PUBLIC MEETING ON THE MARCH 4, 2009
PRESIDENTIAL MEMORANDUM ON GOVERNMENT CONTRACTING

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PRESENT:

JEFF LIEBMAN, Executive Associate Director,
OMB

RICHARD GINMAN, Deputy Director for Program Acquisition and Contingency Contracting, Defense Procurement and Acquisition Policy, DoD

WILLIAM McNALLY, Assistant Administrator for Procurement, NASA

DAVID DRABKIN, Acting Chief Acquisition Officer and Deputy Chief Acquisition Officer and Senior Procurement Executive, GSA
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction of the Meeting</td>
<td>3</td>
</tr>
<tr>
<td>Competition</td>
<td>8</td>
</tr>
<tr>
<td>Pre-Registered Speakers</td>
<td>9</td>
</tr>
<tr>
<td>Open Discussion</td>
<td>36</td>
</tr>
<tr>
<td>Contract Type</td>
<td>43</td>
</tr>
<tr>
<td>Pre-Registered Speakers</td>
<td>47</td>
</tr>
<tr>
<td>Open Discussion</td>
<td>53</td>
</tr>
<tr>
<td>Acquisition Workforce</td>
<td>61</td>
</tr>
<tr>
<td>Pre-Registered Speakers</td>
<td>67</td>
</tr>
<tr>
<td>Open Discussion</td>
<td>80</td>
</tr>
<tr>
<td>Multi-Sector Workforce</td>
<td>108</td>
</tr>
<tr>
<td>Pre-Registered Speakers</td>
<td>109</td>
</tr>
<tr>
<td>Open Discussion</td>
<td>156</td>
</tr>
</tbody>
</table>
MR. LIEBMAN: It's a pleasure to welcome you to this public meeting on government contracting. My name is Jeff Liebman. I'm the executive associate director of the Office of Management and Budget.

The March 4 presidential memorandum on contracting directed the Office of Management and Budget to work with other agencies to develop guidance to improve government contracting. The memorandum requires guidance on five topics.

The first topic is guidance to assist agencies in reviewing contracts in order to identify contracts that are wasteful, inefficient, or not otherwise likely to meet the agency's needs. This first guidance is scheduled to be issued in July.

Guidance on the other four topics are scheduled for release at the end of September. It is those four topics, the
September release topics, that we are hoping to get your input on today in today's discussion.

The first of those topics is maximizing the use of competition. The second is improving practice in selecting contract types. The third is strengthening the acquisition workforce. The fourth is clarifying when functions should be performed by federal employees and when contractors may be appropriately considered.

We're at a critical junction in federal acquisition policy. Since 2001, the volume of federal contracting has more than doubled to over $500 billion, but the government's management capacity and policy making in the acquisition area has not kept up with the increasing importance of sound acquisition practice to the success of government endeavors.

The President has instructed us to improve and strengthen contracting procedures.
Congress has also clearly expressed its desire for improved management and oversight of contracts. OMB is looking forward to working with all of you in the acquisition community as we try to improve acquisition policy and as we make the sustained effort that it's going to take many months and years to strengthen and implement the improved acquisition practices.

Acquisition management, broadly defined, includes the program managers who specify requirements, the contracting officers who implement contracts, to the technical representatives who administer and manage contracts -- is one of the most important and most challenging functions in the federal government.

It requires managers with a very broad range of skills ranging from technical expertise in both contracting practices in substantive areas to negotiation skills, market analysis skills, post-award management
skills, and performance measurement skills.

I'm very happy today to have three of the government's top experts in acquisition practices here to help guide the discussion today. With me here to lead the discussion of competition is Richard Ginman, the deputy director for Program Acquisition and Continuency Contracting at the Defense Procurement and Acquisition Policy at the Department of Defense.

The contracts type discussion will be led by William McNally, the assistant administrator for procurement at NASA.

The acquisition workforce discussion will be led by David Drabkin, the acting chief acquisition officer and deputy chief acquisition officer and senior procurement executive at GSA.

I will lead the discussion of the multi-sector workforce.

I want to thank all three of our experts for being here. I've personally
learned a ton from each of them and I thank them not only for the work they do at their own agencies, but for the extra work they do to help all of us in the acquisition community develop government-wide polices and work on inter-agency efforts.

I also want to acknowledge the experts we have here today from the Office of Federal Procurement Policy, including Leslie Field, the acting administrator, Matthew Blum, the associate administrator, and Julia Wise, who coordinated the planning for today's event.

The format we're going to follow is we're basically going to spend about an hour on each of the four topics that we are directed to issue guidance on in the presidential memorandum. Each hour, the facilitator for that hour will make some opening remarks for a few minutes. Then we'll have the people who have signed up to make formal statements come to the microphone and
make those statements. Then the balance of the
hour will be for discussion and general
comments from the audience.

So I thank you all for coming here
and for being willing to contribute your
expertise to the effort we're going through to
improve federal acquisition practices and I
hope that not only will you participate today,
but send in any oral or written comments you
have to the www.regulations website, as stated
in the Federal Register notice so that any
comments you want to be part of the federal
record can become so. Thanks again for being
here.

MR. GINMAN: Good morning. My
purpose will be to facilitate the discussion
on competition. I'm going to read a quote. It
is the policy of the federal government that
executive agencies shall not engage in non-
competitive contracts, except in those
circumstances where their use can be fully
justified and where appropriate safe guards
have been put in place to protect the tax
payer. This was President Barrack Obama in his
4 March memorandum to the executive agencies.

In several speeches now, it is the
first time I can remember in 39 years of being
in and out of the acquisition business, that
the President has actually stood up and talked
about contracting. I think it's an exciting
time. It's an opportunity for us to look at
ways that we can change our business and to
improve what we do.

From a competitive perspective,
what we're interested in today is how can
we remove barriers to competition and then,
what are initiatives that we can take that we
can use to improve competition. I would note,
at least for the Department of Defense, that
in 1997, I think we were 58 percent competed
both by actions and dollars. Last year, we
were 64 percent competed, both in actions and
dollars with a steady growth over that period
of time.
So there has been a focus on competition and how do we improve it, how do we remove barriers. We're excited to have this opportunity to get additional insights and thoughts on how to proceed.

I have five people that will speak today and I will introduce them in turn and ask that they contain their remarks to three to five minutes. The first is Larry Allen, president of the Coalition for Government Procurement. Mr. Allen?

MR. ALLEN: Thank you, Mr. Ginman. Thank you all for the opportunity to address the public meeting this morning.

Of course, one of the great things about being first is while I do try to follow the rules, I have one sum statement that covers all the three topics I want to talk about. I'll be out of here in three to five minutes anyway, so I appreciate your indulgence.

The Coalition is a non-profit
association of some 350 companies that sell commercial solutions to the government. We're currently in our 30th year of working with people in government on common sense procurement issues, so we have a long history of working on common sense acquisition. In fact, we were formerly incorporated as the Coalition for Common Sense in Government Procurement.

I've been with the Association in one way or another for 19 years, so I've had the opportunity to work on many of these issues. I appreciate the opportunity this morning to carry that forward.

The Coalition believes that there are a number of issues that need addressing in today's federal market. Strengthening and improving the federal acquisition workforce, balancing transparency versus protecting legitimate proprietary information, and the need to ensure proper oversight while ensuring that the federal market continues to attract
good competition and the best solutions.

The Coalition recommends that OMB and the FAR Council work with Congress and others to improve the same focus and resources on front end needs, such as acquisition workforce training as has already been given to back-end outputs such as increased Inspector General resources.

There is room for both and proper roles for each one. However, no one can expect to have the type of federal acquisition service we all want without giving equal attention to all parts of the process.

The best place we feel to start with this is the acquisition workforce. We are recommending to GSA and others the creation of an acquisition executive corps that acts as true acquisition business relationship managers using acquisition expertise as well as industry knowledge.

Our 1102 Nex Gen paper calls for the creation of a career path and incentives
for contracting professionals. All contracting professionals will have a total 360 degree view of the business process through this proposal. An outline of our program is included in our formal remarks.

Acquisition professionals must also have the resources and time to conduct acquisition planning. With planning, contracts of many types can be properly managed without proscribing the use of any one. There is no such thing as a bad contract type among the contracts commonly used on the federal level today. Rather, inadequate training and insufficient acquisition workforce resources lead to less than ideal contract management after reward.

Too many acquisition professionals must go onto the next set of needs after an initial award to give proper time to management of agreements already in place. Our proposal will help remedy that situation without tying the hands of government in terms
of the type of contracts they can use.

The Coalition also believes that the additional resources that this recommendation requires will actually cost the government less in the long run than a continued emphasis on catching mistakes that have already occurred. Again, that has its place.

We also understand that OMB and the administration are concerned about competition in acquisition. Generally, the Coalition believes that a great deal more federal opportunities for commercial solutions are competed than general perceptions may hold to be the case. Anecdotal information from our members indicates that competition is common place and that single bid opportunities in the COTS space are an anomaly for all but the smallest opportunities.

While we can't say whether this is true for all federal market sectors -- although I thought Mr. Ginman's initial
comment was illustrative. It is important for
OMB and others to consider learning where
competition currently does exist before
formulating any new across the board policies.

We also believe that the current
definition of competition is improperly
limited to that which takes place after the
issuance of an RFP or RFQ. It is important to
note that many companies may have already
known of the pending requirement, analyzed it,
and for any other of a variety of business
reasons, decided not to bid.

This does not mean that any
resultant award was not competed. Even
companies that did submit bids know that
others were considering or are considering
bidding. This has to be factored into their
own pricing approach.

We note that there is also real
measurable competition after RFQ issuance for
many purchases made through GSA's multiple
award schedule program. Using the eBuy tool,
federal agencies saved over $46 million in acquisition costs in FY 2008 alone. Over 60,000 RFQs were posted on eBuy and the average number of bids received was well over the section 803 benchmark of three per task order.

This electronic tool, which we support enhanced use of, helps ensure both competition and transparency. Generally, we believe that eTools such as this should be further examined and will continue to be a significant factor in driving competition.

We're happy to be part of this process. We appreciate the opportunity, again, to address this meeting. We look forward to working with the FAR Council and with OMB.

I'll happy to answer your questions when that is the appropriate time. Thank you.

MR. GINMAN: Mr. Allen, thank you.

Chris Braddock, senior director of procurement policy, US Chamber of Commerce.

MR. BRADDOCK: Thank you. I
appreciate the opportunity to be here today.
As Mr. Ginman mentioned, I'm Chris Braddock with the US Chamber of Commerce.
I'm here representing also a multi-industry association group and maybe I should preface it by they agree with me to the extent that we actually agree with the statements I make.

We're here to talk about competition. We, industry, agree that competition should be maximized. I think that's a common theme throughout all sides of this debate. But we need to realize that there are circumstances where competition, other than full and open competition and single award contracting is appropriate, and that those aspects should not be diminished and should not be lost in the debate.

As Mr. Ginman mentioned, DOD, in fiscal year 2008, there was a 64 percent -- they competed 64 percent of their overall dollars. For government-wide, it was 67 percent. I think maybe it's instructive. DOD
obviously has the bulk of the dollars. They have a lot of unique aspects -- all their major systems acquisitions, etcetera. For the non-DOD agencies, it was 75 percent.

So I think there's a level of success in increasing the level of competition in government contracting. It's far more than the majority of the contracting dollars are being competed.

When we look at the regulations and statutes that are out there now -- through FAR part 6 instituted full and open competition should be utilized in all circumstances except for a specific set of circumstances that are actually laid out in the FAR as well as in the statute. Sole source contracts other than full and open competition, etcetera are only applied in certain limited circumstances.

Generally, we believe that current laws and regulations are adequate in this realm -- not to diminish the fact that there
are ways to improve this, which we continue to strive for increases in competition where appropriate, but following and utilizing and further publicizing the current requirements that are in the regulations, FAR part 6 primarily.

So we highlight a few areas where single award contracting can be beneficial—increases, flexibility, and responsiveness for government contractors, improve synergy between various contracts. There are a number of reasons why single award contracting can be beneficial to the government and should be utilized. So when we talk about the 67 percent overall dollars competed, we're not going to get to 100 percent. I don't think we should strive to get to 100 percent as there are multiple reasons why that's not the best approach.

I would just end with the competition should be maximized but we should not have competition just for the sake of
I appreciate the time for being here and we wanted to brief, so hopefully that was successful.

MR. GINMAN: Thank you, Mr. Braddock. Mr. John Palatiello. Hopefully, I didn't butcher than name too badly. He's president of John Palatiello and Associates.

MR. PALATIELLO: Good morning. My name is John Palatiello. I'm president of John M. Palatiello and Associates. We're an association management firm that represents a variety of clients in the federal contacting arena.

One of the organizations that we represent is the Council on Federal Procurement of Architectural and Engineering Services, COFPAES. COFPAES has been in existence in Washington since the late 1960's and early 1970's.

I want to thank OFPP and OMB for holding this forum and giving the non-federal
sector an opportunity to share its observations on the four important issues in the Federal Register notice, including the President's March 4 memo.

With regard to the issue of competition, the point that I would like to make today is that the Brooks Act, the Brooks Architect Engineer Act, to be distinguished from the old Brooks ADP Act -- the Brooks AE Act is still law. It is still on the books. It is a time tested and well utilized method of procurement for architecture, engineering and related services by the federal govt. It is also recognized by the American Bar Association in its model procurement code for state and local government as the recommended and preferred manner to procure A and E services.

The point that I want to make today is that the A and E community is very much in favor of competition. We believe in competition for AE contracts. But as was
recognized by Congress in 1972 when it originally enacted the Brooks law, competition can be on a variety of fronts. Price competition is not the only metric or standard or benchmark upon which to measure competitiveness.

This was recognized by Congress in 1983, when the Competition and Contracting Act was enacted. It's still in law today. In 41 USC, 259 and 10 USC, 2302, the Brooks Act is included in the definition of a competitive procedure.

We have seen instances, particularly in recent weeks, where agencies have felt that they are compelled to use price competition for A and E services rather than the qualifications based selection process in the Brooks Act because they're under the belief that under the American Recovery Act, under ARA, that all procurements have to be competitive and therefore, that means price competition.
That is not the case. We want to clarify and emphasize that. The Brooks Act is a competitive process of which we're very supportive and it does meet the standard in the Competition and Contracting Act.

So as OMB and OFPP are looking for ways to inject more competition into federal procurement, we believe there is a best practices model in the Brooks Act and we command it to your attention. Thank you.

MR. GINMAN: Sir, thank you. Mr. Mark Pearl, president and CEO of Homeland Security and Defense Business Council.

MR. PEARL: Good morning. As was said, I'm Mark Pearl, president and CEO of the Homeland Security and Defense Business Council, which is a non-partisan, non-profit organization of the leading companies that provide the products, services, and technology solutions for every program that encompasses our nation's homeland security mission.

Our members employ hundreds of
thousands of Americans in all 50 states and they are honored -- and proud to work alongside the leaders of civilian and defense agencies in support of their strategic missions and initiatives.

The Council's mission is to facilitate a substantive dialogue between senior leaders and the industry and government who's collective goal is to ensure a safer and more secure nation. I appreciate the opportunity to appear before you this morning.

The private sector plays a critical role in the special coordinated and collaborative homeland security mission. Our members will not win future contracts if they do not deliver the products and services and provide world-class experts and practitioners as projects are needed.

It is imperative that the foundation upon which a successful federal procurement system is built be underpinned by credibility, trust, and confidence. As the
government debates what gaps preclude our nation from achieving an even more effective, efficient, and successful contracting and procurement process, it is incumbent upon industry to be an active participant in that discussion. Our concerns are that the focus and possibly misdirected increased spotlight may create an atmosphere of blame, rather than one that facilitates achieving programmatic goals and successful results.

The federal contracting market is substantial and it's growing. It is also subject to an intricate web of statutes, regulations, and policies. The Council prepared an executive brief on this subject, on each of the points raised in the President's memorandum of March 4. We did not bring enough copies for every single person, but it is available on our website and we submitted it as part of the record of today's program.

The paper extensively outlines the
statutory, regulatory, and other initiatives
that are already underway and in many
instances, we point out that existing law,
eexisting regulations, adequately address the
concerns that have been expressed in the
President's memorandum, which is why we
support it in all ways, shape, and form
concerning the issue of government contracting
because we support a process that mirrors this
new environment with quality contracting,
quality acquisition management, and quality
people.

My remarks in the remaining time
that I have, however, will focus only on the
one issue, that of competition, but I hope
that our entire paper will be strongly
considered and reviewed.

In part because of the cost-
savings and transparency it promises,
competition is a particular area of emphasis
in the President's memorandum. For 25 years,
the Competition and Contracting Act of 1984
has required agencies, when awarding contracts, to engage in full, open competition subject to specified exceptions. Agencies generally must publicize their efforts to award contracts, define their requirements in a manner that is least restrictive to foster competition, identify the potential competitors, the factors that are being used to evaluate the proposals, and apply those factors in evaluating proposals in making an award. That exists today.

An exception can obviously be made when only one source can perform the work and when an agency relies on that exception, it must prepare a justification and approval to document the basis for its determination of a single source. Those rules, those regulations exist.

But even when the rules have been clear, particularly in the homeland security area over recent years, achieving competition has often proved challenging in practice to
ensure that interested parties have an open
and fair chance to compete to provide the best
value to government. It remains to be seen if
the new competition regulations will produce
that desired result.

Although multiple contractual
awards offer the prospect of an initial
competition followed by further competitions
for discrete orders, the President's
memorandum recognizes that the government has
not yet achieved the full competitive promise
and benefits of these contract vehicles.

This may be due in part because,
and it goes to another issue that's going to
be discussed this morning, acquisition
officials occasionally have placed a greater
emphasis on efficiency or expediency rather
than on desired competition.

A key component of our concern
that I will not be detailing now is
recognizing that the managing the contracting
process requires expertise, skill, and sound
business judgement. Yet as the acquisition spending has increased substantially over the decade, the government has experienced decline in the size and quality of its acquisition workforce.

Thus, the demands on a limited acquisition workforce may be a contributing factor to the competition issue.

We look forward to working with everyone involved in this process so that the industry and government can develop an open and frank dialogue. The Council stands ready to assist you in your efforts going forward.

Thank you.

MR. GINMAN: Thank you.

MS. TICHON: Thank you. Thank you so much for allowing the USPIRG to participate in what I think is a critical intervention into federal contracting.

My name is Nicole Tichon and I am the tax and budget reform advocate for the US Public Interest Research Group.
As our name indicates, we represent the public interest, consumers and taxpayers, a constituency that now, perhaps more than ever, will be watching very closely what the government does with its money.

We also represent state level organizations and campaigners all over the country. We have the ability to keep our citizens engaged in their government and our comments today will reflect this responsibility. We'll focus not just on the need for competition, but also on who the government sort of lets into the game.

We are excited to be a part of this and we think that when you're going through the process in a way that is sloppy or is artificially expedited, that something is going to get missed.

On the basic level, awarding lucrative contracts to companies and individuals who break the law or simply fail to get the job done, again and again, fails
the American taxpayers.

The American people understand this about their own lives. If an individual was hired to deliver packages and the packages never arrived at their destination or when they did, they were damaged, the worker would not expect to get another job with that firm.

If an individual applies for a job with a large private consulting firm and hadn't paid her taxes, her file would be flagged. The American taxpayer doesn't expect the government to continue to reward failure, fraud, abuse, and tax evasion.

It would really be great to change the headlines that we've been reading over the last several years that have chronicled the outrageous waste and mis-management from Afghanistan to New Orleans.

What we've seen suggests that past performance and compliance with the law may not have been a high priority when determining awards. USPIRG has actually issued a report
called Forgiving Fraud and Failure, which is available at our website at pirg.org. It also lists our full recommendation, so we hope you'll check that out.

But from the report, I'd like to cite some of the examples. In February of 2005, a back up tape that contained over 1.2 million records of federal employees, including US senators, went missing from Bank of America headquarters. The tapes were not encrypted.

Three months later, in May of 2005, a laptop was stolen from Bank of America, which contained 18,000 records of California consumers that again, was not properly encrypted. In September of that same year, there was yet another security breach.

The result? Despite this record, the government rewarded them with millions of dollars in additional contracts, including data processing for several different government agencies.
General Electric sold the US military defective helicopter and airplane engine planes. The government launched a criminal investigation and GE settled the case in July of 2006.

At the same time that GE was defending this defective product that could have endangered the lives of military personnel, the government awarded GE the majority of a $2.4 billion contract to develop its engine for joint strike fighter aircraft.

In fact, 46 percent of GE's contracts that year were not competitively bid.

Since 2000, Kellogg, Brown, and Root, which was a subsidiary of Haliburton, has been repeatedly accused of defrauding the federal government. The Defense Contract Audit Agency identified approximately $279 million in un-supported and questionable expenses.

Shortly after negotiating the outcome for those charges, the Army contracted
with Haliburton and KBR for yet another $5 billion to provide logistics support.

Just last year, it was discovered that KBR failed to pay nearly $100 million in payroll taxes by simply alleging that many of the Americans contracted to work in Iraq were based in a tax haven in the Caribbean.

The examples are endless and they're detailed in hundreds of reports and yet, at this point, they've been largely ignored and these actions unchecked.

We're hopeful that the administration, as demonstrated by the President's remarks and his enthusiasm on this topic, we're hoping that they'll take serious actions to change this disturbing pattern.

There needs to be a renewed focus on vigorously enforcing the mechanisms, some of which already exists and some of which have been defined by far, to promote competition, question the exceptions, and enforce best practices. But all of the guidance in the
world will be meaningless unless those who have been charged with implementing them, such as the competition advocates in each agency, we would expect them to diligently do their job with strong support from executive leadership.

This has to be a priority for leadership in every agency. We applaud the administration's interest in correcting these egregious practices and look forward to continuing the dialogue.

The bottom line is that contractors who fail to meet basic responsibilities should not be considered for more work. A lack of competition and a shortage of consideration of competence needlessly puts taxpayers and their money at risk.

The administration needs to demonstrate clear leadership, provide metrics on honest actions, and use acquisition oversight staff to conduct actual oversight.
Thank you and we look forward to working with you in the future. Thanks so much.

MR. GINMAN: Ms. Tichon, thank you.

We have 15 minutes left before the allotted hour is up. The exciting part starts now, which is my eliciting questions from the audience. Is there anyone who would like to make a comment? Silence.

Grant, I'm going to do what I said I was going to do. So let's start with barriers to competition. Do people have any comments on significant barriers to competition and things that think they could be addressed or worked on, things that we could improve the way the federal government goes about this? Someone must have an opinion.

How about the use of competition advocates, competition ombudsmen, the ability to bring things to the attention to the contracting officer? Thoughts? Ideas?

Come on, Grant. You must have a
question or comment. I'm sorry. Yes, sir?

AUDIENCE MEMBER: So far the presenters have talked about mostly the fact that the private sector that has --

competition, would anybody like to comment regarding the impact of all these problems or hurdles?

AUDIENCE MEMBER: I think you want to repeat that.

AUDIENCE MEMBER: I'm sorry. So far our presenters have talked about this important part of -- for participating in the competition as it relates to these contracts. But there's been no comment so far relating to how the federal influence is going to impact on this policy -- would anybody like to comment on that?

MR. GINMAN: Yes, ma'am. Can we wait to get the microphone? Thank you.

AUDIENCE MEMBER: I don't have a comment about the question. I don't know the question. I apologize.
I believe there were efforts in the process already to try to get two year appropriations for various agencies. Just a general comment -- that might be something that would be helpful for all of the departments in the agencies because as you can tell, obviously with resolutions and other situations where you don't know your local funding, it's quite difficult to complete an acquisition within that time frame if you don't know you have funding.

So my suggestion would be perhaps a community effort to get appropriations issued timely and if that is still not possible, then perhaps pursuing these two year appropriations for all departments and agencies.

It's quite difficult for contracting people to meet time-lines and such that require expiring times that might be issued before -- and a contract is written as of September -- that would have to know
minimally you have money until April.

That's my comment. Thank you.

MR. GINMAN: So thank you. We've broken the ice. There must be more.

AUDIENCE MEMBER: I'd like to maybe answer the individual's question about the workforce.

Just so everybody knows, the group here, when we meet, we do talk about the workforce as we talk about implementation of the President's memo.

We talk about tools. We talk about that we want more training because if you want to try to compete more, you've got to do it effectively. Otherwise you'll wind up doing protest and spending a lot of time on that, would send people as far as trying to figure out how do I not compete so that I don't have to be in this protest arena.

So we are looking at the workforce and what increased knowledge it needs in the area of running source selections or doing
price-cost analysis so that when we do compete, we do it in a way that industry is satisfied and don't feel the need to protest the decision.

So I thought I'd go ahead and answer that gentleman's first question.

MR. GINMAN: Additional comments?

Yes, sir, if you could wait for the microphone.

MR. CAMPBELL: Yes. I came in with OPEC and I'd like to make a comment on competition.

As a government contracting officer, I would like to say that my biggest problem in getting competition is getting project managers to agree to compete their requirements and getting managers to support me in my demands that we get competition.

MR. GINMAN: I guess I would ask the question of are there others here who have a similar issue with encouraging the requiring activity to, in fact, compete the requirement?
I'm seeing multiple hands. Other comments?

MS. LA BRON: Hi. I'm Rhonda Le Bron, the Department of Transportation. I have to agree with this fellow here. More has to be done in terms of acquisition planning. A lot more emphasis needs to be on a collaborative effort between technical and acquisition workforce so we can make better requirements for the government.

MR. GINMAN: I guess I'll make a DOD comment, at least in response to those two. I mean, we've instituted a process for all our service contracts.

I think our hardware contracts have always required significant levels of review for large jobs. But we implemented a process where our service contracts now over $1 billion, if the program is over $1 billion, comes up for approval at the OSD level and is treated much like an MDAP program. We look very, very hard at the competition.

So at least from the stand point
of helping encourage the requiring activity to compete, it is certainly what we're looking for.

Are there other comments? Several of the presenters talked about sole source contracting. We'd be interested in comments on ways that we could better avoid sole source contracting. I think the phrase that was used was actually single bid contracting. Yes, ma'am?

AUDIENCE MEMBER: I think that for avoiding sole source is when they have to report back to how that happens. Again since I had a microphone. I definitely agree with you when you talked about the continuing resolutions crippling the ability to perform effective competition.

The other thing I would say with advocating competition is how do we build in the existing relationship, which is what a lot of the program mangers come back and say to me is well, these people, they know us, they know
our requirements, they know our processes. If I go somewhere else, I have to start over in building up that knowledge base and that information.

MR. GINMAN: Thank you. I'm not seeing a wide variety of hands in the air here. Any additional comments?

Then I will close this section out five minutes early and turn it over to Mr. McNally to open the section on contract type.

Thank you.

MR. MCNALLY: Good morning. What I want to do before I turn it over to the other speakers is just kind of frame a few things for people to think about. As you look at the memo, look at it as a sense of moving forward in a certain direction.

I don't think we should ignore the past, look at the past. We should learn from the past, but really, you need to look at this as a set of principles or tenets -- and I'll tell you why I use the term tenets a little
bit later -- on the President's memo.

In the area of contract type,
those of you who work at it from industry-perspective but government-perspective, it's
really a critical strategy decision. You can
really damage a program by not having the
right contract type because it does influence
behavior by both the government and industry
as it moves forward to try to get the service
or product delivered.

But I do want to emphasize that
the word in the memo is preference towards
fixed price, which has always been really, I
think, a part of the federal acquisition
process -- a preference for fixed price.

But it does allow -- it addresses
circumstances where the agency, in performing
its mission -- I'll talk a little bit about a
couple of mission areas at NASA -- where
circumstances allow to use other than fixed
price contracts.

But the other thing it talks about
is that the agencies must have the ability to manage when it places itself in the high risk situation, which cost type contracts do. That, in terms of the workforce, is having the right number of workforce with the capability to manage those contracts.

But that doesn't just mean the government. It means industry. So when you take on a cost type contract, you need to have the ability to manage costs as well because that's what the government expects from you. So making sure you have the tools of earned value management, risk management is critical both for the government and industry.

I used the word tenets before because back in August of 2008, NASA put out, the chief acquisition officer, a set of nine procurement tenets. Many of you have read them. Many of you have commented on them. Many of you have been in my office talking about them.

It's critical to understand that
agencies, that they need to look at the President's memo and start saying what's the culture within my agency to move forward regarding to implement the President's memo or, quote, principles of contracting.

It is not easy, as I've been living it for the last year and a half at NASA. We love award fee contracts for everything. Sometimes it's appropriate.

However, you can't stand there and just look at your current program and say I'm sticking with this cost type contract.

You need to be thinking forward in when my development is over and my hardware is being delivered and it's in operational use, I need to be moving towards the fixed price environment and putting the risk more back on industry, who will look, if they're a good company, to lower the cost so they can increase their return on investment by delivering a product in a fixed price that satisfied the need. Their profit margin is
based on how well they were and how efficient they were.

Two scenarios, I'll give you. We are currently having a Mars laboratory plan in the near future, 2012, 2013. We've got eight instruments that are going to be launched, travel for six months, land on Mars, and hopefully, all six instruments operate. Obviously, I don't do that every day. I think we've had about three missions to Mars.

Each one of them separately, so we set that up in a cost plus environment because industry cannot really understand everything in the future it takes to set up a fixed price contract.

But you could do high tech areas like launching satellites in a firm fixed price environment. NASA and DOD, both, buy launch services that way. Industry has been operating that way for years. It didn't start off firm fixed price, but it moved towards that.
Just the other area of services -- we all probably buy continual services. What we need to do is start analyzing the work load of that service so we can set forth on fixed price and then that way, let industry come up with an effective way to meet the service. That way I'm not setting forth having the management of it and also changing the cost in a cost plus environment.

So that's kind of my opening remarks. The first speaker in this area is Eleanor Spector, who is representing the Aerospace Industries Association.

MS. SPECTOR: Thank you, Bill. I appreciate the opportunity to speak on this subject that I feel strongly about, as do AIA members.

It's not the President's memo -- which indeed does say the right things that basically there is a preference in the FAR for fixed price contracts. But it's the inappropriate use of those contracts that
we're most concerned about.

There has never been a successful development program, full scale development program, using a fixed price contract in all the years that I can remember.

In the 1960's, there was tried total package procurement, which included a fixed price full scale development. That was tried on the F-14 and the C-5 development and that resulted in both companies needing bail-outs in one form or another.

Oddly enough, Grumman was bailed out by ERON, who bought 80 F-14s and helped Grumman get through the fixed price development.

In the 70's, fixed price contracts for lead ships led to extensive claims and bail-outs and a vow by the Navy never to use a fixed price contract for a lead ship again.

In the 80's, substantial amounts of money were lost by Hughes, on AMRAMM, on the C-17 development, the T-45 development,
and the A-12.

The A-12 litigation over the fixed price contract went on for 18 years and may not be over yet.

Based on the 80's experience, in 1988, there was a law passed that required the Under Secretary of Defense to approve fixed price development contracts for large, complex systems.

This is CSIS, Center for Strategic and International Studies. But what it shows is that this is the history up until 2004 of profits on defense contracts. I didn't extend their slide out, but it's in the same range now as toward the end.

But the last period of fixed price development in the late 80's, profits went to about 2 percent for defense contractors. When defense contractors earn that little money, they can't vest in R&D. They can't invest in getting good people, and they can't make capital investments. In fact, the largest
defense contractor was taken over almost on
the brink of bankruptcy at that time.
This is a DAU slide, Defense
Acquisition University slide, which is why
it's not all labeled. I don't know the
programs, but what it shows is this is EMD or
full scale development Engineering and
Manufacturing Development, making cost and
schedule.

The bulk of the program overran up
to 200 percent, as you see at the bottom. Some
of the outliers overran up to 400 percent.
This is not withstanding the type of contract.
You'll see AMRAMM on there, which
overran a lot and was a fixed price
development. ASPJ -- and these are older
programs admittedly -- was also a fixed price
contract at the end. Only one came in within
cost and schedule, and I believe, by the way,
that it was a sole source at the time.
History has shown and DAU has
shown -- it's been shown over and over again
that cost growth on fixed price development contracts is equivalent to that on cost reimbursement contracts, but the government struggles with claims and terminations and administrative nightmares when they inappropriately use these contracts.

Companies were driven close to bankruptcy and the government lacks the flexibility to do the necessary design and re-testing and companies can't afford to do it when they're overrunning a lot. So you get cutting corners and not a good program in the end.

I'm a believer in competition, but one of the things driving cost growth on big programs is the optimism at the outset of the program that competition drives. Competition is a good thing, but it does drive optimism and a tendency not to put a big contingency in for cost growth.

Then what happens is the contractor proposal becomes a basis for the
budget with no contingency on either side, on
the government's side or the contractor's
side.

I think the appropriate use of a
fixed price contract, and this essentially
comes right out of the FAR and it's still
appropriate, is minimal risk that can be
predicted with some degree of certainty,
verified specifications, testing is complete,
stable design, minimal changes required, cost
estimates based on historical costs for the
same or a similar product.

When you have that, you can go
with a fixed price contract. Before you have
that, there's great risk in doing so. The
risk, if you go with a fixed price contract
and companies more and more have said they
won't, is you bet your company in some cases.

I think the appropriate thing to
do on large development programs is to
emphasize appropriate risk apportionment
between the contractor and the government. A
cost reimbursable contract is the most appropriate when you want an excellent product in production when it hasn't ever been produced before and when you're spending billions of dollars and you really need to test this and understand what you're doing and it's more important -- getting it done right is more important than cost or schedule.

Improved collaboration and requirements, I think somebody before mentioned that. Price and fund to a high confidence cost level.

Conclusions -- cost growth results from optimism in competition, lack of technology maturity, requirements growth, unrealistic cost estimates, and no contingency funding. Those are the causes and they're repeated over and over and over and over. You saw all those programs.

The forced use of fixed price development has not controlled cost growth and transfers risk to contractors. The current FAR
policy is essentially appropriate. When it's not followed is when the government and contractors get into trouble.

This is from the June decision in the A-12, the litigation that went on for 18 years. This is the court saying this, the appeals court -- we also observe that the CEO's of both McDonald Douglas and General Dynamics -- who incidentally were the largest contractors at the time they won the A-12, largest DOD contractors -- in a letter dated June 27, 1990, stated that it was a mistake for the US Navy to stipulate this type of contract and it was a mistake for the contractors to accept it. Both are at fault.

The court goes on to say that, maybe saying we agree with that, but alas, the law of contracts does not allow us to deviate from established principles of law inequity.

Nevertheless, I think the court is supplying a caution there in the use of these contracts.

Thank you very much. I appreciate
MR. MCNALLY: Thank you, Eleanor.

We have a speaker from the competition group, John Palatiello.


In the discussion of contract type, we have a very serious problem in the federal government and I will address that in the fourth item later today with regard to acquisition workforce.

But the AEA, Architect Engineer Acquisition, workforce in the federal government has been decimated over the last 15 or so years. It is a very serious problem that needs to be addressed on a cooperative basis between the private AE community and the federal government. Again, I will address that later this morning.

The manifestation of this problem...
does have some relevancy to contract types. We have seen a diminution and a threat to the use of the Brooks Act qualifications-based selection process, which Congress in its wisdom enacted to protect public health, welfare, and safety.

Let me give you a couple of examples. First of all, we believe very strongly that the FAR still inaccurately reflects the intent of Congress with regard to mapping services in part 36 of the FAR. The FAR Council has on numerous occasions been asked by OFPP to come up with a legislative and legal analysis, which it has yet to do so.

The President issued a memorandum a few weeks ago with regard to the issue of preemption of state law and very strongly discouraged federal agencies from preempting state law.

We commend the President for issuing that memorandum. Architects, engineers, surveyors, and mapping
professionals are licensed by the states. The Brooks Act requires federal agencies to comply with and follow state licensing law. We're seeing numerous instances where that is not being carried out by agencies in their procurement activities. This includes abuse of the GSA schedules, the professional engineering services schedule, the environmental services schedule, the temporary services schedule, MOBIS, and most recently, the GIS and CAD software SmartBUY. All provide opportunities for agencies to use the schedule in violation of the Brooks Act. To say that we're frustrated about the lack of correction or enforcement in that area is an understatement. Secondly, we've seen an increase in FedBizOpps notices where there are attempts to buy, particularly mapping services, as a commercial item. These are professional services.
There are very serious tax, liability, and licensing implications. This is not the government going out as if it were going to a gas station and buying a commercial off-the-shelf map. These are professional services that are being treated as if a commercial item, which we think is not the proper process.

Additionally, it has been over ten years now since Congress enacted legislation permitting the use of design build procedures. We believe, now that we have a decade of experience, that there ought to be a review of the design build process.

We believe it's over-used. It was supposed to be used for unique and projects of special significance. It is unfortunately becoming an every day occurrence in agencies. It's time to evaluate whether indeed there are savings being realized both in terms of time and money, whether the quality of the final constructed product is up
to standards, and most importantly, the effect of small business, which we believe has been an adverse impact.

So what's the solution? First of all, again, we're very concerned about the AE acquisition workforce and we want to work with our friends in OMB and OFPP, as well as OPM for that matter, to fix that.

We believe that doing project specific qualifications-based selection Brooks Act procurements is still the true and tested and proven method of procurement. We have no problem at all with fixed price contracts. Those have been the norm and seem to work very well.

Finally, there are a number of agencies that have stood up. QBS compliant, IDIQ contracts that provide flexibility to the agencies, and we believe works well.

The problem is that because of the lack of a trained acquisition workforce in the A and E field, agencies seem to be looking for
short cuts. While there may be some short term
benefit to that, we believe that in the long
term, the public health, welfare, and safety
is not well-served. Therefore, there ought to
be a return to reliance on the Brooks Act
process. Thank you.

MR. MCNALLY: Thank you, John. I
know in the program it's listed that we have
Mark Pearl, but he has yielded his time in
this subject area. Is Alan Chvotkin here? Not
yet.

So I'm kind of out of speakers,
but I'm sure there's folks out there who have
a passion or question regarding this area of
contract type. So I'll open it up to the floor
in this area.

I'll try to facilitate some
discussion. Here's an area, the Federal
Acquisition Regulation, and you've heard one
speaker say that FAR is okay, provides
sufficient information on the appropriate use
and enactment of various contract types to
minimize risk and maximize value.

Does anybody have any comment in that area? Okay.

How about the area of -- what practices might enable the government to make better use of fixed price contracts? Yes, sir?

Thank you.

MR. LOVE: I just came back from vacation, so I'll leap into it.

The contract types are going to be really dependant, it seems to me, on requirements drafting and training and definition. One of the things that the SARA panel did was focus on that requirement. It seems to me if you really want to increase the use of fixed price contracting, you're going to have to bring the people who are drafting requirements into the acquisition process, train them, and get them involved in understanding that they're not there just to put in what they desire, but put into words something that the market can best respond to.
I'm Mike Love with CSC.

MR. MCNALLY: Thank you. As addressed earlier and you'll probably see this in a recurring theme, the workforce is a critical piece of this. But I'll throw this out for industry. That's also your workforce that we're talking about. If you take on a big cost type contract, your company is going to have to have the capability to manage that cost. Even though the government is taking the cost risk, you're going to have to manage it and ensure you're performing but staying within the cost schedule performance and identify to the customer when things are not going the way it is planned as early as you can and not later.

So I say the workforce is a challenge for both the government and for industry. Yes, ma'am?

AUDIENCE MEMBER: Both the FAR and the President's memo on government contracting
emphasize fixed price. However, I don't think that all fixed price contracts are created equal.

There is a great range, from firm fixed price to fixed price level of effort, which may not be better than a cost reimbursement type contract. So I was just curious if anyone else shares that view.

MR. MCNALLY: Does anybody from the service arena want to comment on that because I'm sure many of you get contracts that might say firm fixed price, but maybe the real intent when you talk to the customer is that they just want five or six people. Any comment related to that?

AUDIENCE MEMBER: And also sometimes there's fixed price contracts that look more like time and materials.

MR. MCNALLY: Okay. Does the choice of contract type affect contractor pricing or the government's pricing as far as price analysis, cost analysis? Yes, ma'am?
MS. MARSHALL: Rosella Marshall, USAID. One of the issues or things that I think can be done better when it comes to cost reimbursement type contracts is up front when it comes to government's cost estimate. I think there is great room for improvement there, at least speaking from a procurement side. When you're getting your government estimates from people who may not have the expertise or the experience in really coming up with that kind of costing, I think more emphasis should be done on training the program people or the COTRs of record developing the independent government estimate on how to actually do that job.

I think many of the people who are hired when they come on board, they really don't get the adequate training to come up with these independent government estimates. I think that really is a major impediment for the procurement folks when you get those estimates that appear not realistic or
inadequate or really just based on what the budget is today.

MR. MCNALLY: That's a very good comment. I'll throw out, because it does become public, our acting administrator has been over the Hill like many ADC personnel talking about the `10 budget and such and that's an area that he has said that NASA is going to make improvements upon more projects like Mars laboratory and things where you have, first of all, investigators who get a job of this great idea.

But we want to ensure that they also have the capability to properly estimate that idea. It's two different things. Most personnel who have these brilliant ideas of how to create an x-ray machine that's going to be on Mars to examine rocks -- what's inside -- are not brought up on how estimate costs of that.

So what we're trying to do is ensure that when proposals come in from NASA
engineering scientists who do an odd job or industry -- universities and such -- that they bring forth the capability of properly cost estimating projects.

That is a critical thing for agencies, especially if you're doing complex stuff, items. Good comment.

I'm sure there's other things out there that you have on contract type. What are the obstacles for the government's ability to define their outcome so that contractors can propose firm fixed price or some type of fixed price project?

I'll throw one out to help maybe.

It was brought up that the funding and I'll mostly get some interest here is, is stability of funding something that's needed to help programs and contractors -- because you're all part of the team once you get a program -- able to do the work in the time you planned to do it, but you might find yourself always having to change the contract and your plan
because the government didn't get the funds it thought it was going to get when it started out on a five or six year project.

Anybody care to throw that out as a potential barrier of performing under either cost type or fixed price?

AUDIENCE MEMBER: I'd just like to echo that. I think the stability of funding can be a major problem, particularly with the program officers trying to know how to really definitize and to come up with their programs.

But in addition to that, what was already brought up is about the budget, the timing in which agencies receive the funding.

I've been around procurement for years and when I think back about what are some of the major impediments, many times procurement becomes the caboose on the train. By the time the contracting office gets the money, the train has been moving and here you're in the last quarter of the year.

I think that until and unless
something is done so that agencies here physically get that money in the first quarter of the year or instead of the last quarter -- unless that happens, you're going to really always have this kind of problem of us being a caboose and trying to get things done.

That discourages competition because you can only do so much in a length of time. It impedes the quality of your work, so I really see the timing of the budgeting; not just getting the budget to the agency, but within the agencies themselves, who many times do what we call reclamas to their program office or to the CIO office.

They're issued a certain amount of money or told you're going to get this moment, but then they allow them to reclama and ask for more and this can sometimes take months within the agency -- so not just getting the money to the agencies, but within the agencies getting it to the offices.

MR. MCNALLY: Thank you. That's an
excellent comment in a really, really key area.

I think that for many of us who have been in this business a long time, that is something that continually is mentioned. Some things have been changed.

There has been acquisition reform, as my colleague over here worked in and I worked in, but one of the things that I don't think we truly have gotten yet is financial reform within the government. I'll throw that out as a senior procurement executive for one of the agencies, which I would like to see.

Any other comments in this area?

Yes, sir?

MR. CAMPBELL: Bill Campbell, OPEC.

I believe one of the most important things we're going to need to do to be able to control the costs on cost reimbursement type contracts is to get the project officers and the senior management to quit thinking of cost reimbursement contracts as ongoing vehicles
they can continually add work to.

It's amazing the contortions they go trying to get a new project to fit under the scope of work of existing contracts to increase the cost and increase the scope of that contract.

If we can get them to stop that and start going out and competing these things, we could probably save a lot of money.

MR. MCNALLY: Okay, so that filters in with the area of competition and, quote, scope of work and does it fit within the scope or out of the scope. Good comment.

Anything else? Yes, ma'am?

AUDIENCE MEMBER: This ties together, I think, two points that have been coming up. One is the stability and one is also the complexity.

The longer a period of performance you have, the more that you can work with your whole supply chain and make investments that are going to improve efficiencies and benefit
the government.

The more instability from constant changes, whether it's funding changes or new regulations or is your work going to be in-sourced and taken away or taken over to a depo or whatever it is, all of that instability makes it very, very difficult to plan throughout the supply chain to know what are you going to be able to do and how are you going to improve.

So the more stability and the less change from the external factors, I think that would also help on all these areas.

MR. MCNALLY: Good comment. Yes, we always have to keep the thought that when you say supply chain, the sub contracts and various tiers because we assign a contract with a prime contractor and then they go off and have to do the work and set up contracts with their vendors.

And the more you have changes, the more you have to turn around and do the same
thing the government is doing with the prime. So that's a good point of trying to focus in on stability and try to reduce change.

Any other? I'm a big believer of earned value when I'm ahead of schedule. I'm not sure about performance. I'll leave that up to you and cost, so I think I'll turn it over to --

MR. LIEBMAN: Why don't we take a 15 minute break and let people stretch their legs and then it's halftime. Then we'll come back for the second half.

MR. MCNALLY: Great, very good. 15 minute break. I used to be an instructor. Be back here at 10:45.

(Whereupon, the hearing went off the record at 10:31 a.m. and resumed at 10:45 a.m.)

MR. DRABKIN: Well, in keeping with the mantra of our profession, cost, schedule, and performance, we'll get started again.

My section of this morning's
meeting deals with the acquisition workforce. Before we hear from the three speakers who are going to address that, I wanted to kind of frame the issue for you.

There are a couple of matters which need to be addressed and I hope that the speakers will talk to them. If not, after they've spoken, I hope that some members of the audience will talk to it.

First of all, there is a perception in government and to some extent in some companies, that acquisition is free, that to do a acquisition -- and when I say acquisition, I don't mean just a contract -- doesn't cost money. But of course, the companies who do it that way usually don't wind up staying in business very long. But in the government, we do it that way all the time. It may account for part of the issues that will be talked about today.

When I say that people don't value or they believe that acquisition is free, I
mean to say that they don't understand what it costs to conduct an acquisition. They don't budget for the total cost of doing an acquisition, although some of my colleagues and I even have disagreements on occasion about that.

For example, if you go to a lead company and you go to their purchasing department, they can tell you exactly what it costs to do an acquisition. In fact, they measure their performance against that cost. There's an industry standard about somewhere between .73 and .94 cents on a dollar as being in the right range for the cost of doing an acquisition.

In the government, we don't treat it that way. As a result, we don't get the resources we need often in the acquisition process to get the work done.

The second part, I think, that needs to be discussed is the complete misunderstanding of what acquisition is by
many people. A lot of people believe when they talk about acquisition that it is synonymous with contracting.

There are many contracts that occur during the course of an acquisition, but acquisition is a much larger discipline. My colleagues from DOD have defined 13, I believe, functional areas that are in the acquisition function. Most civilian agencies barely define three.

But when you talk about acquisition, you cannot talk about it and understand it to mean contracting only because when you do, you set yourself up for the problems that come in when you deal with major programs.

Clearly, one of our challenges is to understand the importance of contracting in the acquisition process, but also program management. A couple of people have already talked today about cost and pricing. In fact, one of our tremendous challenges -- and I hope
someone will talk to this today -- is the fact
that we've lost across the government the
skills and, in fact, many of our industry
colleagues have also lost the skills in the
area of cost and pricing.

I know that John will talk to us
because he's already set the stage about the
loss he believes that has occurred in the area
of architect and engineering and our ability
to buy it.

Clearly, the engineering and
architects that are important to the
acquisition process have been reduced over the
many last, I guess, 19 years. I mean, some of
us remember back in the 90's that not only did
we reduce the size of government generally,
but our colleagues in DOD took a cut of 5
percent a year every year thanks to
Congressman Duncan Hunter for, I think, eight
years, nine years.

So the issue of acquisition
workforce is really, I think, key to getting
it done. In the end, if you look at every single study that's been done of the system since World War II, if you look at every major -- I hate using the word scandal, but certainly that's what the press of some of the oversight bodies called it -- scandals that involved acquisition in the last 50 years. At the bottom of the story in every single case, it was, we didn't have enough people with the right competencies and skills to get the job done.

It's not because people didn't want to do a good job. It's not because they didn't want to do the job in a timely fashion. It's because we have created huge demands on our acquisition workforce. We haven't sized it and skilled it to do that work.

As an example, and then we'll hear from the others -- just one small example is one small part of the workforce. In 1991, according to our statistics, there were 33,700 or 800 1102's in the federal government.
Remember in 1991 that the principle way we bought things was by using sealed bid and paying low price.

Last year, many of you know, our statistics indicate we bought $556 billion worth of stuff and we did it with 28,700 folks. By the way, in 1990, we only spent $150 billion.

So if you just look at that one small picture of the acquisition workforce, we have about 1/6 less people doing almost 300 percent more work in terms of dollars. And of course, we've changed the degree of difficulty from going low price sealed bid to best value negotiated procurement. You can't do that kind of work with fewer people and not have problems.

So having said that as kind of the introduction and we're interested to hear what you have think about the acquisition workforce. Our first speaker on this issue is John. John?
MR. PALATIELLO: The first thing I'd like to say is ditto, Dave. I could not disagree with a single thing you've said.

MR. DRABKIN: That would be a first time, John.

MR. PALATIELLO: Let the record show. Let me try to not repeat the things that Dave so eloquently said, but rather, try to focus it, particularly on the A and E community.

We saw this train coming down the tracks a number of years ago. When the Service Acquisitions Reform Act SARA was enacted in 2004, the Congress, at our recommendation, including a provision in section 1414 dealing with architectural engineering acquisition workforce.

In that provision, the Congress asked the administrator of OFPP, in consultation with the Secretary of Defense, the Director of OPM, to develop and implement a plan to ensure that the federal government
has the necessary capability within it's A and E acquisition workforce to do the following five things.

One, ensure that the federal government has employees with the expertise to determine agency requirements for A and E services.

Two, establish priorities in programs including acquisition plans.

Three, establish professional standards for developed scopes of work and for award administer contracts for such services.

We were very disappointed in the way this provision was implemented. As Dave indicated, the in-house A and E capability within the government has been reduced over the years through retirements, attrition, recruitment challenges, and shifting priorities. There simply is not the workforce that is available to evaluate, award, and manage 80 contracts.

This, again, as David said, is at
a time when the demand and the expenditure for such services is increasing the supply of an acquisition workforce to manage that work has declined.

As I indicated in my earlier comments, we've seen a number of very undesirable trends as a result of that we are going for lower cost -- at least, the perception is, quicker solutions have tried to be implemented, which we believe is not in the taxpayer's best interest.

We're also seeing the emergence of a growing oligopoly within the government because you now have fewer A and E contracts of larger dollar value going to the largest firms. So it's having a tremendously adverse impact on small business.

I mentioned before how this is manifesting itself with things like design build and the GSA federal supply schedules.

So what do we do about it? Well, these are the recommendations that we made to
OFPP with regard to section 1414.

One -- and this deals with the issue that we will discuss in the final item today with regard to a multi-sector workforce -- but there has to be a systematic process by which the federal government properly defines what are in-house activities in the A and E field. What are inherently governmental activities within the A and E field, I should say. And what are commercial?

The federal workforce should be focused on those inherently governmental functions in architecture and engineering and relying to the maximum extent possible on the private sector for the commercially available A and E services.

For the past eight years, I think the previous administration emphasized too much the idea of competition between government and the private sector and not enough on cooperation between government and the private sector.
I think too much of an us versus them situation has developed on the whole in-house versus out-sourcing debate, particularly with regard to A and E. So we would like to see a paradigm shift in that whole discussion.

Second is the issue of training. We highly commend the Corps of Engineers program, which they call Prospect, Proponent Sponsored Engineer Corps Training, which has an excellent training module in A and E contracting.

Congress fixed a problem that the Corps of Engineers had for many years in that when the Corps was offering its training to anyone outside of its workforce, it could not keep any reimbursement for that training. The money had to go to the Treasury and could not be held within the Corps to actually off set their expenses.

We're pleased that the Water Resources Development Act fixed that. The Corps can now keep that reimbursement money
and we'd like to see a program where there is a much wider use of that training capability throughout the government.

We believe that the government's architects, engineers, surveyors, and mapping professionals need to be fully engaged in a project as technical specialists throughout the acquisition process.

Fourth, as I mentioned earlier, there is professional licensure in this field and federal workers in this area should be required to be licensed and it ought to be encouraged.

In the 2002 Defense Authorization bill, codified in 5 USC 5757, there is a provision and now permits agencies to use appropriated funds to pay the expenses of their employees to obtain professional credentials, including the expenses of professional licensure and accreditation. And so, we would encourage an emphasis on that as part of the workforce training program for
federal employees.

Five is to share A and E contracting best practices across the government. SARA also established the Acquisition Center of Excellence in Service Contracting. We did have some meetings with OFPP early on with the establishment of that Center. We think there's still a lot of work to be done to create best practices models in qualifications-based selection.

But the idea of creating centers of expertise or centers of excellence to share best practices is an option that ought to be explored.

Finally, as an adjunct to that, recognizing that this is a long-term investment to re-build this workforce, at least in the short-term, perhaps the creation of centers of expertise for A and E acquisition ought to be explored for establishment.

We began a discussion some years
ago with GSA about creating a Brooks Act QBS
compliant federal supply service schedule so
that agencies that did not have the in-house
expertise to do a full Brooks Act procurement
could actually go to GSA and get that
assistance.

Unfortunately, that idea seemed to
have lost some favor or importance within GSA
and we would be more than happy to re-engage
in those discussions to make that kind of
service available to the government.

Thank you.

MR. DRABKIN: Thank you, John. Our
next speaker is going to be Larry Allen. He's
gone? Larry left me. Next time he wants a
meeting, I may not be available.

Okay, then following Larry Allen
will be Trey Hodgkins from ITAA. I'm sorry.
It's now Tech America. You guys need to stop
changing.

MR. HODGKINS: I'll agree with
that. Thank you and good morning, everyone. I
appreciate the opportunity to come and speak on behalf, again, following Chris Braddock on the same multi-association group that focuses on a number of these contracting issues to talk about workforce.

    I'll start by saying that we're in concurrence. I think everyone who has discussed this issue appears to all be in concurrence that the workforce needs to be a primary focus to address many of the issues related to reform in the acquisition and contracting area.

    Industry agrees that previous assessments have identified that we lack numbers. We lack skill sets. We lack experience across the spectrum of acquisition workforce and addressing that is key to solving many of these issues.

    In fact, I think most of us would point to many of the legislative proposals that we hear about and we address each year or for the last several years as trying to deal
with symptoms of those shortcomings. I think that long-term, if we can correct these shortcomings in the workforce, many of those symptoms would diminish and hopefully become more manageable.

We'd also agree, as David noted, that we cannot focus on a narrow set of functions within the acquisition workforce, but must address the full spectrum of functions found in the workforce and all of the shortcomings that are found across the board. It's just as important that we have adequate people to develop requirements as it is for us to have adequate numbers to manage those contracts once they've been led.

Several challenges that we think will face us as we try to move forward and address this issue -- the first is that the problem will only get worse as baby boomers move toward retirement. We've probably pushed that out a few years with our current economic situation as people who were anticipating
trying to retire now realize they may have to work a few more years.

But we don't want to see the extension of that window lower our efforts to try and address this issue. It is a critical issue. It is an urgent situation and it needs to be addressed as soon as possible.

One thing that we hope the Obama administration would look to try and improve is the way that we can attract and bring in annuitants to try and fill some of these gaps and bring back or at least retain the experience levels that we face losing as baby boomers retire. That's an issue that hopefully the administration can work with Congress to find ways to do that that are acceptable.

The second point about recruiting, hiring, educating, training, and retaining personnel, I think that we've heard from both government and independent groups that there are a number of shortcomings in all of those areas.
We also would note -- I heard David eloquently talk, and Shea on Tuesday, about internship programs at both of their departments are running, but I don't know that -- I think from the perspective of observing this, the numbers that we're dealing with in internships are insufficient to manage the shortcomings we've got. So we need to be creative about finding new ways to get people into the government and in finding ways to get them to stay there.

Another piece that we're missing in this part is to make sure they have the tools they need once they get here. Again, David talked about some online tools that they're trying to roll out at GSA to help people be able to do their job more efficiently and also give them more information to do it more effectively.

Those kinds of things, we need to look at across the board and make sure that people have the things they need to do the job
once they're here.

Finally, of course, bringing some equity to the government pay scales and the career paths that the government offers for these people to those that we offer in industry. Quite honestly, as government people have frequently noted, people come to the government. They get hired. They work there for five years, seven years, ten years. They get trained. They become proficient and then industry offers them a better job.

We need to find a way to bring some equity to that. I would also suggest that DOD has an internship program where government can go work in industry and learn and see things firsthand. Conversely, industry people can come and work in government. I would suggest expanding those types of programs as a way to better understand each other's issues on both sides of the coin is a way to try and resolve some of these workforce issues.

Moving to the next bullet --
hiring practices in the government have absolutely got to be addressed. We hope that the Obama administration will make that a priority.

It is grossly -- I want to use the term negligent -- that people who apply -- even in these times when you're getting hundreds and thousands of applications for openings -- that it can take six months, nine months, or a year for people to be processed in and actually start working.

In these economic conditions, certainly, most people can't wait a year to get into a position. That's probably true even in the best of times, if certainly not in these times.

So the administration, we would encourage them to look at ways to bring these people in, get them in faster, and get them into the jobs where they're sorely needed.

The next bullet talks about personnel policies. They need to be updated.
Government needs to recognize that we have a new generation of people coming on board. They use a whole set of tools, quite honestly, that I'm not familiar with and am only learning now even though I work for a tech association. I'm talking about web tools. I'm talking about collaborative web spaces, online technologies. OPM needs to look at how these technologies are rolling out and treat it much as we did when e-mail became something that we all began to use widely. They had to determine when it is appropriate, when is it not appropriate, how can you use it, how do we use it to more efficiently do our jobs? I would suggest that that is an issue that part and parcel to trying to resolve the workforce problems. Lastly and probably most importantly, we have to find a way to fund these things. Industry supported the language that was inserted in the Defense Authorization bill a few years ago that created a fund at
DOD. We were disappointed when that language was taken out last year. It was going to try and create an equivalent on the civilian side.

We would strongly encourage the Obama administration to look at ways to satisfy the Congressional concerns, but also bring funding to bear to address these issues. Without that funding, we're going to be back here over and over again, talking about the shortcomings we have in workforce. They need to have the money to train these people, hire them, and then continue to train them and refresh their education so they can be retained.

With that, I'd be happy to discuss or answer any questions someone may have. Thank you again for the opportunity.

MR. DRABKIN: Thanks, Trey. Okay, so we've had two statements and we've had some interesting questions posed and now it's time for you, the guest audience, to contribute to our discussion on acquisition workforce.
Is there anybody else who would like to start off with an observation or comment about what has been said so far? You know we're not letting you go until you talk, right?

Well, in that case, I do have a couple questions to ask you, the audience, you, the public about our acquisition workforce.

Did somebody ask a question?

AUDIENCE MEMBER: This question is for the folks that are in industry associations or private sector companies.

We've been hearing a lot about making sure that requirements is associated with the whole acquisition process and it's clear and it works with the contracting process.

So for those that are in industry or private sector, how either organizationally are your organizations structured or how do
you facilitate that program working with the purchasing or contracting side to have those requirements more firm or better when you put them out for bid?

MR. DRABKIN: Well, I see they're every bit as responsive to you as they were to us. Wait, look. We have someone right over here.

AUDIENCE MEMBER: In response to your question about perhaps how industry organizes their organizations for better requirements definition, I think it's really important in how we look at the model of how the acquisition organizations are structured.

There's a tendency to put everyone in procurement in one shop and really not associate them with necessarily their program counterparts. I think it would be beneficial if those people who work closely on programs are put into those shops and perhaps are given the same types of performance requirements and metrics for their performance as individuals
that are tied to those programs. That way, even though the person still remains warranted, they become a part of that team and they really become -- they both have similar incentives to get things in done.

In government, there tends not to be that sort of association. There's a sort of a program versus procurement block, so you have different incentives. You're not motivated to actually do things other than to get things out the door.

But if you're tied to the success of a particular program or particular buys, then you're both incentivized the same way.

So those are my thoughts on that.

MR. DRABKIN: Over here?

AUDIENCE MEMBER: Building on the comment there, I think industry has evolved and learned a lot over the last couple of years too about this cross functional criticality. Whereas contracts used to work as contracts, there's a lot closer connection
between contracts and sub-contracts because you have to flow down the right things all the way through.

Program management is working more with the pricing people and the estimating people and the EVM people and there's more database collection and integration so that you have a better idea of how you're going to bid something.

So I see that cross functionality happening across industry. It seems like it is within government too. And we're doing a lot more with DAU and other organizations to train.

I think that one thing that would be helpful is, say, our business development people need to know some things but not everything about a detail on a contract. But what kind of training is needed for each one of those functions so that nobody feels overwhelmed by this huge area.

That's something that I don't
think is real clear or exists. I think that
would be a great next step for everybody to
work together on.

MR. DRABKIN: Any other comments on
that question? Apparently not. Well, I have a
question since we have all of you here and
many of you are from the private sector.

That is, what are your best
practices for recruiting, retaining,
developing, and promoting high quality folks
in industry? If you share those with us, maybe
we can adopt some of them. Since I know there
are a lot of industry people here and I know
your names, someone better raise their hand or
I'll call on you.

Somebody? Anybody? Thank you,
Mike. See, we push hard enough and we get an
answer. Okay, go ahead.

MR. SIPPLE: I'll be honest. We've
actually borrowed from the government,
particularly -- I went through the NAVSEA
training program, which is better than
anything I've seen in industry. With the two
to three year assignments and then rotating
through different buying divisions, in the
case of NAVSEA.

So we've done the same thing. I
work for Lockheed Martin. We have a leadership
development program where we take the best and
brightest out of colleges and we have special
relationships with certain colleges where we
know they meet, have high standards. They're
typically large public schools with a ton of
research and good business schools.

So we go to those targeted schools
and attempt to entice them to come work for
us. Then we put them in, similar to the intern
program I went through at NAVSEA, they go
through a three year rotational assignment of
different locations and different functions.

I heard Karen Wilson mentioning
more integration with different functions. So
that's one of the things we're trying to do.

Maybe you won't spend your entire career in
the contracts function. Maybe you'll spend some of that time in procurement or financial planning or the earned value area.

And then you can't forget those people, right? So when they're at their 10 year, 12 year point, you have to keep them energized and excited about the work and so there's some mid-career challenges there too.

So I guess it's both ways. I mean, we've learned from industry. We still -- we just completed a new training center at our headquarters to bring people in to give them that constant training. That requires money. You got to make sure all our units have training money so that people can get the training and have somewhere to charge their time when they're at the new training center.

And that continues throughout their career. So we have an entry level training, the mid career, and then sort of a senior capstone.

Again, I'm not telling you all
from government anything new. I mean, you do this. I went down to Charlottesville with the government for training. But those are some ideas.

MR. DRABKIN: Well, we heard from Lockheed and Karen, I guess, you must do it differently or better?

So let's hear -- Mike, come back here and give Karen the microphone because we want to hear how Boeing does it.

And Bruce, get ready. You're next. Different industry.

MS. WILSON: We do very similar things to what Lockheed is doing, as you're probably not surprised to hear.

I think that one of the things that we are doing more of now which has been helpful is the DAU program management class. We're sending a lot more people to that class than just program management, especially in the business development front end side so that there's more understanding of the
importance of requirements and the importance of terms and the impact of decisions that are made in the heat of winning new business on the long term success for both the government and industry.

We do have a lot of interest in acquisition. I do have to applaud the administration and President Obama's memo because that is making acquisition a more attractive field. It's not sort of the dog of the company anymore.

So that in and of itself makes people want to know what's going on. So understanding the risk and identifying the risk and mitigating the risk and all the inputs and outputs to that are major areas of focus in that training.

MR. DRABKIN: Thank you. As I promised, Mike, just go that way to that fellow raising his hand.

So Bruce, we heard from two principle military providers, although Boeing
would argue, correctly, it's also a commercial
provider. But you're an IT company and in the
IT market a long time. How do you guys deal
with recruitment and retention and training?

MR. LEINSTER: Well, let me begin
by saying that we used to be in the business
of defense as well.

MR. DRABKIN: I'm not trying to
insult your company if I forget a market
you're in.

MR. LEINSTER: No, no. But I wanted
to draw back on my experience as a manager in
our defense-related business.

So we had a nice cycle of programs
where we went everywhere from providing spares
and repairs to full scale development on
significant weapons systems. So as a training
mechanism, we would bring people in off the
college campus and/or out of government and we
would assign new people to spares and repairs
kinds of repairs to get a feel for our pricing
methodologies and so forth.
And then move them up and move them up the chain as they got experience into large development programs and ultimately, to be on major acquisition programs in the capture cycle. So it was a maturing process that took five to ten years.

We also co-located them with the actual business development and business delivery team so we weren't in an isolated area.

Now we've sort of transitioned into principally a commercial IT provider even in our government space. I think it's fair to say that we recruit people from other parts of our business, frankly, who have participated in delivering those kinds of systems.

My colleague right next to me, Steven Moss, is the director of contracts for our public sector right now, but he's had extensive experience on strategic outsourcing business dealing with our major commercial suppliers, our commercial clients, the Nikes
of the world.

So he now has the experience of leading integrated project teams and brings that experience into our commercial sector. I don't know, Steven, if you want to expand on that?

MR. MOSS: I think one other thing is -- and again, it goes, David, back to your definition of acquisition -- one of the greatest things I learned working in the commercial side of IBM -- I started on the federal side and went to commercial and back to federal again -- but one of the greatest things I learned in the commercial side was you need to be deal maker -- not a contracts person, not a lawyer, but a deal maker to understand the total breadth of the operation and the service being required.

So from a services standpoint, to be effective, you need to understand service level. You need to understand asset acquisition. You need to understand HR
implications. All those kinds of things, as long as well as pricing methodologies.

If you didn't have that full breadth, you couldn't be effective. IBM has built a business around this and that's how we've trained our people and build our people up from, again, starting at the very basic fundamentals and then moving them up that food chain.

MR. DRABKIN: Thank you. Go ahead, Bruce. Expand on that a little bit.

MR. LEINSTER: It's also, I think, important from an industry perspective. We look at our contracts people and our acquisitions people to be a fully influential part of the business delivery and development process. We'd like to see, on the government's side, more assertion and less risk avoidance. I will say that we don't deal with something like the IG every day in our community. So we don't have people looking over our backs.
That's not to say that our efforts aren't reviewed and we don't stand to be chastised if we take unreasonable risks or make stupid decisions. But we don't have to deal with some of the forces that your 1102 workforce has to deal with.

But nonetheless, I do think it would be so much more beneficial to all of us if the 1102 workforce could feel more autonomous and risk taking so that they can make deals in the way that Steven was describing.

MR. DRABKIN: I want to make sure we kind of close this circle. Since we heard from the A and E community -- wait, Michael, come back.

Mark, can you talk a little bit about how A and E firms can associate -- I mean, John has talked to us a couple times but you also come from that community.

AUDIENCE MEMBER: Yes, I can address. One of the things that happens in the
A and E world is that the principles of the A and E firms are actually the people doing the work in many cases, which make it kind of unique. They're the licensed professionals. They're why the company is where they are.

One of the things that I would like to address is when you get into A and E procurement is the fact that you need selection boards that understand the work, that understand what's going to happen.

A lot of times in the government, that's almost a punishment for an engineer that's working on a program or something to be assigned over to a selection board. Something needs to change there that really focuses the attention of that community that acquisition is one of their principle reasons for being there. That is going to be the success of the program is who is performing the work.

On the other side of the coin, the breadth of experience that is gained by serving multitudes of clients from different
directions out in the private sector isn't always there when you're serving one client if you're a government employee. So the interface back and forth of actually going out in the private sector, coming back in to government - things along that line at different levels, I think needs to be more and more encouraged.

What makes work fun in the AE world is working for different clients. Each project is important. That same energy needs to be in the federal workforce also.

Everything that they're doing is important.

You do get a lot of very dedicated employees who work on a lot of very important things. They've got to recognize that and realize how important it is.

MR. DRABKIN: Thank you. Trey wants to add something here and then Rich Hoff, be ready. You're on deck.

MR. HODGKINS: I just wanted to elaborate on Mark's point about the interchange between government and industry.
I really believe there's a lot of benefit from the kinds of programs I reference that are DOD, the ability for people to go and work on the other side of the coin and understand the decisions.

We have a program where we go to NDU and DAU -- I think PSC has a similar program -- where we're offering content and industry perspective about how we bid, what we bid, why we bid, what we bid, what are the decision-making processes we go through.

It's very illustrative and eye-opening for the participants in those classes.

There seems to be the perception that industry has a set of stock RFP responses that sit on a shelf and we fill in some blanks. There's no expense involved in developing our RFP responses.

When we have those dialogues and discussions, I think that understanding of what industry goes through and then conversely, what government goes through and
how each other's actions impact decisions that are being made.

A better way to try and get that understanding ingrained into both sides would be helpful to the process.

MR. DRABKIN: The fellow with the yellow tie? Rich, you were on both sides. You were here at GSA in the FAR signatory. You were at another agency. You've been with others and now you're in the civilian side of the world, the private sector side. What are your observations about the workforce issues?

AUDIENCE MEMBER: Well, I won't go too far off from your original question, which was recruitment and retention.

MR. DRABKIN: Right.

AUDIENCE MEMBER: Obviously, on the recruitment side, the best thing going for the government right now is the economy. So as long as one can keep the economy poor, I think recruitment shouldn't be an issue for you. There's lots of opportunity out there.
For industry, of course, that creates an issue because that's our retention problem at the moment.

From the government's perspective on retention, my memory was that retention was never a huge issue within the government. A slight bubble when the retirement system changed, of course, and that brought in some questions if you don't have those financial hand cuffs associated with the government workforce, what else must you do to keep them engaged in government service beyond the public service nature of the function.

I think the critical answer there, long term for the government, is to maintain a focus on creating a government work activity that is dynamic and innovative -- one that truly wants to bring folks into the government who really want to make a difference, who are part of a change process, who want to be able to analyze what exists and take it to the next level.
If you have a government that is constantly reactionary and heading backwards, that's not going to attract the kind of workforce that the government deserves. So if there was any one observation I would make on the future of government workforce development, that would be it.

The second thing I would note about the workforce issues for the government is probably based on some history that we've experienced over the years. That is that this whole workforce issue we're experiencing right now isn't new.

We've gone through this cycle how many times in the last 30 or 40 years? Maybe four times that I can remember. Same issues, same problems, same solutions -- which leads you to ask the question, how many times do you want to keep doing this? How many times do you want to keep using the same solutions to solve the same old problems?
That's a question that nobody ever really wants to explore and I'd suggest that there might be an opportunity here. If we have any acknowledged management capability in the government to look back on some of the lessons learned from those previous experiences and ask ourselves why it hasn't worked in the past? Why do we keep putting ourself into this same position with the workforce?

That may lead to some new solutions for the future, new solutions for both acquiring the workforce in an intelligent manner and developing that workforce in an intelligent manner and not spending and wasting a lot of money on solutions that haven't worked in the past.

MR. DRABKIN: Thank you, Rich.

Karen raised her hand again. Terry, you're on deck next.

MS. WILSON: Rich's comment sparked another thought. We find that the most challenging retention time frame is the five
to ten year period. It's almost a generational issue as well as a time, experience level. You do need to look at how to keep the innovation and keep the challenges going.

What some people -- I'd say five years ago, people wanted to be CEO in five years. Now, there's a lot more of a focus on work-life balance for the younger people.

So there's a change and you need to do that constant focus group of what is it. Is it going to be work from home? Is it going to be -- what are those kinds of factors that are going to attract and keep a workforce?

I don't want to necessarily put Emily on the spot, but I am. She's an intern with us and so I thought it might be helpful to have comments from someone who is in college and looking at the future of the work place and what factors you might think would be important.

MR. DRABKIN: Emily's stomach just started turning. Emily, don't worry. We're a
very friendly crowd, although these words will be kept for posterity. Please, share with us your thoughts.

MS. PANTOJA: My thoughts in what respect? In the workforce in general or the acquisition?

MR. DRABKIN: On recruiting or retaining a workforce that does acquisition.

MS. PANTOJA: I think a lot of schools -- I know -- I go to Marymount University -- and I think a lot of schools are really becoming dedicated to the whole internship process.

Also, career-focused activities and career centers, as well as, I know that a lot of companies -- I get e-mails daily from organizations and companies on how they're having career fairs.

So I know that it's very, very popular and important for companies and also government jobs to recruit directly from schools, which is very
important to begin that training at such a low
level, right from the very beginning.

The experience is invaluable,
especially when you're in college and you're
trying to get out there and trying to just get
any kind of experience.

MR. DRABKIN: Thank you, Emily. It
took a lot of guts.

Terry Raney, you're right over
here. Terry, you were in the military. You
were part of our acquisition reform group back
in the 90's, and now one of your jobs is
hiring -- providing back to the government
acquisition professionals that we used to
supplement our workforce. How do you think we
can solve some of these -- put you out of
business?

MR. RANEY: Well, don't hire our
people would be what I suggest first. That's
not a solution I advocate, although it seems
to be one that's being used lately.

I think you have to break
retention and recruiting into a couple different pieces. Let me first talk about recruiting.

Successful recruiting really is about being able to act quickly. You can't wait six months. If there's somebody good on the market that you need, whether it's a direct or indirect position and you can even break it down further there, you need to move with speed.

You need to identify who they are, have the interview process, whatever, and then hire somebody. You have to have a competitive wage or whatever to do that or whatever the benefits or the factors are. So really speed and reaction is the key thing in recruiting and the government will never get there in my opinion -- 40 years around this business -- so you've probably got to work on other areas.

As far as retention, retention is really about both adequate compensation and career progression and providing some ability
to do that. Now, a lot of our workforce, as many of our companies here, other service providers are retired or are people that they retired from the government, military or civilian, or they are people that have left for various reasons.

There, they have to some something in their mind. Career progression for them may be to work on a project and move to a different company. It's a completely different model in many cases.

I'm not so sure that the government shouldn't think about that model occasionally as well because not everybody has the same mind-set that, Dave, you and I did when we came in back in the early 70's or back long ago about what our future should be and where we progressed. I think that your generations have a little different idea.

The other thing is that people talk about mobility between the private sector and the public sector. The government did
something 30 years with the retirement system
that said let's make everybody mobile.

The problem is that everybody is
mobile, but you really still have all these
rules and regulations about moving in and out
of government. It's very easy to go back in
once you finally get in. But moving on, now
there's all these restrictions and rules and
things like that.

If you really want mobility, have
a system that encourages and allows it. I
don't think that exists right now. So those
are what I would say.

MR. MCNALLY: I'll have to throw
something out because Terry actually hired
me. I'll tell you the time frame it took for
him to hire me. Three days. Actually -- two,
yes.

One of those days was to make sure
the customer -- because I was in a pretty high
level position and it was kind of a new
business area -- so they wanted to make sure
the customer thought it was okay. The other
day was to check that I have a top secret
clearance. And then I came to work in two
weeks because we wanted to be nice people to
my former employer and give the traditional
two weeks notice.

I left because I had other things.

NASA wanted me. I came to NASA a few years ago
as a term and that is a quicker way to hire
people, but it took the person who wanted me
over two months. Terry didn't know this. Well,
maybe he suspected. It was two months to bring
me in because of the HR process and that was
quick.

Well, that's the problem we have
in the government. Terry wanted me and he got
me. NASA wanted me. They finally got me. We
have to do a better job in the government in
getting who we want, bringing them on board,
and hopefully, keeping them for awhile.

So just want to throw that out.

MR. DRABKIN: Okay, great. Terry,
I'm glad to hear it only takes two days to get hired in your company.

We have another comment in the back and then we'll get to you. There's a lady in the back.

MS. JONES: My name is Tina Jones. I'm a federal contracting officer. I have 27 years. I'm cradle to grave.

I would like to comment on the fact that as far as retention of the 1102 series employees, the salaries could be a lot more lucrative for the 1102 employees.

In the federal government, the IT series, they get extra money in their grade level, same grade levels that we are and we work with IT people, but they're making more money than we are, but we're doing more of the work.

Also, the law enforcement group within the govt. They're also making 20, 30 percent more than what we make. But we have a very highly stressful job that we sometimes
perform long hours without being compensated because of course we don't have money for overtime until the end of the fiscal. Thank you.

MR. DRABKIN: Thank you. There's a lady over here?

MS. MASON: Hi, I'm Katrina Mason. I'm with IPOA. I just wanted to take things from my law school and graduate school loan perspective. Obviously, the obvious tuition reimbursement -- paying for all of that, working for the government just can't take it. You're looking, you're coming out of law school you're coming out of graduate school and you see these loans and you see what the government will pay and you're going to pay these off for 20 years. Personally, it's not worth it. On top of that, you're looking at possibly working with the government and it's not rewarding. There's nothing fulfilling with it
because it takes so long to get things through. As this gentleman was saying before, there's so much risk aversion that everything that you do will take a very long time for you to actually get something to go through. If I'm going through three years of self-induced torture, I don't want to have to wait 20 years.

Thank you.

MR. DRABKIN: Thank you for your comment. We have one down here. Boy, I got it going now.

AUDIENCE MEMBER: Once you start asking the interns, you get opinions. I'm working at OFPP this summer, but I'm actually an MBA candidate at University of Pittsburgh.

One thing that I would say is that the government tends to focus programs and partnerships with DC-based schools or schools that are around the government headquarters. The quality people might not be at those schools because they can't afford it.
Also, I'm actually doing a dual degree so I'm in the public policy school and the business school and until I started to work with OMB, I did not know that contracting was a career path.

I have three undergrad degrees and I'm doing two masters degrees and it took me eight years of education to find out that it is a career path. So that might be a little problem.

And then, because of the business school, I have to talk about risks and rewards. There are a lot of people that feel very passionately about government contracting and when they see it in the media, they might think, oh, I don't even want to think about working in that area of the government because it only ever gets bad press.

I know the press loves the bad stuff, but I'm sure there are also best practices that both industry and government have with working with one another that could
also help increase the image of the industry as a whole and also publicize that it is a career field.

MR. DRABKIN: Go Steelers. And if you want a job, see Alma Tier from my office. We want to hire you. Yes, ma'am?

MS. FRIESON: I'm Gloria Frieson. I'm with Acquisition Solutions. I just have one sort of general comment about the model that's used for acquisitions in government.

If you have the problem of increased dollar amounts and more complex contracts -- what's been presented here is mostly -- the solution is to throw people at the problem.

But if you have people that are leaving the government and you don't have that experience level, then it forces you to re-engineer how you do things. We've talked about technology in terms of attracting new people, but using technology to make the job more efficient is probably something that you can
solve your problem and also solve the problem of not having as many people.

So it's the model that you have. It's the same old model and get more people and if you're having people leaving out the door, there's no way to capture what they know and to be able to take technology and put that knowledge that they have into some form of technology to where people who come in the door can use it very easily and you don't have to keep re-hiring annuitants.

I mean, I'm sure people want to retire and really want to retire. It sort of makes sense. So I don't think we're looking at all the avenues. We're simply looking at putting more people and throwing people at the problem.

MR. DRABKIN: I appreciate your comment and one of the observations I would make about the topics that we've listed is we certainly talked about acquisition tools and the need for them and the way that they would
leverage the workforce. It's something that we are all thinking about and working towards and we recognize as an issue.

Jeff, I've gone exactly one hour, which was my scheduled time. So I've given you back the savings we made in the schedule, which should accommodate you beginning now, sir.

MR. LIEBMAN: Great. Thank you, David, and thank you to GSA and your team for hosting us here today.

Our last subject today is the fourth topic from the Presidential memorandum, which is clarifying when functions should be performed by federal employees and when contractors may be appropriately considered and the broader set of issues having to do with the decisions that need to be made about what work gets done in-house by the government and what work is best done by private sector contractors and how we help our managers recognize the proper division of tasks between
the different sectors.

There are a number of important issues, I think, that are worth focusing on in this area. One is figuring out when outsourcing is and is not appropriate. In addition to this coming up in the Presidential memorandum, Congress has asked OMB to review this issue.

Among the things we would love your guidance on is how and whether the current definition of inherently governmental functions needs to be clarified to improve management of the multi-sector workforce, what kinds of criteria agencies should use in identifying activities that are not inherently governmental but that nonetheless need to be done within the government to make sure that the government retains its control of its missions and its operations and its ability to perform at a high level.

And also, how federal contracting policies affect practices in the private
sector labor market.

So I'm very much looking forward to our discussion of this fourth topic. To start us off, Alan Chvotkin is our first speaker. He's the senior vice president and counsel of the Professional Services Council.

I'm supposed to let you know that Alan is going to make two presentations because we were working too fast earlier today and he wasn't here for the contract type discussion. So thank you for doing both.

MR. CHVOTKIN: My pleasure. Thank you.

My name is Alan Chvotkin. I'm the executive vice president and counsel for the Professional Services Council. On behalf of the Professional Services Council and the six other trade associations that have joined together in the presentation.

I want to thank you for the opportunity and at least go back briefly to the issue of the contract types, which is when
Eleanor spoke. I apologize that I wasn't able to get here on time for the earlier presentation. Following that, I'll go right into the section 321 unless there's questions.

It's clear that President Obama's statement for federal contracting has constructive ideas, a strategic way to move forward. With more than $540 billion in spending on government contracts, the process and the personnel involved have to be treated seriously and directly. It's no question that a meeting like today contributes to that.

The government successfully completes millions of transactions each year, the vast majority of which are done well and efficiently. The government gets what it wants on time for the price it's willing to pay.

However, the increased complexity and the scope clearly requires more attention to the acquisition process, the workforce, and the type of contracts involved. Any review of the procurement process must be fact-based and
argued and not caught up in the methodologies perpetuated about government contracting, many of which we heard today -- from our interns, in fact.

But if we look at the President's March 4 memo, the memo makes a couple of key statements about cost reimbursement contracts that create risk. Reports have shown cost reimbursement contracts have been misused. But a key, executive agencies must have the flexibility to tailor contracts to carry out their missions and achieve the policy goals and have the capacity to carry out management and oversight of contracts.

Those last two bullets are really essential and I'm thinking you might argue capture the essence of the contracting process.

In the memo, the President also says that there shall be a preference for fixed price contracts and we know that that's no change. That's been the rule in the
acquisition regulations for decades. It says that cost reimbursement contracts shall be used only when circumstances do not allow the agency to define its requirements sufficiently to allow for fixed price type contract.

Here again, that's exactly what the definition of a cost reimbursement contract is in the Federal Acquisition Regulation. We're pleased to see those phrases, while not exactly in the memo, taken from the FAR.

Finally, the President directs OMB, as you know, to develop some government-wide guidance on the appropriate use and oversight of all contract types. I've added the emphasis of all contract types taken from the memo because I think the President's exactly right that the agencies need a complete tool kit -- all of the flexibilities, all of the tools available to them to meet the agency's needs, minimize risk, and maximize value.
And then of course, referencing section 864 from last year's National Defense Authorization bill, which we'll cover next. For those of you who may not have memorized the law, it says that the guidance that should be government-wide has to address when cost reimbursement contracts are appropriate. Notice it doesn't say never appropriate. It says when are they appropriate.

The acquisition plan process -- the guidance has to address the acquisition plan and we know that the acquisition strategy, the acquisition plan in FAR part 7 is critical. That's why FAR part 7 comes before the other provisions in the FAR that lay out the various contract types and acquisition methodologies.

Finally, the workforce resources in the last section talked about that. So OMB is required under section 864 to submit a report annually on cost reimbursement
contracts and that first report was issued on March 18.

Well, let's take a look at that March 18 report and see what we know based on what we know about it.

The report cites the FAR 16.3 on the restrictions and the use of cost reimbursement contracts. Repeating many of the same levels and issues that we've talked about already, only when uncertainties in contract performance do not permit cost to be estimated with sufficient accuracy.

Sufficient details of agency requirements -- we've talked a little bit about requirements, but really, the key to any contract type is an understanding of the government's requirements by the government. Once the government has an understanding of its requirements and the extent to which it feels confident that they can permit bidders to properly assess risk and give appropriate cost estimates that will drive the contract
Agencies must do the surveillance and of course, not part of the President's memo but it is part of the acquisition regulations that contractors do in cost type contracts must have adequate systems.

I'll say again that FAR part 16 already expresses a public policy in favor of fixed price contracts. There are other provisions besides FAR 16.3 that provide additional critical guidance, so we have to look holistically at the acquisition regulations in order to be sure that you're covering the totality of the guidance dealing with contract types.

Finally, the caution that such contract types are appropriate when an agency is not able to define it's requirements efficiently -- such as for R and D or complex projects.

Here again, emphasis, I've added because there's a recognition that cost type
contracts have a valuable role in the federal marketplace. They are part of the tools that should be available to contracting officers. Under appropriate circumstances, there should be no contract type that is, by definition, unavailable if you can meet those thresholds and the other needs.

The report says that there's going to be some additional work. Many of you know the Recovery Act has some additional requirements and an OMB memo requires justification and public posting for decisions to use cost type contracts only -- some special attention given because of the risk some view associated with cost type contracts. Also, strengthen the regulations based on section 864 of the Act which we just talked about.

In looking at that report, in fiscal year `08, based on the data the Federal Procurement Data System such as it is, only 25 percent of all the obligations of the federal
government and only 2 percent of all transactions in the government were cost reimbursement contracts. A quarter of all contracts were cost reimbursement. Said another way, only 20 -- by the way, only 23 percent of all obligations and only 3 percent of all transactions in the Defense Department were cost reimbursement contracts.

And if you drill down a little bit, you can find out that most of those are coming on the major defense weapons systems.

If you looked at the Department of Energy, 81 percent of their contracts are cost reimbursement contracts, but the largest segment of DOE spending is on their M and O, their lab contracts. So that's understandable.

And then NASA, Bill, as you well know, 78 percent of NASA obligations because of the lab and space launch contracts.

So it's not surprising that five agencies -- three of which have very special obligations -- DOD, DOE, and NASA, but also
HHS and the Department of Homeland Security accounted for 95 percent of all of the obligations -- all of the cost type contracts in five agencies.

This is right out of the OMB report. I thought it was very instructive to help us bound the nature of the problem dealing in contract types and why it's important to focus on the totality of them.

We look at a different set of numbers. 60 percent of government-wide obligations were awarded as fixed price type contracts -- of all contract types. 60 percent.

DOD awarded 63 percent of those kinds of contracts. So here again, if there is a preference for fixed price contracts and we understand the nature of the government's ability to define those requirements, more than 60 percent of those government transactions we're seeing those practices put into place.
Coincidentally, only 5 percent of all government-wide contract obligations were T and M contracts and DOD awarded only 4 percent of their contracts in T and M.

So the concern that several had addressed about the inappropriate news or eliminating T and M to those contracts as an appropriate contract type -- first of all, it's not extensively used anywhere in government and it is an appropriate contract type when certain thresholds that are laid out in the Acquisition Regulations are met and the government does the acquisition planning to deal with that.

Let me address some of the mythology because as I said in my initial comment, any review of the procurement process has to be fact-based and not caught up on the myths. And there are a lot of myths about these contract types and if we don't address them, we leave those on the table and we're doing a disservice in response to the
President's memo and to the workforce.

First of all, the mythology that fixed price contracts are easier to solicit and award -- I submit to you that the understanding of the requirements side, that is very difficult -- fixed price contracts by themselves, the smaller dollar value -- maybe commodities, but as a class, fixed price is not always easier.

We hear a lot that fixed price contracts are cheap. The government will always get a cheaper price. I will tell you in simple math. Although I am an attorney and not a business major so you might learn this, but in the government contracts math, contract price is a combination of the cost of performance and risk. If you don't establish both elements of that and if you don't understand both elements of that contract price, it's very easy to misunderstand that fixed price contracts are cheaper.

Another mythology is that they
provide the maximum incentive to control cost and that economic price adjustments are always effective mechanisms to deal with contingencies. Frequently, what happens in a contingency area is we see the fixed price contract where requirements change. Because of any number of factors, we now find ourselves in a cost type environment.

The mythology that cost reimbursement contracts are not well designed to serve the needs of the federal agencies is just not a true statement. We see them used all the time. We see them used effectively. We see them used with the results that the government hopes to, again, mindful of the concerns.

And that all cost overruns are equal, whether they're from a change in technical requirement or agency program actions to waste or over charging and regrettably, that does occur in the market place as well. But all cost overruns are not
equal. There needs to be an analysis of it. So reports that simply sum up cost overruns without trying to differentiate between the two sends a very troubling message to the workforce and actually could lead to improper agency policy making without a differentiation.

Finally, the mythology that oversight will reduce cost overruns. There's no question that oversight is important. Government oversight is important. But most of that comes after the fact. The value in monitoring the surveillance and the partnering that takes place will do a lot more with clear requirements to reduce cost overruns than will after the fact oversight and reporting.

So as you formulate the policies, I encourage you to think about those ongoing activities rather than the after fact oversight.

Finally, that the mythology that the T and M contractor has no incentive to
control cost forgets the very important factors of competition of the marketplace through past performance and the roles that those played.

So for some actions -- three simple ones. First of all, to come back to that critical section in FAR part 7 on acquisition plans. Here again, I think agencies ought to be held accountable to document the reasons for the selection of the contract type. That is each contract type and not simply selecting out cost reimbursement or any other type.

Therefore, in my view, eliminating a stigma of using any particular type. Also, that acquisition plan ought to think about the abilities and the opportunities to transition -- either a contract or line items from cost type or T and M to fixed price contracts as the case may be.

Too often we get locked into a single contract type with no flexibility on
the government's side and that makes a transition both for government and industry difficult.

Secondly, recommend that we establish some mandatory agency management reviews on cost reimbursement and T and M contracts over some appropriate dollar threshold. These are highly visible contracts. Many of them need a greater level of surveillance.

I think if you made that part of routine management reviews, the very first segment of the President's management agenda, the first issue you have to address is guidance to the federal agencies on how to review and manage contracts. This one really speaks to that. Take a look at appropriate dollar thresholds for all contract types.

Finally, as we alluded to earlier, it expands on the training on both requirements generation contract types and the characteristics of contractor risk
determinations. The concern is that too
ingfrequently government contracting officers,
government program officers don't appreciate
the risk determination and the risk decisions
that contractors make.

I appreciate the opportunity to
come back and I look forward to any questions
now or afterwards.

Thank you.

We can then go back to the other
presentation. I certainly do welcome the
opportunity to address this issue in the
President's memo on what you've talked about
on inherently governmental functions and what
constitutes inherently governmental functions
or other critical positions,

What we've tried to do through the
seven associations that have joined in this
presentation -- well, they're not here. I'm
making the presentation. But they have joined
in the development of the recommendations here
is to develop what we believe is a better
framework for the sourcing decision.

The current document for structure in the Defense Department -- really, government-wide -- require contractors to perform a lot of roles to support you, government programs.

I mean, there's no question about the contributions and the level or participation of contractors. It's why we've spent $500 billion on the purchase of goods and services and services now the dominant part.

We have a patchwork of guidance for determining what government employees must do. We don't have a single uniform definition of inherently governmental functions. If we don't know what an inherently governmental function is, I've always been amused by how Congress could expect agencies to understand what functions are closely associated with inherently governmental functions.

And so it's absolutely right that
Congress last year, in section 321 of the National Defense Authorization Act, which seven association strongly supported, to direct the executive branch to develop guidance to the agencies to make these decisions.

In addition to focusing on the term inherently governmental, we've added an additional phrase called critical functions. I'll talk about that in a second as well.

This slide is really an effort to depict what I call the total force concept. We use it a lot in the Defense Department. We know about it in NASA and DOE as well. It is not only who serves in the uniform in the Defense Department, for example, but also the civilian agency employees, whether they be NASA employees or Department of Energy employees. Other agency's employees -- many of the agencies are relying on other federal agencies for support or activities through the Economy Act and other tools and techniques and
they become part of that total force along with contractors.

Before trying to figure out the taxonomy and real hard definitions of individual terms, we developed a set of fundamental goals. We recognize that the agency must control how it pursues its mission. Those are functions that government employees should be performing.

We acknowledge that agencies must control how it operates on a day to day basis, whether that be out of a contracts organization or the finance organization that controls function or controls the operations of the department. That is critical.

Finally, the development of the resources to do both -- drafting, retaining workforce, the training of the workforce, the determination of that. That is an element of control that is fundamental to any decision and probably falls into a category of inherently governmental functions. I wish
there was another term that we could come up
with for that.

But all positions do not need to
be government employees. If we agree that
there is a control element, then on that top
side in a systems engineering environment, for
example, we would want that systems engineer
who has the approval authority and, in many
cases, needs the staff expertise to evaluate
options to be done by federal employees.
Absolutely consistent.

But that does not mean that every
system engineer needs to be a government
employee. In fact, as long as there are other
resources available to supervise the work the
President's memo laid out, we believe that
there is a highly appropriate system, a
process, where contractors can provide that
systems engineering function under the
supervision and control of a government
official.

We tried to put this simple -- and
it may be overly simplistic -- decision

We start with the term of inherently governmental. You can see that we might be able to figure out what that definition is.

We proposed one in our written material that you have available. But if it is an inherently governmental function, then the answer is that it's to be performed by government employees. There's no argument on the industry side that government employees only should be performing inherently governmental functions.

If it is not an inherently governmental function, then we ask the question, is it a critical function? A critical function, as we suggested earlier, that I suggested earlier, are those that are so important to the agency's mission or operations that the function must be controlled by government employees.

Now, inherently governmental
exists government-wide. It doesn't matter whether that's in the Department of Energy or the Small Business Administration or the National Labor Relations Board. Any federal entity that is performing an inherently governmental function, it is inherently governmental government-wide.

Critical functions, however, we would accept and would hope that they would vary by agency activities and agency missions. So it should vary. We hope it would vary by agency depending on each agency's mission. Moreover, not every critical function needs to be performed by government employees as long as the agency maintains sufficient workforce for control of the functions by having government employees perform those control positions. That's why we added an additional block called critical position. That's the control position. That's the training side. If the answer is that it is a critical position based on an agency
determination, then the answer is that that is work that should be performed by government employees.

So we've laid out in our material a description, some definitions, some examples taken from federal acquisition regulation that might help re-establish this.

The two cautions are that just because a function is not inherently governmental doesn't mean that the private sector has to perform the work. There are clearly functions that it is not the federal workforce doing those.

I'll caution, just as we heard the earlier comment today and a lot of discussion about in-sourcing and in-sourcing ought to be as strategic a decision as the determination to out-source to make sure that the kinds of functions that the government needs to be doing and is best suited to do.

Finally, the complexity involved in the decision to hire a contractor -- it's
hard to overstate for positions that do not perform inherently governmental functions or are not in critical positions that can be the choice of the agency and relied on to the private sector to perform that work.

I think that's the end of the presentation. I'd be happy to answer any questions if there are any.

MR. LIEBMAN: Thank you for doing double duty here.

MR. CHVOTKIN: Thank you, Jeff.

MR. LIEBMAN: Our next presenter is John Podesta, the president and chief executive officer of the Center for American Progress.

MR. PODESTA: Thanks, Jeff. Good afternoon. I'm John Podesta, the president of the Center for American Progress. I want to thank you, gentlemen, for giving me the opportunity to testify.

I'm accompanied by David Madland who is a senior fellow at the Center who has
done extensive research on the poor treatment of workers by federal contractors and the negative effects that that can have on taxpayers.

As previous panelists have made clear, the federal contracting process needs to be reformed to eliminate waste and ensure the government's interests are upheld.

The Center for American Process has long advocated the kinds of reforms that President Obama has indicated he wants to pursue, including improved transparency and oversight, increased competition, and preventing the contracting out of essential government functions, as Alan was just discussing.

I have considerable experience with that topic during my days in the Clinton Administration, particularly with respect to employees making hard benefit decisions.

These changes are essential, no doubt, but I want to focus on a less well
known but equally critical set of reforms. These reforms will improve the quality of the jobs that are created when the federal government contract is out.

I'd like to make three quick points. The federal government has a key role in promoting high standards for the treatment of contract workers and those efforts can have significant effects on the broader labor market.

Second, far too many contracted workers work under poor conditions for low pay and few benefits, which is bad for workers, but also imposes costs on the government and tax payers and makes it hard for high load companies to compete.

Finally, improving accountability for how contractors treat their workers and encouraging companies to pay decent wages and provide benefits can support key aspects of the President's agenda, including to ensure that tax payers receive value for contracted
work and to help rebuild the middle class. So let me just briefly expand on those three points. First, the federal government's contracting policies can have tremendous influence on the millions of employees that directly perform contracted work, but it's important to understand that nearly a quarter of the country's workforce, a quarter of the country's workforce, is employed by companies that the federal government contracts with, according to the Department of Labor, which means that the government is in the position to help integrate higher standards amongst a much broader group than just the contract employees themselves.

Through numerous laws and executive orders, the US has regularly expressed its intent to influence practices in this regard. Historical evidence bears out its effectiveness. For example, Executive Order 11246 signed in 1965 requires that all
individuals working for federal contractors have an equal opportunity for employment.

This procurement policy has been key to creating equal opportunity and has promoted a dramatic increase in the percentage of women and minorities as managers and firms that contract with the federal government.

For example, studies show that both minority and female employment has increased significantly faster in contractor than in non-contractor establishments -- 12.3 percent faster for black females. 8 percent faster for minority males.

Second, improving accountability and promoting better pay and benefits in contracting can help workers, businesses, and the government. Estimates from the Economic Policy Institute, which I have because quality data is not kept and made publicly available, but they've done rough calculations that indicate that 20 percent of all federally contracted workers earn poverty level wages
and often do not receive benefits.

That means that 1 in 5 workers on a federal contract does not earn enough to keep a family of four out of poverty. Low wages are much more common in some contracted industries.

Paul Light estimates that 80 percent of service contract workers earn low wages. When contract workers are poorly compensated on the front end, tax payers often bear additional costs on the back end, such as for payments for Medicaid and food stamps and the SCHIP program.

In practice, this amounts to something like a government subsidy for low load companies while high load companies are placed at a competitive disadvantage.

Furthermore, research done by the Center for American Progress finds that there's a correlation between a contractor's failure to adhere to basic labors, standards, and wasteful practices, and sometimes even
illegal activity.

Contractors that frequently violate labor laws are amongst the most wasteful of taxpayer funds with histories of tax evasion and fraud. To add insult to injury, many companies charge tax payers higher rates under the terms of the contract and then turn around and pay low wages to contracted workers.

Third, and my final point is that high standards are good value for tax payers. They reduce the government's unintentional subsidies for low load companies and the likelihood that companies will operate in a wasteful fashion while also promoting increased competition.

Let me give you with one or two examples. Maryland implemented a living wage standard. The average number of bids for contracts in the state increased nearly 30 percent from 3.7 to 4.7.
Nearly half of contracting companies interviewed by the state of Maryland said that the new labor standards encouraged them to build on contracts because it leveled the playing field.

One current contractor noted that her contract was the first state procurement for which her firm had submitted a bid. She explained that without strong labor standards, the bids are a race to the bottom.

That's not the relationship that we want to have with our employees. The living wage puts all bidders on the same footing so it's actually encouraging and brought new contractors and new competition into the process.

I think subsequent witnesses will make clear that state and local governments are leading the way to promote higher standards for the treatment of contract workers and I think can serve as a model as you develop your new standards.
New York City, for example, has become a model of transparency with its public Vendex database containing important information about contracting companies. California has a rigorous evaluation process. El Paso has an effort to promote health care coverage amongst its contracted workers. These and other governments have implemented the kinds of reforms that the federal government can and should replicate. So in closing, let me just say that reforming federal contracting to promote higher labor standards and improve accountability would not only be the right thing to do for workers and tax payers, but it's doable under existing contracting framework. Perhaps most importantly, these reforms support many of the other goals of the administration, such as increased transparency, limiting wasteful contracting, and perhaps most importantly, rebuilding the
Thank you and thank you for the opportunity to be here.

MR. LIEBMAN: Thank you, John. Our next speaker is John Etherton, the president of Etherton and Associates.

Then I think we now have Mike Love, the assistant general counsel of the Computer Science Corporation. He's in there too? All right, sorry.

Is John Palatiello ready to perform again?

Yes? We welcome John Palatiello, the president of John Palatiello and Associates.

MR. PALATIELLO: I always do as I'm told and if I was told I can just speak once and cover everything, I would have.

But there is a consistent thread to the comments I've made on each of the four points and I'd like to conclude by making the following observation somewhat similar to Mr. Chvotkin.
One of the difficulties with the way that the approach to a multi-sector workforce has been taken for quite some period of time is that it seems to try to impose a one-size-fits-all solution to some very different and complex challenges in different parts of the federal establishment.

I will come back again on behalf of KAFPAC and talk about architect engineer services.

As I indicated earlier in my comments about the A and E acquisition workforce, we believe there's a very well defined scope of work that is inherently governmental in the A and E process. That is that government employees should be ensuring that they have the expertise to determine agency requirements, that the set priorities and programs, including acquisition plans, that they establish professional standards, develop the scopes of work, and then award and administer the contracts.
This kind of program management is indeed inherently governmental. The actual conduct of architectural engineering services, whether it's mapping the land, surveying a piece of property, designing a bridge, evaluating a hazardous waste site to determine what the most efficient remediation strategy may be or what options for remediation may be. Those are commercially available A and E services and those ought to be what is contracted to the private sector.

But to have a broad based government-wide A-76 or a broad based government-wide definition of inherently governmental and try to apply it to professional area like A and E is the quintessential trying to force that square peg into a round hole.

So we would recommend a more focused attention to specific areas.

Secondly, I think, as I said before, we need to move away from the idea
that I think has been too evident over a number of years. That is, on relying on A-76 and promoting divisiveness and competition between government and the private sector. I think we need to move towards a more collaborative approach where there's cooperation between the government and the private sector.

There is a role and a responsibility in a job for both. It's not an either-or us-versus-them situation. It should become more of a we are all in this together. It's disappointing that perhaps the pendulum swings too far in either direction. There is the perception that the pendulum had swung too far under the previous administration and there is concern that the pendulum swung too far in the other direction thus far, in this administration, as articulated in the President's March 4 memorandum.

The memorandum is not even-handed
with regard to its treatment of commercial activities versus inherently governmental activities. I think everyone in this room understands the fact that the FAIR Act identified over 850,000 federal positions that are commercial in nature. The memo does not recognize that fact.

It is also a fact that fewer than 10 percent of those 850,000 positions have ever been studied and particularly, have not been studied over the last eight years.

Although the perception is that there was bounty hunting on federal employees and that there was this tremendous push to out-source when in fact, A-76 was not well applied and an attempt to logically draw the distinction between commercial and inherently governmental activities and functions and positions was not well executed.

There is not a requirement in the President's memo reminding the heads of agencies of their responsibilities under the
FAIR Act or even under A-76. So there is not a balance in there with regard to commercial activities and inherently governmental activities.

The memo unfortunately, I think, is too heavily reliant on trying to address an issue with regard to instances where perhaps contractors are performing inherently governmental functions or this new era of related to inherently governmental functions.

The FAIR Act requires agencies to review the positions on their inventories. Unfortunately, Congress did not go into great detail in defining that review, but unfortunately, the memorandum does not do that either.

The memo only discusses in-sourcing and a re-evaluation of contracted activities for potential in-sourcing. It does not reinforce a review of activities that are commercial in nature, that are currently performed in house and reviewing them for
potential out-sourcing, particularly in areas where there's a logical reason to do it in the private sector where the capabilities of the technology in the private sector is ahead of the government or where there can be cost saving.

Most troubling is the fact that the memorandum does not require any type of A-76 as part of an in-sourcing decision. In fact, the memorandum does not establish any standard by which an in-sourcing decision will be made.

I think there needs to be some embellishment and some added thought to that. It should not be an arbitrary or capricious decision. I think the private sector -- if work is being taken away from them and brought into the government and there's a legitimate public policy reason why that should occur, there should be some standards upon which those decisions are measured so that everyone understands what the decision is and why it's
being made. Again, this is part of the entire
movement of transparency.

As a result of the perception in
the private sector of this imbalance, a
collection that has been dormant for the past
ten years has been revitalized and called the
Business Coalition for Fair Competition.

In fact, legislation was
introduced the week before last called the
Freedom from Government Competition Act that
tries to try to establish this balance by
looking at what is commercial in nature and
making sure there is a process in place for
evaluating the potential for moving that work
to the private sector.

The legislation does also call for
a requirement that there be some type of
evaluation, public private competition and
justification for in-sourcing work that is
currently performed in the private sector.

So we look forward to working with
all of our hosts and the sponsors of this
forum in trying to reach that balance and
provide honesty and transparency and a sense
of proportionality to a debate where it has
been lacking for far too long.

Thank you.

MR. LIEBMAN: Thank you very much.

Our next speaker -- and I'm at great risk of
mis-pronouncing this, but I'll do my best --
is Tsedeye Grebreselassiev, the staff attorney
for the National Employment Law Project.

MS. GEBRESELASSIEV: Good
afternoon. My name is Tsedeye Grebreselassiev.
I'm a staff attorney with the National
Employment Law Project. Thanks for the
opportunity to participate today.

My organization, NELP, is a
national non-profit policy and advocacy
center. We work with national and grass roots
partners around the country on new policies
for creating good jobs.

This directive to modernize the
federal contracting system is an opportunity
to address a key national priority, which is rebuilding America's middle class by creating more good jobs.

NELP has just completed a comprehensive report on the experiences of state and local governments with contracting reforms designed to create good jobs and deliver better quality services for the tax payers.

My brief remarks today will highlight some of the key findings from the report, some of which Mr. Podesta talked about already.

Generally, states and cities have found that promoting purchasing from employers that invest in their workforces with living wages and quality benefits and that comply with work place, tax, and other laws deliver higher quality more reliable services and minimize the hidden cost of tax payers that result when employers pay very low wages.

The state and local contracting
reforms that we surveyed in our report take a variety of forms. They generally involve systems that factor in better workplace practices, such as wages, benefits, and law compliance into the contractor selection process.

Different states and cities have used different forms ranging from preliminary pre-qualification screenings to item points in the bid evaluation process based upon certain workplace practices. The state and local experiences has been overwhelmingly positive and provide a road map for reforming the federal contracting process.

Transitioning such a form to the federal level would require no new legislative authority, as the federal procurement laws already instruct the government to purchase from responsible vendors that offer the best value.

So I'm just going to quickly go through key insights that we've learned from
looking at these state and local reforms.

First, these reforms factor in the hidden public cost of low wages and benefits.

Second, they can enhance competition by leading more vendors to submit bids.

Third, they can provide the tax payers with higher quality, more reliable services.

So to the first point, there's a growing body of research actually quantifying the indirect cost of low wage work. The costs are chiefly generated by earned income tax credit payments, health benefits under Medicaid, and other benefits and income supports that result when employers pay their workers low wages and provide them few benefits.

In California, for example, the University of California found that $10.1 billion of federal and state tax payer money in 2002 on public assistance programs went to
families of low wage workers, many of them full time low wage workers.

The study found that the cost would have been reduced to just $3.1 billion if the employers had paid a living wage and provided quality affordable health benefits. Other states have corresponding figures for the costs generated by those states.

So to ensure a more accurate assessment process that factors in these costs, states and cities have adopted reforms that factor in the wages and benefits that contractors provide. More than 140 cities and the state of Maryland have adopted living wage policies that do this. Other states and cities have adopted policies that factor in the type, quality, and affordability of contractors health benefits in the bid evaluation process.

While the specific approaches vary, the key innovation here is making wages and benefits a consideration in the process.

The second thing I mentioned is
that these contracting reforms can enhance competition by leading more vendors to submit bids.

In addition to the Maryland example, such a theme has been echoed by a lot of state and local procurement officials that NELP has spoken to in recent months, especially with regards to ensuring that vendors know that they are competing with firms with good compliance records.

For example, a procurement official that I spoke to from the San Francisco Public Utilities Commission explained to me that, quote, in order to ensure bidders possessing the requisite experience spend the resources necessary to prepare bids for a large public works construction project, you have to eliminate the prospect of low bids from contractors whose qualifications to perform the work have not been examined.

My third point is that vendors...
that provide good wages and benefits and that respect workplace laws deliver better results to the government and the taxpayers by providing higher quality services.

For example, studies of living wage policies have found that when government shifts from low wage contractors to those that provide living wages and quality benefits, the results include reduced turnover and improvements in service quality.

In a leading case study, the San Francisco airport saw annual turnover for their security scanners plummet from 94.7 percent to 18.7 percent when it implemented a living wage policy that raised wages from $6.45 an hour to $10 an hour in 2000. The study estimated that this reduced turnover saved employers about $4275 per employees in turnover costs.

So in sum, I just want to reiterate the three key points that have emerged -- that the government can improve
competition, reduce standard cost of low wage work, and deliver higher quality services for federal agencies.

NELP would be delighted to work with OMB and with the federal government going forward on specific approaches for incorporating these reforms in the federal contracting process. Thank you.

MR. LIEBMAN: Thank you very much.

Our last scheduled speaker is Leslie Moody from the Partnership for Working Families.

MS. MOODY: I'm standing between you and lunch, thank you. I guess I'll be the last one. Thank you.

Good morning or afternoon. I'm Leslie Moody. I'm the executive director of the Partnership for Working Families. We're a national network of organizations that work at the municipal level creating good government practices and working to lift working families out of poverty and create a new middle class.

Our experience over the last
decade in working cities on procurement reform is that cities, as a lot of folks have been talking about recently, are the incubators of innovation. We've seen some really amazing practices around responsible contractor and bidder policies, best value contracting, insourcing, and ways for cities to maximize the return on the investment that they're making in what are either private sector or publicly privatized jobs.

So we really believe that government can be an innovator and we want to carry some of the lessons that we've learned in cities to the federal level to ensure that our federal government's investments and jobs are creating the highest road opportunities, especially as disparity in the country has increased.

Our national economy is now characterized by incredible levels of inequality, more so than at any time since the Great Depression. Much of this stems from the
rapid growth of low wage, no benefit jobs and
the emergence of industries who's business
models rely on sub standard employment.

Partnerships with local government
have shown that government can help reverse
this trend, ensuring that private profit
generated from public contracts provides clear
public benefit in the form of high quality,
family-sustaining jobs and shared prosperity
for workers, neighborhoods, and communities.

We can balance the public interest
in healthy competition with the goal of
creating middle class jobs by encouraging
competition that includes rewarding companies
whose public contracts maximize benefit to the
workers and communities.

We've learned that too often,
competition contracting processes lower
standards and reward the worst actors in the
market place. When competition for public
contracts rests solely on the lowest bidders,
workers and tax payers suffer. Workforces lose
healthcare, hard fought wage gains and 
retirement benefits. Tax payers lose quality 
of service and are burdened with the hidden 
costs of privatization that I've mentioned 
before -- healthcare, child care needs, and 
the cost of ameliorating bad service 
provision.

On behalf of our network, I want 
to offer a few guidelines that should shape 
all public contracting to ensure that federal 
government leverages its purchasing power and 
public resources to create maximum benefit for 
communities and tax payers. When the 
government as an employer manages, trains, and 
inspires public employees to perform well, 
they remain the best stewards of public assets 
and services.

Federal contracting must preserve 
the highest ideals of public service, which 
are embodied in the existing public workforce. 
Cities and counties -- many of 
which have been mentioned before in
California, Massachusetts, Maryland, Wisconsin, Vermont, DC -- have all implemented standards to ensure that when contracted work happens, it's performed with high standards and a real sense of both transparency and accountability.

We have three principles that we look at when we deal with government contracting. First is protecting the middle class or uplifting the middle class -- pulling low wage workers out of poverty. The second is benefit to tax payers, and the third is the quality of public services.

So in terms of protecting the middle class, we must establish the basic principle that federal contracting should not create poverty wage jobs. I think our speakers from both NELP and CAP spoke clearly about that, but we just need to make sure that the federal government is setting a standard and creating the incentive for the private sector to rise to that standard as well.
All federal service contractors should be required to demonstrate that they pay living wages and healthcare and offer paid sick leave. Contracting processes should reward bidders who provide high quality training, create high quality jobs, provide workers with career ladders and portable credentials, and have access to those jobs from low wage communities around the country.

This is an opportunity for government to leverage its investment, to raise standards in the private sector, and should be taken full advantage of.

In terms of protecting tax payers, we found that contracting initiatives often fail to save money or appear to save money based on just a cursory or a flawed analysis. Contracting really should only be permitted if it meets standards of saving real dollars, 20 percent cost savings, because when you transition a workforce, you lose an incredible amount in terms of service to communities and
the tax payers.

Both the District of Columbia, states of Massachusetts and Wisconsin have strong state provisions that define cost benefit calculation required to anchor contracting decisions.

Second, we should include responsible contracting standards. In an effort to strengthen standards for the provision of city services, the San Jose city council voted last year to revise the city's competition policy requiring all contractors that perform city services to adhere to the same standards that are expected of city employees.

Specifically, the competition requires contractors to provide information on job standards, including turnover, retention, worker training, and screening for new workers -- performance measures that will be used to evaluate the delivery of services and third tier review, which mandates employers to
disclose previous contract breaches, violations in labor or environmental laws, and unethical business practices.

The policy creates a fair and level playing field for all contractors, thereby allowing high quality employers to compete for service contracts and establish significant barriers for contractors that seek to out-source city services and replace middle income jobs with low wage positions that fail to provide high quality services for residents.

And third, maintaining the ability to actually do the work in-house. We believe it's incredibly important that government retain the skills and the knowledge to actually do this work should a contract fail or a contractor go out of business.

Having the capacity to maintain oversight and the option to take back the work in incredibly important. In San Diego, community leaders and residents insisted that
the city be able to maintain that incredibly skilled workforce and knowledge base in-house while contracting out hourly work. And so, they've figured out over time, how to make this happen and work in various portions of what has been highly contracted out city service facilities.

By maintaining public control over portions of the work, the city established it will be able to cancel contracts and reclaim work if private entities fail to meet service standards, which is a key element in ensuring that tax payers have the capacity to reverse decisions when deals go bad.

In terms of protecting quality public services, it's all too common and sadly, too common to diminish the integrity importance of public work. But the fact is that many of the core functions of government should not be contracted out because doing so jeopardizes public safety, health, and welfare. Only government oversight can provide
the accountability necessary to safeguard our communities.

Returning to San Diego, they had a recent decision in the city to actually really super evaluate their contracting out process. They started with a workforce that they thought would easily be contracted out -- the folks who go out in the city to remove dead animals, both wild and sort of lost pets, from city streets.

After doing a study of what that workforce went through and their dedication to their job and to their community, they made a decision that even that which seemed like one of the simplest jobs in the city really shouldn't be contracted out because there was a real belief and faith in public service among that workforce, but they didn't think they could transfer to a contracted out workforce.

I think that's a really incredibly important thing to think about in terms of the
pride that public servants take in their jobs and the belief that public service is -- we have a great, I think, new faith and hope in government and to instill that faith in the public sector is incredibly important.

So after reviewing that, they actually had to go back to the drawing board and make a decision to create a higher screening standard for contracted out services.

So finally, just to recap -- the biggest lesson of our work at the local level has been that implementation and monitoring are key. I think NELP's forthcoming report shows that where existing federal bid processes require nominal documentation of responsible contracting, it has not been implemented. We really need the government to set a standard to implement and enforce to protect the tax payers' interest.

We have a moral responsibility not to subsidize and perpetuate employment
practices that leave people in poverty. Our government should be a model employer and set the standard for the private sector, overseeing job quality created by outsourcing, as well as the quality of jobs and work performed by public employees.

I urge you to learn from the lessons of cities and states that have found ways to ensure that public contracts can create a strong middle class and help build the communities that we all want to live in.

Thank you.

MR. LIEBMAN: Thank you very much.

I think we're now at the open discussion part of this session.

I realize that I'm in an obstructed view seat and I'm going to move over to the other side so I can see the whole audience.

MS. MARSHALL: Hi. I just wanted to make some comments and some reality observations about the overall issues that
we're facing here.

One of the first comments I'd like to make is the fact that I think we need to have a recognition and an appreciation for some of the increased challenges that acquisition has undergone over the recent years. I don't think anyone has mentioned the recent years, some of those challenges.

By those, I particularly mean unusual disasters such as Hurricane Katrina and the impact that that had on acquisition, which in turn impacted competition, impacted the contract types that were able to be selected for those challenges and endeavors.

Then you have the Iraq and Afghanistan wars, which have had their challenges and their effect on procurement. With Iraq and Afghanistan, you have the challenges of getting contracts in place quickly. That, in turn, affects capability to do competition in many cases. That, in turn,
arrangements, but it also affects the oversight that you can provide in that kind of war zone situation.

I think we need to just have an acknowledgment and a recognition that when you're in those unusual types of situations, which our procurement folks and our contractors have faced over the years, they bring with them their unusual challenges which impact the government's ability to provide adequate oversight that contractors -- they're challenging.

I think those challenges are unusual. They're not the norm, but we're starting to see that procurement, acquisition people, contractors working along with the military in war zone type situations.

That impacts the government's ability to provide oversight because in many cases, in a war zone situation, you will have a lot of transition because you're not going to be able to attract, in many cases, senior
experienced acquisition people to work in war
zones. That's a reality if you're a civilian
because they didn't really sign on as
civilians to really work in war zones.

When contractors go into war
zones, they face a myriad of challenges --
providing security for themselves, the
unknowns, trying to get contracts in place.
Those are challenging situations to have fixed
price contracts in some situations to really
justify cost type situation, but then you also
need the oversight and then the kinds of
people that you're going to get to provide
that oversight.

We need to recognize that in some
cases, you will wind up with new junior people
or people transitioning out in six month
periods because that's the only way agencies,
in many cases, can attract those people to go
overseas.

So I just mention that as a
reality check. Those are some of the unusual
things that we've experienced over the years. They affect inherently governmental functions. The implications there, you can see just in Iraq itself with the implications with inherently governmental contracting out. When you didn't have direct ties there.

But the realities there, those are unusual working conditions that happened just over the last few years. They've impacted some, I think, of what we see in the President's memo as far as the emphasis on cost reimbursement type contracts because, as we all know, there were several bad GAO audits of the contracts in Iraq, which were a lot cost reimbursement. But they faced, in many cases, the lack of adequate oversight which is because of the very nature of where they were working. So I just bring these up as the reality of some of the things that we're facing now.

And then when we went into Iraq and Afghanistan, the agencies in acquisition
fields were already facing a shortage of
acquisition people before because of A-76,
because of downsizing over the years, but then
they were cast into some unusual working
circumstances. So that's just a reality check
for those particular circumstances.

MR. HUCKER: Good afternoon. My
name is Tom Hucker. I'm a delegate in the
Maryland General Assembly and I was the author
and sponsor of the state living wage bill that
Mr. Podesta, today, spoke about earlier.

I was very pleased to sponsor that
bill and it was the result of an eight year
campaign to pass a state living wage bill in
Maryland.

I don't want to repeat the points
that they made, but I want to add a couple of
points that are included in the impact of this
Maryland Living Wage Report that our state
legislative services did because I believe
it's the first state-wide legislative analysis
of a state living wage bill.
Leslie Moody mentioned the goal of a lot of these laws is first and foremost, for many of us to raise the wages of low paid workers. The report, first of all, concluded that that part was very successful -- that the workers in our tier 1 contracts, which are the contracts in our biggest six jurisdictions where most of our state procurement work is done -- those workers experienced a wage increase of 13 to 26 percent. So that was real money in the pockets of folks who are otherwise very dependent on state and federal social services. We expect to see some real savings from the wage gains to those workers.

Number two, the report made really clear that there was no negative effect on the universe of the contractors. Our opponents of the bill were very concerned that people wouldn't -- that contractors wouldn't want to bid in Maryland because they have this supposedly onerous new requirement.

In fact, as John Podesta said,
more contractors bid and they actually quantified it. The average contract before the law passed had 3.7 bidders. The average contract since the law passed has had 4.7 bidders. So we've seen a real substantive -- not a marginal -- but a real substantive increase in the number of contractors that are bidding.

Anecdotal evidence seems to be because some of the higher wage contractors -- and Maryland is a relatively high wage state -- I think, feel like they have a level playing field in which to compete now and they're not having to compete with no wage floor against low paying contractors from outside Maryland.

Fourth, I was disappointed that the report didn't look into any of the cost savings that will probably come out of the passage of the bill in terms of social services and also cost savings to the contractors in terms of reduced employee turnover and training.
We had to rush to meet a deadline we wrote into the legislation to get this report done, but I'm hopeful the legislative services will look into those savings in the future because obviously that's something that we're all very interested in.

Fifth, the concerns that were identified by the contractors were all very easily overcome, which is a relief. The only ones that were expressed were really concerns that are very typical of any new law. Some contractors were aware of the requirement; some weren't. Some bidders put in bids that weren't compliant with the new living wage law. Sometimes they were the lowest bid and they didn't get the award obviously because they weren't bidding in a way that was complaint with the living wage requirement.

But once we just do a better job of educating our contractors about the requirements of the law, obviously that will go away. That was the most serious concern
that the state analysts ran into.

Finally, the law has been successful enough that we've now expanded it. The Maryland Stadium Authority, which is not covered by state procurement law but is an engine of state government that manages the contracts for the food service workers and the janitors all right both Raven Stadium outside Baltimore and Oriole Park at Camden Yards. Both of those facilities and the entire Maryland Stadium Authority now agreed to comply with the living wage law. So that meant a real wage increase for about another 500 workers in addition to, I think, around 35 to 36,000 workers that are covered by the state living wage law.

So I would encourage folks from other states obviously to look into this, to look into the report and try to pass legislation -- other states -- and I hope there's some real valuable lessons for federal contracting.

Thank you very much.
MR. COKORINOS: Hi. I'm Lee Cokorinos from Democracy Strategies. I'd like to ask what specifically we need by way of legislation or regulations to actually move some of this living wage objectives ahead? Federal contracting is over $500 billion now. That speaks to a lot of -- not only reform of bidding, but also contracting and enforcement. It goes to transparency. Do we really know what wages are paid? Do we really know at the hire end what the competitive levels of wages are and salaries between the public and private sector and how do we move those up? Do we need a commission? Do we need new legislation? Is it there now? What's the way to move to enforceable standards? Thanks.

MR. HOULIHAN: Hi. I'm Dennis Houlihan with the American Federation of State and County Municipal Employees. I just wanted to make kind of a
broad observation about the work that you're doing. It's been focused on direct federal contracting. I think a broad reading of the memorandum -- at least the thrust of it suggests to me that the lessons learned or your analysis could go a little bit, could go further either in this round or another to look at the procurement by, for example, in states -- I'll give an example of the state transportation agencies where in the infrastructure program there's obviously billions of dollars moving down through the states.

So they're in kind of a partnership arrangement and carrying out -- you can argue whether it's the federal mandate or it's a joint mandate, but in fact, they're carrying out a procurement program for both construction, design, maintenance under certain federal guidelines.

My sense is, from being around that arena more, that the same issues that you
discussed here about acquisition workforce problems, you'll find in a lot of the states as well.

I think, also, there's issues that the General Accounting Office recently, about a year ago, two years ago, took a look at the use of contractors by state DOTs. The decimation in a number of DOTs of in-house staff with engineering and technical backgrounds somewhat similar to what we heard about from the AE community here about in the federal workforce.

I hear the same kinds of themes there, so it's in turn -- you have contractors that seem to be more increasingly involved in doing what we would consider inherently governmental functions in that area.

So I think that's a -- maybe it's a little bit of an extension but it seems to be -- it may not be a formalized direct service contract but they're really carrying out almost like, in my mind, a contract
service for the federal government.

MR. STEINER: Thank you. Mark
Steiner with the American Council of
Engineering Companies.

A lot has been said here and I'd
like to underline and go back to a little bit
of what Alan said in the multi-association
comments and point out that decisions on in-
sourcing or using the private sector should be
made on an individual procurement basis or an
individual function basis.

In our long comments, we provided
factors that need to be considered in these
types of make and buy decisions. These factors
include managerial flexibility, the need for
innovation, duration of efforts. Obviously,
project efforts would be done differently than
efforts that go on for indefinite periods of
time. All of these factors need to come in and
one-size-fits-all does not work.

Addressing a little bit of the
draw down in A and E capability within DOTs,
let me hit the nail on the head that the true function of government, I think, is in the management administration of the work and not so much in the actual performance where the work in commercially available on the outside with very high quality performers.

I think I may be being a little bit simplistic in saying that but I think it has to go into your decision making.

On the other side of the coin, we've heard a lot about limited wage and all that, but for most professional services, our workforces are our brain power and are why we are selected for quality procurements and they are very well cared for and retained for that reason. I don't think you'll find any problems in that regard.

In summation, I'd like to go back again to what I originally said and that is that so many factors go into what should be done, what is inherently governmental? What is a critical function? What is a commercially
available function where innovation and depth of experience weighs well and performs well for the government? Where that experience comes from? Is it from serving a variety of clients or serving one client only when you get a government employment?

Things like that all have to weigh in and need to be balanced.

MR. VEITH: Hi. This is Chris Veith from Boeing. I applaud OMB for having this public meeting. I think it's critically important to -- government acquisition and going forward to get some of these issues under control.

The one thing I do know is that there's been a lot of information trading hands over the course of the past year, including at this public meeting. This meeting is only going to kick off another stage in where do we go next.

What I'd like to ask is whether you guys have contemplated incrementally
having other meetings of this type or having
other kinds of conversations and dialogue with
us throughout the period of time up through
the end of the summer when the regulatory
process is supposed to kind of kick in?

MR. LIEBMAN: I think a perfect
concluding question. I do think we'll have a
lot of opportunities for continued dialogue
and I'm open to suggestions about the best
format.

I actually think this format may
have worked better than I even expected in
terms of having discussion in the audience,
but it's not ideal for certain types of
conversation. So I'd be happy to get your
thoughts on the best ways forward in terms of
further dialogue.

As you said, we have a process
that will be going on all summer aiming for
this late September roll out of our guidance
on these four topics and so we definitely are
going to need to get a lot more input.
There are a number, I think, of technical and more detailed aspects of some of the issues we discussed today that a big forum like this is not the right place to work through but we look forward to working with all of you on these kinds of issues. I thank you very much for your participation today.

I'm sorry. John, do you have a thought?

MR. PODESTA: I think I can just talk loud enough, but the question was asked about why change. That would be a productive working group. The last panel testified about -- really focusing and creating greater transparency in the -- of the contract and of the evaluation process -- and did not need to change it in federal statute -- thank you, and we'd be happy -- I think all of us would be happy to provide further testimony for the record with respect to that. But we believe that you have the authority to carry
out the kinds of proposals that we were
discussing today and hopefully that some of
the testimony supports the idea that we'll end
up with a process that actually adds value to
the government is a fairer deal for tax payers
and clearly raises the standards for work.

Just in closing, I would say that
by butchering Ms. Gebreselassiev's last name,
you've proven that you're not a marathoner.

MR. LIEBMAN: Thank you very much.

So for those of you who want to turn in formal
written comments, the Federal Register notice
describes how to do that.

But more generally, if you want to
get in touch with us or give further comments,
just get in touch with the Office Federal
Procurement Policy and we'd be happy to
continue this dialogue.

Thank you all for enduring this
marathon session.

(Whereupon, the meeting concluded
at 1:04 p.m.)
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<tr>
<td>income</td>
<td>176:13,15</td>
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<td>incorporated</td>
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<td>increase</td>
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<td>58:18 62:15 71:5</td>
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<td>71:5 128:1 160:5</td>
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<td>29:2 39:21 128:12</td>
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<td>133:18 157:13</td>
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<td>160:10 162:16,21</td>
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<tr>
<td>increases</td>
<td>19:2,9</td>
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<td>increasing</td>
<td>4:18</td>
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<td>18:6 82:2</td>
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<td>incrementally</td>
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<td>incubators</td>
<td>181:3</td>
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<td>indefinite</td>
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<td>65:19 90:20</td>
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<td>individual</td>
<td>31:3,8</td>
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<td>individuals</td>
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<td>97:22 160:1</td>
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<td>individual's</td>
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<td>industries</td>
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<td>161:6 182:2</td>
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<td>113:4</td>
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<td>inherently</td>
<td>83:8,12</td>
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<td>131:11,15 148:14</td>
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<td>148:15 149:16,17</td>
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<td>166:14 167:2,14</td>
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<td>13:19 14:22</td>
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<td>9:15</td>
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<td>24:5 26:1 185:15</td>
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<td>inject</td>
<td>23:7</td>
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<tr>
<td>injury</td>
<td>162:6</td>
</tr>
</tbody>
</table>
processed 93:10
processed 43:1
112:2 182:18
185:190:16
processing 32:21
procure 21:17
procurement 1:18
1:19,21 6:9,13,18
7:9 10:11 11:5,9
16:20 20:17 21:12
21:15 23:8 24:21
25:4 45:18 49:7
56:7 58:6 60:12
65:7,21 68:15,18
70:12 79:15 87:4
97:16 98:8 102:2
110:8 133:22
139:21 142:17
160:3 163:7
175:17 178:6,11
181:1 192:17
193:7,15 197:8
200:5 202:8,18
204:10 209:17
procurements 22:20 60:11
205:14
produce 28:4
produced 54:4
product 33:7 44:10
46:21 53:12 54:2
59:22
production 54:3
productive 208:13
products 23:19
24:16
profession 73:20
professional 58:8
58:22 59:5 81:10
85:10,18,20 132:6
132:16,17 166:20
167:16 205:12
professionals 13:1
13:2,6,17 58:1
85:6 110:4 119:14
profit 92:10
profit 46:22 182:6
profits 50:13,17
program 1:17 5:11
6:7 13:4 15:22
23:20 25:21 41:18
41:20 42:21 44:6
46:11 49:3,4
51:10 52:12,17
61:8 65:13 67:19
68:10 69:13 76:19
84:8 85:1,22
92:14 97:1,17
98:8,13 99:4
100:22 101:7,16
103:18,20 110:13
110:19 112:6,8
144:19 148:3
161:13 167:1
202:11,18
programmatic 25:9
programs 51:6,17
52:16 53:20 54:19
67:18 68:11 76:16
81:9 91:3 92:18
97:19 98:1 105:14
106:3,4 112:2
126:18 149:6
166:19 176:22
Progress 156:15,18
161:19
progressed 121:18
progression 120:22
121:8
project 40:16 60:9
67:13 68:3 70:20
71:3 85:7 107:3
111:10 121:9
173:10,14 178:18
204:17
projects 24:18
59:16 66:9 67:4
138:20
promise 28:11
promised 104:19
promises 26:19
promote 34:20
163:19 164:7,13
promoted 160:5
promoting 100:10
158:7 160:15
162:16 168:3
174:15
proper 11:21 12:9
13:19 59:7 130:22
properly 13:9
32:16 66:14 67:3
83:6 137:21
property 167:5
Proponent 84:8
proportionality 173:3
proposal 13:4,21
52:22
proposals 27:9,10
66:22 88:20 209:1
propose 67:12
proposed 153:6
proprietary 11:20
proscribing 13:10
prospect 28:7 84:8
178:19
prosperity 182:9
protect 9:1 57:5
190:20
protecting 11:19
184:9,14 185:14
188:15
protest 39:16,19
PSC 112:7
public 1:5,12 3:4
10:14 29:22 30:2
57:5 61:3 66:5
96:8 101:11
106:19 114:13
121:22 127:2
138:8 139:12
164:2 171:19
172:18 176:3,22
178:13,17 182:7,8
182:11,15,20
183:10,12,15,16
183:19,20 184:13
188:8,16,18,21
189:17 190:1,2,5
191:6,9 201:14
206:11,18
publicize 27:4
128:2
publicizing 19:4
publicly 160:19
181:9
pulling 184:10
punishment 110:12
purchase 149:10
175:18
purchases 15:21
purchasing 75:8
97:2 174:15
183:11
purpose 8:16
pursue 157:12
pursues 151:7
pursuing 38:15
push 100:17 169:14
pushed 89:20
put 9:1 45:16 52:19
62:21,21 97:3,15
97:20 101:15
117:14 119:16
129:7 141:21
152:22 199:13
puts 35:17 163:13
putting 46:17
116:8 129:16
p.m 209:22
Q
QBS 60:17 87:1
qualifications 22:17 178:20
qualifications-ba... 57:3 60:10 86:10
quality 26:10,11,11
29:4 59:22 69:9
100:10 126:21
158:2 160:18
174:8,17,19 176:8
177:6,17 179:4,8
179:10 180:2