The Peril of Partnership

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Abstract

The federal government's increasing use of Indefinite Delivery, Indefinite Quantity, or "IDIQ" contracts for services has sharpened the competition for federal contracts. To convince the federal contract sponsor that a company's proposal merits award, proposal managers may weave in the promise to work as a partner with the government sponsor. With more than half of U.S. Department of Defense (DoD) procurement spent on services and the total price being a principle selection criterion, partnership with industry is a low priority for government sponsors.

IDIQ CONTRACTS FOR SERVICES

The federal government's increasing use of "Indefinite Delivery, Indefinite Quantity, or "IDIQ" contracts for services, has sharpened the competition for federal contracts. IDIQ contracts are not new — both the government and industry use this type of undefinitized contract for recurring requirements, typically for commodities, which are ordered from a pre-approved price list. Over the last decade, the federal government has refined its method to use IDIQs for services of all types —from janitorial work to highly advanced scientific support. Because of its sheer size, the U.S. Department of Defense leads the way with the volume and scope of these contracts, but other federal agencies have followed rapidly behind.

IDIQ contracts always have a two-step process. The first step is qualification of the company by a formal proposal, which is often rather generic. The U.S. Federal Acquisition Regulation (FAR) requires the government to select at least two winners whenever possible, but four or five concurrent awards are not uncommon; some procurements have resulted in as many as 20 concurrent awardees. Regardless of the number of awardees, none at this point is guaranteed any work above a minimum value specified by the base contract. Nor does the government provide a schedule of anticipated task orders. The contract is nothing more than an open container, waiting to be filled. It is not until the second step when the government users of the contract "fill the container" by issuing a task order solicitation, that the government makes a commitment of funds for services. By this process, billions of dollars are put on IDIQ services contracts annually, and winning an IDIQ award means having a principal seat at

> "When companies offer to perform as the government's partner in an IDIQ services contract, the government may see a different value in the relationship."

the contracting table. So, most large companies find it in their long-term best interests to compete for IDIQ services contracts.

When a company proposes to an IDIQ solicitation, the first order of business is strict compliance with the details of the solicitation. The second order is to make the case that the company's offering stands clearly above those of competitors. Most large companies employ dedicated proposal staffs that function as part analysts, part strategists, and part storytellers. To convince the federal contract sponsor that a company's proposal merits award, proposal managers may weave in the promise to do great things and provide great service, more thoroughly and completely than the sponsor could ever wish for; to work as a *partner* with the government sponsor. The partnering assertion goes something like this:

> *Choose us as your partner, and we will be faithful and diligent. We will adopt your goals as our goals. We will measure our success by your success. We will be so committed to you that we will concede things we want (profit) for things you want (low cost and instantaneous responsiveness.)*

PARTNERS FOR HIRE, NO STRINGS ATTACHED

The term *partner* or *partnership* is an economic concept. Two (or more) parties voluntarily bind themselves together for a common goal. In business law, a partnership is "a voluntary contract between two or more competent persons to place their money, effects, labor, and skill, or some or all of them, in lawful commerce or business, with the understanding that there will be a proportional sharing of the profits and losses between them. (Black, 1910)

At the core of partnership is the principal of *mutual outcome*. The fortunes of both parties rise or fall together. One party cannot gain while the other loses — this violates the underlying premise of mutual outcome and makes the partnership one in name only. It takes mutual commitment to the success of the endeavor and the well-being of the other party. Effective partnership also requires *mutual assent*. Like finding a social partner, the relationship cannot be pushed on the other. It must be wanted by both.

In the widely used textbook *Selling Today, Creating Customer Value*, the authors define partnership as a "strategically developed, long-term relationship that solves the customer's problems." (Manning, Reece, & Ahearne, 2010) Dr. Michael E. Porter, now a professor at the Harvard Business School, and one of the recognized leaders in competitive business strategy, coined the phrase "competitive advantage" way back in 1985, with his book *Competitive Advantage: Creating and Sustaining Superior Performance* (Porter, 1985). Dr. Porter introduced the concept of partnering as a means to building mutual advantage at lower costs.

Partnering has become commonplace in 21st-century commerce, even to the extent that the term "partnering" has been generalized to loosely refer to any long-term and strategic business relationship. Here are some examples of partnering relationships:

1. HP and Intel have partnered since 2002 with an Innovation Center for architecture and networking, leveraging the complementary expertise of both companies and benefitting enterprise-level customers.
2. In 1993, Starbucks Coffee partnered with Barnes & Noble bookstores to put coffee service in the B&N retails stores. This provided customers with a more enjoyable and lingering shopping experience and more time to consume coffee and snacks and buy magazines.
3. In July 2011, Facebook partnered with Skype, which had been recently acquired by Microsoft. This allowed Microsoft to quickly move into the social networking market. Skype got access to the millions of Facebook users, and Facebook could leverage Skype's video technology without building it themselves.

In the context of these examples, partnership really involves three parties to the business transaction: the company, the partner company, and the paying customer. The purpose is synergy and efficiency in selling, and profits are the final measures of successful partnering.

The federal government's take on partnering is of course different because it is uniquely both a business and consumer at the same time. It enters into and contracts but does not earn profit. The U.S. Department of Defense partnership with industry has been concentrated in two areas: depot facilities and major weapons systems procurement. Both of these areas are capital intensive and require long-term financial commitment by both the government and industry providers; business conditions ideal in any industry for risk-sharing through partnership. The DoD formalized public-private partnerships in a 2007 Instruction (DoD, 2007) establishing policy that "public-private partnerships for depot-level maintenance shall be employed whenever cost effective…." Read between the lines and the message is this: the government's unilateral maintenance of its depot infrastructure is prohibitively expensive. Industry can co-utilize government facilities and avoid heavy capital costs if they contribute to the maintenance and upgrades. The government gets to shift some operating costs back to the industry partner. That is the concept. But solid examples of government-industry partnership — where both parties gain in relative proportion —seem few and far between. In 2003, the Government Accounting Office published a report on Depot Maintenance, with the subtitle: Public-Private Partnerships Have Increased, but Long-Term Growth and Results Are Uncertain. Of the (only!) 93 formal partnerships in 2002, the GAO showcased only six as "Partnerships That Are Achieving Positive Results." (GAO, 2002) They described benefits of government cost savings and efficiency, but notably there was no description of the benefits that accrued to industry. More recently, the Office of Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy spotlighted a partnership with a small business, MAC Ammo LLC, to develop non-metallic ammunition cartridges, which means lighter and maybe cheaper ammunition. If they are successful for the military and can also commercialize the innovation for the domestic sportsman market, they may have a winning new product with a customer base well beyond the DoD. Now that is a *real* partnership in the making.

Depot maintenance and manufacturing development, however, are capital intensive activities and very different from an IDIQ services contract for services. In a 2010 memorandum, noteworthy for its candid tone of needed changes, Aston Carter, then the Under Secretary of Defense for Acquisition, Technology, and Logistics, recognized that spending on services — accounted for separately from equipment and supplies — reached a level of more than 50% of total contract spending of the Defense Department; IDIQ contracts make up a large percentage of that half. Secretary Carter's memorandum conceded there was little management insight or oversight of the procurement practices and outcomes for these services contracts. It then set out 23 principal actions to find efficiencies in the acquisition of goods and services, among which was incentivizing contractors by rewarding cost-reductions with profit increases. To what extent this will be implemented by local contracting officers is yet to be determined. Notwithstanding a positive tone of the memorandum overall, partnership was not a theme. In fact, it refers only once to "our industry partners."

Partnership in services takes investment to build trust, understanding of the other party's motivations and needs, and compromise of short-term objectives for mutual long-term gains. Unfortunately, the explicit and implicit guidance of the Carter memorandum is to increase scrutiny, make stronger separation of contractor and government workforce, increase contract turnover, and shift more financial risk to industry. This is a pretty heavy-handed partnering strategy. With multiple awards to three, five, and sometimes a dozen contractors, the government's clear expectation is that businesses will race to the bottom of the cost curve, even to within a dime of insolvency. Government policymakers assert that increasing costs plus dramatically reduced budgets require these harsh efficiencies. That was hard to argue with given the overall dire fiscal situation of the federal government in 2012. Let's be honest, however: this is no healthy partnership.

TRANSACTIONS, NOT CONFIDENCES

The "peril of partnership" is when a business uses a "partnering" theme woven into its proposal, on the mistaken belief that, for services, the government really welcomes a partnership. The truth is that the government places all sorts of impediments to that end. A business cannot partner to solve a government customer's problems when the government must sequester planning documents for fear of favoring one IDIQ holder over another. A business cannot expect to improve profits when the government's emphasis is negotiating the contractor's price downward at every opportunity. A business cannot cultivate long-term trust between the industry program office and the government staff when the DoD ethics rules prevent contractor participation in any mutual social interaction. Even common courtesies such as shared lunches and exchanging holiday cards, which build familiarity and mutual respect — characteristics of a partner relationship — are seen as inevitably compromising and are flatly prohibited on both sides.

If cost is the primary consideration of the sponsor, then at the time of task order the contracting officer may select the Lowest Price, Technically Acceptable (LPTA) bidder, effectively turning the IDIQ into a reverse auction. Don't mistake this for Lowest Price, Technically *Equal*. Acceptable means *minimally* acceptable. It's a concession that price trumps all else, including value-added measures for quality and risk management — if they add to cost. The government is fickle even with its proven performers when a price gap appears. Even expert technical services become commodities, which are perceived to be interchangeable among the IDIQ contractors.

Without passing judgment on whether this practice is effective or efficient, we can at least recognize that it precludes any real partnership. Despite the policies and plaudits of partnership at the Defense Secretariat level; in the field, finding industry partnership is low on the government's priorities. In a 2010 survey conducted by Defense Acquisition University professor Stephen Mills, Dr. Mills found the pervasive view of industry project managers that "mid-career government employees do not see industry agencies as valued partners. Rather, these government employees see industry as merely uncommitted vendors…." (Mills, Fouse, & Green, 2011) The government wants an inexpensive vendor of reasonable quality services, not a confidant and counselor. The savvy company that understands their customer well can see this line of demarcation. The peril is that partnership is an unwanted advance — an offer of a confidential arrangement to a governmental client who does not want a monogamous relationship.

Moreover, the government contracting officers and selection officials know this full well; it is their *intention* to keep an inviolate separation between government and industry. So, when a company offers in their proposal to be partners, sharing insight of the government's problems, and willing to go to extraordinary efforts to satisfy the government's needs — the response may well be: *Thanks but no thanks, the government wants excellent performance to the letter of the contract, nothing more.* When a company makes partnership a key proposal theme for IDIQ service contracts; at best, the assertion shows a certain naivety of the reality of government-contractor relations, which keep contractors at arms-length. At worst, it can be seen as over reaching the solicitation requirements with commensurate added cost — not a favorable position for selection in an LPTA environment.

The alternative to the partnership theme is for business to recognize that, by-and-large, IDIQ services sponsors want a non-exclusive relationship that is beneficial to the government's mission and its purse — *mostly* its purse. In other words, a reliable vendor that stands behind its commitments and shows willingness to pursue cost economies over the course of the task. That's all. It is much more a transactional arrangement than a partnership, but much more realistic. A company can be more credible and competitive by positioning itself as an excellent provider/performer and demonstrating its insight into the government's fiscal challenges, without proffering a one-sided partner relationship. It matches better to government expectations, moderates the expectation of the company's executives, and conserves the company's resources for more productive efforts to stand out from the competition.

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