




EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

July 29, 2009

M-09-26

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

FROM: Peter R. Orszag 
Director

SUBJECT: Managing the Multi-Sector Workforce

Federal agencies use both federal employees and private sector contractors to deliver important services to citizens. Agency management practices must recognize the proper role of each sector's labor force and draw on their respective skills to help the government operate at its best. Current policies and practices must be improved so that agencies consistently identify the proper role of each sector and achieve the best mix of public and private labor resources to serve the American people. This memorandum provides initial guidance to help agencies improve their management of the federal government's multi-sector workforce.

Contractors provide vital expertise to the government and agencies must continue to strengthen their acquisition practices so they can take efficient and effective advantage of the marketplace to meet taxpayer needs. At the same time, agencies must be alert to situations in which excessive reliance on contractors undermines the ability of the federal government to accomplish its missions.

In particular, overreliance on contractors can lead to the erosion of the in-house capacity that is essential to effective government performance. Such overreliance has been encouraged by one-sided management priorities that have publicly rewarded agencies for becoming experts in identifying functions to outsource and have ignored the costs stemming from loss of institutional knowledge and capability and from inadequate management of contracted activities. Too often agencies neglect the investments in human capital planning, recruitment, hiring, and training that are necessary for building strong internal capacity – and then are forced to rely excessively on contractors because internal capacity is lacking. In many cases, agencies lack the information that would allow managers to understand how contractor employees are deployed throughout their organization and integrated with federal employees. The full potential of our total workforce -- both contracted and federal -- often goes unrealized due to insufficient or ineffective management attention. These management shortcomings work against effective government performance and must be corrected.

Accordingly, this memorandum requires agencies to begin the process of developing and implementing policies, practices, and tools for managing the multi-sector workforce by taking the following immediate steps:

1. Adopt a framework for planning and managing the multi-sector workforce that is built on strong strategic human capital planning. The framework emphasizes collaboration among program, human capital, acquisition, and budget and finance offices to achieve a high performing workforce made up of a strong internal core of federal employees supported by the expertise of contractors. See Attachment 1, *An Initial Framework for Managing the Multi-Sector Workforce*.
2. Conduct a pilot human capital analysis of at least one program, project, or activity, where the agency has concerns about the extent of reliance on contractors. The pilot will provide agencies with an opportunity to develop processes and practices that support the broader vision of multi-sector workforce management. Agencies should complete the pilot analysis by April 30, 2010. See Attachment 2, *Multi-Sector Workforce Planning Pilot*.
3. When considering in-sourcing, use guidelines that facilitate consistent and sound application of statutory requirements. Pursuant to section 736 of Division D of the Omnibus Appropriations Act, 2009, P.L. 111-8, civilian agencies are required to have guidelines for in-sourcing. Agencies' guidelines should be consistent with criteria developed by the Office of Management and Budget (OMB). See Attachment 3, *Criteria for In-sourcing Work*. These criteria were developed in coordination with the Department of Defense, which is subject to separate statutory authority and has previously developed guidelines that continue to be in effect to implement its statutory responsibilities.

Additional steps to support the improved management of the multi-sector workforce are underway. In accordance with the President's March 4, 2009, Memorandum on Government Contracting, guidance will be issued by September 30, 2009, to clarify when governmental outsourcing for services is and is not appropriate. As part of this process, and consistent with section 321 of the FY 2009 National Defense Authorization Act, P.L. 110-417, OMB is reviewing the definition of inherently governmental function and the manner in which agencies identify critical functions to be performed by federal employees. In addition, OMB is analyzing ways in which agencies can track more detailed information on contracted work that could be used by federal officials to better manage the multi-sector workforce.

Your leadership and close attention to these important matters are appreciated.

Attachments

An Initial Framework for Managing the Multi-Sector Workforce

This document provides agencies with an initial framework of guiding principles for considering how best to manage the multi-sector workforce. Too often, assessments of the multi-sector workforce are focused either around a particular outcome (e.g., outsourcing, in-sourcing) or the day-to-day challenges of managing individual employees and filling federal positions when they become vacant. In both instances, agencies are not generally taking the time to fully and effectively consider their program's goals and priorities, and the associated human capital needs, as they must do in order to properly identify which work should be done by federal employees and which work should be performed by contractors.

Accordingly, the framework below outlines a broader vision for planning and managing the multi-sector workforce. As explained, human capital planning must consider all the functions for which the organization is responsible and performance by all sectors of the workforce – not just those performed by federal employees. Similarly, management of the multi-sector workforce must be viewed as a shared responsibility, achieved through meaningful collaboration across many organizational lines. Agencies should review this framework and use it as a guide when conducting their multi-sector human capital analysis pilot pursuant to Attachment 2.

Refinements to these principles and additional guidance will be considered as agencies gain experience, including through the pilot.

A. Workforce planning

1. Derive workforce needs from organizational goals. Determining the most effective and appropriate mix of skills and amount of labor for the workforce begins with strategic human capital planning based on a clear understanding of an organization's mission and performance goals. This understanding enables the agency to identify the functions that are needed by the organization and, equally important, those that are redundant or are no longer required and may be eliminated.
2. Determine skill mix and total labor requirements. Armed with an understanding of the organization's mission, functions, workload, and desired performance standards, the agency should determine the mix of skills and total amount of labor that is required for the organization to perform efficiently and effectively. This analysis should consider all the functions for which the organization is responsible.

B. Sourcing determination

1. Determine if work must be performed only by federal employees or may be performed by either federal employees or private sector contractors. After the agency has carefully mapped out the organization's functions and related performance and labor needs, it must determine which sector may be considered to fill each identified position. This determination will depend on the nature of the function to be performed. See the table below.

If the function is . . .	Positions performing the function may be filled . . .
Inherently governmental	<i>only</i> with federal employees
Critical, but not inherently governmental	<i>only</i> with federal employees <i>to the extent</i> required by the agency to maintain control of its mission and operations (or if required by law, executive order, or international agreement); and by <i>either</i> federal employees or private sector contractors once the agency has sufficient internal capability to control its mission and operations.
Essential, but not inherently governmental	by either federal employees or private sector contractors.

2. Perform a cost analysis if both sectors are being considered for performance of a function. When an agency is considering both sectors for the performance of a function and performance by either sector would be suitable (e.g., the work is not inherently governmental and human capital, risk, or policy considerations do not compel performance by federal employees), agencies should perform a cost analysis that addresses the full costs of government and private sector performance and provides “like comparisons” of costs that are of a sufficient magnitude to influence the final decision on the most cost effective source of support for the organization.

C. Management

1. Facilitate collaboration. Multi-sector workforce management is a shared responsibility that requires continuous and timely collaboration across organizational lines. Input must be obtained from the requiring activity -- i.e., the organization that would be responsible for performance of the functions if they were performed in-house. (In many cases, the requiring activity may be the program office.) Input must also be obtained from other organizations, including the human capital, acquisition, and budget and finance offices.
2. Provide for reasonable and impartial processes. Processes should support reasoned and impartial decision-making that properly reflects and integrates the interests and needs of each organization with responsibility for the establishment and management of the multi-sector workforce.
3. Give top management attention. Appropriate senior management attention should be given to multi-sector workforce management, policy, and performance issues. This leadership should ensure the meaningful involvement of all offices with responsibilities for managing the multi-sector workforce, including those identified above.

Multi-Sector Workforce Planning Pilot

Each agency that is subject to the Chief Financial Officers Act shall conduct a pilot under which they perform a multi-sector human capital analysis of at least one organization, program, project, or activity (hereinafter “organization”) where there are concerns about the extent of reliance on contractors and take appropriate steps to address any identified weaknesses. Regular engagement in workforce planning enables an organization to successfully address existing and emerging mission requirements and adjust the workforce to meet those changes. The pilot will provide agencies with an opportunity to develop processes and practices that support the broader vision of multi-sector workforce management. Agencies will develop a multi-sector workforce inventory to help inform the analysis of the organization.

A. Required actions

Agencies shall take the following specific actions:

1. Review the multi-sector workforce management framework in Attachment 1. The framework outlines a broad vision for planning and managing the multi-sector workforce and seeks to change agency behavior. In particular, planning must consider *all* the functions for which the organization is responsible – not just those performed by federal employees. Similarly, management must be viewed as a shared responsibility where all interested parties (e.g., the requiring activity and the human capital, acquisition, and budget and finance offices) play a meaningful role. Agencies may need to develop or strengthen internal processes to facilitate this collaboration.
2. Identify the official who will be responsible for the pilot. The agency must identify a senior official who is responsible for the pilot and associated management decisions. The official selected should be ultimately accountable for the performance of the organization being reviewed but independent of its day-to-day operations.
3. Select an organization for study. The agency should select an organization that will help its employees gain meaningful experience with multi-sector workforce planning and improving operations. In making a selection, the agency should consider whether the organization is experiencing difficulty managing its contractors or is using contract employees where it would be more appropriate to use federal employees or where using federal employees is likely to achieve better results. The agency must notify OMB of the candidate organization selected by October 1, 2009.
4. Develop a multi-sector workforce inventory that maps out the current workload and how in-house and contracted labor is being used by the organization to meet this workload. The inventory should identify the following for each function performed by the organization, either by federal employees or contractors:

- the number and location of full-time federal employee equivalents FTEs and contractor employees (for the latter, counting either full-time employees or hours worked) for each function performed by the organization;
 - how work is classified: (i) inherently governmental, (ii) critical and requiring performance by federal employees, (iii) critical and requiring performance by either federal employees or contractors with appropriate management, or (iv) essential but non-critical; and
 - the associated funding source.
5. Conduct a gap analysis between the current workforce configuration and desired classification of work functions, identify the organization's optimal workforce configuration of employees and contractors, and develop appropriate plans to remedy gaps. The appropriate remedy will depend on the specific weakness identified. In some cases, allocating additional resources to contract management may be necessary. In other cases, implementing a hiring plan to attract employees with the needed management and technical skills to the agency may be required. In still other cases, in-sourcing may be the appropriate remedy.

Agencies should take advantage of existing planning guidance, such as OPM's Human Capital Assessment and Accountability Framework, and related management tools, as appropriate. Chief Human Capital Officers can provide expertise in strategic human capital planning, strategies for attracting or developing employees with required technical skills, and competency-based approaches to talent management. If in-sourcing is considered, agencies should review the criteria at Attachment 3 of this guidance document.

6. Document processes used and offices that participated in each part of the assessment. Most existing workforce planning tools and techniques have not been developed to address multi-sector workforce management, so agencies will need to consider, as part of the pilot, how current policies, procedures, practices, and analytical tools might be modified and new tools developed to address these needs. Agencies must also consider management strategies to facilitate collaboration during each phase of the assessment.
7. Report to OMB. Agencies should identify the results of their workforce analysis, and steps taken or planned, and prepare an appropriate summary to share with the public. In addition, agencies should describe promising practices and planning models used to facilitate their analyses. This feedback is a key output of the pilot. OMB intends to share best practices with the federal community for replication and to inform development of additional guidance on multi-sector workforce management, as may be appropriate.

B. Deadlines and submission

By October 1, 2009, the agency should notify OMB of the organization(s) selected for the pilot. By April 30, 2010, the agency should report to OMB on the pilot effort (processes used, analysis performed, and steps taken or planned). Submissions to OMB should be sent to the appropriate Resource Management Office in OMB.

C. Additional information

Supplementary information for planning, conducting, and reporting on the pilot will be provided at OFPP's webpage, http://www.whitehouse.gov/omb/procurement_default/.

Criteria for In-sourcing Work Under Public Law 111-8

In-sourcing is one of a number of tools available to agency officials for managing their multi-sector workforce. Section 736 of Division D of the Omnibus Appropriations Act, 2009, P.L. 111-8, requires agencies subject to the Federal Activities Inventory Reform Act to “devise and implement guidelines and procedures to ensure that consideration is given to using, on a regular basis, Federal employees to perform new functions and functions that are performed by contractors and could be performed by Federal employees.”

OMB has developed criteria to facilitate consistent and sound application of the in-sourcing requirements set forth in section 736. Agencies subject to section 736 should reflect these criteria in their guidelines to implement section 736.¹

The President’s March 4, 2009, Memorandum on Government Contracting requires OMB to develop guidance on when governmental outsourcing is and is not appropriate. Refinement of the criteria below will be considered, as appropriate, during the development of this guidance and based on agency experience with section 736.²

A. General management responsibilities

1. Collaboration. In-sourcing, like other multi-sector workforce management considerations, is a shared responsibility. Officials with responsibility for in-sourcing include (but are not limited to) those from the requiring activity, the human capital office, the acquisition office, and the budget and finance office. Responsible officials should perform their respective responsibilities in a collaborative and timely manner.
2. Monitoring for contractor performance of inherently governmental functions. Agencies should review, on an ongoing basis, the activities of their contractors, especially those performing professional and technical services, and in-source work on an accelerated basis (e.g., through the timely development and execution of a hiring plan timed to permit the non-exercise of an option or the termination of a contract) where a determination is made that the contract (i) is being used to fulfill responsibilities that are inherently governmental or (ii) involves unauthorized personal services.
3. Monitoring for human capital capacity. Agencies should be alert for situations where internal control of mission and operations is at risk due to overreliance or improper

¹ Section 736 states that it “shall not apply to the Department of Defense,” and the Defense Department is therefore not covered by the guidance in this Attachment. The Defense Department’s in-sourcing procedures are governed by 10 U.S.C. 2463, which Congress enacted in section 324 of the FY 2008 National Defense Authorization Act (Public Law 110-181). DoD issued guidelines and procedures to implement these requirements on April 4, 2008 and May 28, 2009. To promote maximum practicable consistency in the application of in-sourcing procedures, OMB worked with DoD in developing the criteria in this Attachment.

² Agencies are not expected to evaluate for in-sourcing commercial or industrial type functions that are included, or are planned for inclusion, on the AbilityOne procurement list established pursuant to section 2 of the Javits-Wagner-O’Day Act (41 U.S.C. 47).

reliance on contractors. In these situations, requiring activities should work with their human capital office to develop and execute a hiring plan, development plan, or both. Requiring activities should also work with the acquisition office to address the handling of ongoing contracts and the budget and finance offices to secure the necessary funding to support the needed in-house capacity.

4. Monitoring for contract management resources. Agencies should make sure there are sufficient resources to manage and oversee their contractors and act proactively to recruit and retain the necessary federal talent where it is lacking.

B. General consideration of federal employee performance

To meet the specific requirement in section 736 that an agency consider “on a regular basis” the use of federal employees “to perform new functions and functions that are performed by contractors and could be performed by Federal employees,” agencies should take the following steps:

1. Augmentation of agency management reviews. Management reviews that an agency already conducts as a part of general stewardship to evaluate and improve operations should be augmented, whenever appropriate, and especially where they involve functions typically performed by contractors, to regularly consider where opportunities may exist to improve performance with the use of federal employees.³ These evaluations should:
 - a. consider opportunities that may arise through work that is currently contracted as well as where new work or expanded work is anticipated; and
 - b. generally include a cost analysis that addresses the full costs of performance and provides “like comparisons” of relevant costs to determine the most cost effective source of support.

The level of analysis should generally be commensurate with the size and complexity of the function to be performed as well as its importance to the agency’s mission.

2. Situations where performance by federal employees may be justified without a full cost analysis. Agency managers should recognize that there may be circumstances where performance and risk considerations in favor of federal employee performance will clearly outweigh cost considerations. Where such considerations are dispositive, a full cost analysis is unnecessary. Agency guidelines should identify factors, such as the following, to help agency management officials evaluate where performance and risk considerations may be dispositive in a decision to have work performed by federal employees:
 - a. the agency needs to establish or build internal capacity to maintain control of its mission and operations;

³ For example, agencies may already be undertaking efforts to achieve continuous process improvement through the use of baselines and benchmarks.

- b. the function is closely associated with an inherently governmental function and in-house performance is necessary for the agency to maintain control of its mission and operations; or
- c. the continued use of a private sector service provider would compromise a critical agency or Administration policy (even though the function is neither an inherently governmental nor critical function that must be performed by federal employees to ensure the government maintains control over its mission and operations);

Even though a full cost analysis may be unnecessary in these circumstances, cost should still be evaluated so the work can be properly managed by the agency.

C. Special consideration of federal employee performance

Section 736 requires that special consideration be given to using federal employees to perform any function that is performed by a contractor and (1) has been performed by federal employees at any time during the previous 10 years, (2) is a function closely associated with the performance of an inherently governmental function, (3) has been performed pursuant to a contract awarded on a non-competitive basis, or (4) has been performed poorly, as determined by a contracting officer during the 5-year period preceding the date of such determination, because of excessive costs or inferior quality. Special consideration must also be given to federal performance of a new requirement, with special emphasis on functions that are similar to functions previously performed by federal employees or functions closely associated with performance of inherently governmental functions.

Unlike the considerations described in section B for “regular use” of federal employee performance, which ordinarily can be met as part of an agency management review, the “special considerations” described in section 736 generally require an agency to evaluate the specific function to be performed prior to the pursuit or non-pursuit of a contract action.

Key issues

In providing special consideration, agencies should consider the following issues and take the actions indicated.

1. Does the fact that the work is performed by contractors cause the agency to lack sufficient internal expertise to maintain control of its mission and operations?

- If the answer to this question is **yes**, the agency should develop and execute hiring and/or development plans and secure the necessary funding to support the needed in-house capacity. (See general management responsibility at paragraph A.3.)
- If the answer to this question is **no**, go to Question #2.

2. Does preliminary analysis suggest that public sector performance is more cost effective and that it is feasible to hire federal employees to perform the function?

- If the answer to the question is **yes**, the agency should commence more detailed analysis of in-sourcing options. The extent of analysis should generally be commensurate with the size and complexity of the function to be performed as well as its importance to the agency's mission. Analyses should address the full costs of government and private sector performance consistent with the principles outlined in *An Initial Framework for Managing the Multi-Sector Workforce* (see Attachment 1 at paragraph B.2). In cases in which the work has been performed by federal workers in the past 10 years, there should usually be an analysis of full costs in the contract file documenting the cost advantages of contractor performance.
- If the answer to this question is **no**, the agency should not in-source unless performance and risk considerations in favor of federal employee performance will clearly outweigh cost considerations.

Additional actions

If either of the following circumstances exist, agencies should take the additional actions:

- *Difficulty hiring federal employees.* In cases in which the above analysis indicates federal performance, but the agency is having difficulty recruiting federal employees or developing federal employees would take too long, the acquisition office should proceed with a temporary contract that provides service to the agency only until federal employees can be hired.
- *Poor contractor performance.* If the function is currently being performed by a contractor that has performed poorly, as determined by a contracting officer during the five-year period preceding the date of such determination, then the agency must document that the incumbent contractor has taken sufficient action to address performance problems. Where sufficient action has not been taken by the incumbent contractor, the agency should conduct another competition for continued contractor performance or consider in-sourcing, with the choice between these two alternatives determined by answering the two questions above.

D. Restriction on the use of public-private competition

Section 736 prohibits an agency from conducting a public-private competition under Circular A-76 as a prerequisite to federal performance of (i) work described in paragraph C, above, including a new agency function or (ii) a segregable expansion of work currently performed by federal employees. Public-private competition shall also not be used except where authorized by law.⁴

⁴ Section 737 of Division D prohibits agencies from beginning or announcing a study or public-private competition regarding the conversion to contractor performance of any function performed by federal employees using funds made available by the FY 2009 Omnibus or any other Act providing funding for FY 2009.