design services and construction services.
Design-Build-Finance-Operate	A constructor is responsible for the design, construction, maintenance, and financing. The constructor is compensated by specific service payments from government during the life of the project.
Build-Transfer-Operate	A private developer finances and builds a facility and, upon completion, transfers legal ownership to the sponsoring government agency. The agency then leases the facility back to the developer under a long-term lease. During the lease, the developer operates the facility and earns a reasonable return from user charges.
Build-Operate-Transfer	A concession is granted to a constructor to design, finance, maintain, and operate a facility for a period of time. The constructor recoups the cost of the project by collecting tolls during the life of the concession period.
Build-Own-Operate-Transfer	Ownership of the facility rests with the constructor until the end of the concession period, at which point ownership and operating rights are transferred to the host government.
Build-Own-Operate	Resembles outright privatization. Projects of this type are often let with no provision for the return of ownership to government.
Build-Lease-Transfer-Maintain	In this type of arrangement, a facility is typically designed, financed, and constructed by the private sector and is then leased back to government for some predetermined period of time at a pre-agreed rental.
Lease-Renovate-Operate-Transfer	This model is for facilities that need to be modernized. The private sector constructor pays a rental to government and agrees to renovate the facility. In exchange, the constructor is granted a concession to operate the facility for a fixed period of time and to charge a fee for the service.

Competitive Sourcing

QUESTION: I understand that competitive sourcing is very controversial. What exactly is it? If I undertake competitive sourcing, what is likely to happen?

ANSWER: In brief, the competitive sourcing bidding process determines whether the public or private sector can undertake a set of activities currently done by the government and do the job faster, at lower costs, and with better performance. The public sector–private sector competitions are held under guidelines set forth by the Office of Management and Budget in its A-76 circular. In competitive sourcing, the private sector "bids" against a government unit that has put together a "most efficient organization" (MEO) staffing plan. It should be emphasized that these competitions are about whether specific government functions (or activities) can most efficiently be conducted in-house or by those outside of the organization.

In their report to the IBM Center (2004), Jacques S. Gansler and William Lucyshyn examined over 1,200 public-private competitions conducted by the Department of Defense (DoD) over a 10-year period from 1994 to 2004. DoD was selected for analysis because the department had conducted more competitions than the rest of government and had collected data on each of the 1,200 competitions. Based on their analysis of the data, Gansler and Lucyshyn found:

- **Competition results in savings.** This finding has been consistent in all studies of competitive bidding. Regardless of who wins the competition (the public sector organization or the private sector contractor), savings result. Competitions resulted in an average estimated savings of 44 percent of baseline costs (with either improved performance or no decrease in performance).
- **Involuntary separations are few.** Counter to common perceptions, few federal employees actually lose their jobs as a result of competition. Data showed that only 5 percent of DoD job competitions resulted in involuntary separation. Most employees were transferred to other positions in government as a result of competitions. In addition, a variety of tools have been developed to provide "soft landings" for employees who have been separated.
- **The government's "most efficient organizations" are winning most of the competitions.** Again counter to common perceptions, an analysis of data showed that since 2003, the government has actually won twice as many competitions as have contractors.

Over the past decade, the government has created several "soft landing" programs for cases in which the private sector wins a competition. It has become a best practice for the winning private sector firm to provide job offers to federal employees displaced by the competition.

Based on their analysis, Gansler and Lucyshyn set forth the following recommendations to agency leaders, like yourself, on how best to conduct competitive sourcing:

- Work toward **minimizing the potential impact** on employees when planning for competitive sourcing competitions.
- **Know and use all of the available tools, alternatives, and techniques** to minimize any negative impact on separating employees.
- **Look for innovative ways** to offer employees a smooth transition in the event of involuntary separation.
- Continually **communicate** with both employees and external stakeholders during a competition.

Notwithstanding the positive conclusions of Gansler and Lucyshyn, you should be aware that competitive sourcing has become politically contentious and will require a substantial amount of your time and political capital if you choose to use this approach.

Glossary of Key Terms About Competitive Sourcing

From *Competitive Sourcing: What Happens to Federal Employees?*
by Jacques S. Gansler and William Lucyshyn

Activity. A specific task or grouping of tasks that provides a specialized capability, service, or product based on a recurring government requirement. Depending on the grouping of tasks, an activity may be an entire function or may be a part of a function. An activity may be inherently governmental or commercial in nature.

Commercial Activity. A recurring service that could be performed by the private sector. This recurring service is an agency requirement that is funded and controlled through a contract, fee-for-service agreement, or performance by government personnel. Commercial activities may be found within, or throughout, organizations that perform inherently governmental activities or classified work.

Competition. A formal evaluation of sources to provide a commercial activity that uses preestablished rules (e.g., the Federal Acquisition Regulation [FAR], OMB Circular A-76). Competitions between private sector sources are performed in accordance with the FAR. Competitions between agency, private sector, and public reimbursable sources are performed in accordance with the FAR and A-76. The term "competition" as used in A-76 includes streamlined and standard competitions performed in accordance with A-76 and FAR-based competitions for agency-performed activities, contracted services, new requirements, expansions of existing work, and activities performed under fee-for-service agreement. The term also includes cost comparisons, streamlined cost comparisons, and direct conversions performed under previous versions of OMB Circular A-76.

Inherently Governmental Activities. An activity that is so intimately related to the public interest as to mandate performance by government personnel as provided by OMB Circular A-76 Attachment A.

Most Efficient Organization (MEO). The staffing plan of the agency tender, developed to represent the agency's most efficient and cost-effective organization. An MEO is required for a standard competition and may include a mix of government personnel and MEO subcontracts.

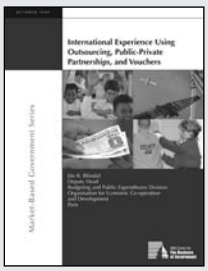
Performance Work Statement (PWS). A statement in the solicitation that identifies the technical, functional, and performance characteristics of the agency's requirements. The PWS is performance based and describes the agency's needs (the "what"), not specific methods for meeting those needs (the "how"). The PWS identifies essential outcomes to be achieved, specifies the agency's required performance standards, and specifies the location, units, quality, and timeliness of the work.

Privatization. A federal agency decision to change a government-owned and government-operated commercial activity or enterprise to private sector control and ownership. When privatizing, the agency eliminates associated assets and resources (manpower for and funding of the requirement). Since there is no government ownership and control, no service contract or fee-for-service agreement exists between the agency and the private sector after an agency privatizes a commercial activity or enterprise. Moving work from agency performance with government personnel to private sector performance where the agency still funds the activity is not privatization.

For Additional Information on Contracting

Effectively Managing Professional Services Contracts: 12 Best Practices (2006) by Sandra L. Fisher, Michael E. Wasserman, and Paige P. Wolf

This report is targeted to the growing number of government managers who are responsible for managing professional services contracts. The report presents a dozen best practices, based on real-world experience, currently used by successful managers across the government.



International Experience Using Outsourcing, Public-Private Partnerships, and Vouchers (2005) by Jón R. Blöndal

This report is based on research conducted by the Organization for Economic Cooperation and Development (OECD), including site visits, interviews, and two major OECD conferences. The report focuses on key design and implementation issues for three principal market-type mechanisms used to provide public services in OECD countries: (1) outsourcing, (2) public-private partnerships, and (3) vouchers.

Transborder Service Systems: Pathways for Innovation or Threats to Accountability? (2004) by Alasdair Roberts

This report describes the emergence of new transborder service systems that constitute a radical change in the administrative structure of government. Service delivery organizations that were previously independent and geographically dispersed are being integrated into border-spanning corporate structures. Three trends have encouraged the rapid expansion of these systems: an increased international emphasis on outsourcing and privatization, an increase in the scope and complexity of government outsourcing, and the elimination of barriers to entry to national markets for the provision of public services.

IT Outsourcing: A Primer for Public Managers (2003) by Yu-Che Chen and James L. Perry

This report assesses the potential of using application service providers (ASPs) for improving the efficiency and effectiveness of public information and service delivery. Renting application services allows government to use the most advanced applications and technology at an affordable rate. ASPs address e-government challenges, such as lack of technology-trained staff, capital investment, implementation and maintenance, and uncertainty associated with fast-paced technological changes.

Moving Toward Market-Based Government: The Changing Role of Government as the Provider (2003) by Jacques S. Gansler

This reports examines competitive sourcing, a major shift in the way government does its business. This report defines competitive sourcing and outsourcing, discusses in which situations it is appropriate to use one or the other, and lists steps for successful implementation.

For Additional Information on Contracting

Franchise Funds in the Federal Government: Ending the Monopoly in Service Provision (2002) by John J. Callahan

This report provides an evaluation of the franchise funds authorized in 1994 under the Government Management Reform Act. The report includes a case study of the Office of Federal Occupational Health (OFOH) in the Department of Health and Human Services. The report evaluates the successes and failures of franchise funds and the competition they face from the private sector and other government service providers.

A Vision of the Government as a World-Class Buyer: Major Procurement Issues for the Coming Decade (2002) by Jacques S. Gansler

This report analyses the key issues facing government procurement and the steps that should be taken to address these key issues. The report presents a "vision" of the government's procurement process for the next decade and describes how government can efficiently and effectively transition to this new vision.

Contracting for the 21st Century: A Partnership Model (2002) by Wendell C. Lawther

This report examines federal agencies that have contracted out large-scale programs and evaluates their effectiveness. Outsourcing of services formerly provided in-house has become a strategy used by an increasing number of local and state governments to lower service delivery costs and/or improve service quality.

Managing for Outcomes: Milestone Contracting in Oklahoma (2001) by Peter Frumkin

This report documents examples of milestone contracting between public agencies and social service nonprofit agencies, with a particular focus on an innovation in Oklahoma's way of managing its contracts with nonprofit organizations. Oklahoma's milestone contracting specifies a series of distinct and critical achievements and confers payment for a set of collaboratively defined programmatic results.

Determining a Level Playing Field for Public-Private Competition (1999) by Lawrence L. Martin

This report provides an analysis of the theoretical and practical issues involved in creating a level playing field for public-private competitions. The notion of a level playing field is that governments should create a set of policies and procedures governing public-private competitions such that neither government nor the private sector has a competitive advantage. The study assesses the challenges involved in attempting to create a level playing field.