

Intelligence Agencies Lauded for Progress Toward Balanced Use of Contractors

By Charles S. Clark

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The nation's 16 federal intelligence agencies together make a "model of sensitivity" on the importance of rebalancing what many see as the past decade's overreliance on outside contractors to perform inherently governmental work, the Obama administration's top procurement policy official told a Senate panel during a hearing Tuesday. But contractors continue to play a vital role in supplementing an intelligence analysis workforce that is relatively inexperienced, experts testified.

In opening the hearing Sen. Daniel Akaka, D-Hawaii, chairman of the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, expressed concern that the government is overly dependent on contractors. Citing a *Washington Post* report that 30 percent of intelligence employees are contractors, he warned of an understaffed and undertrained federal acquisition workforce and potential conflicts of interest among contractors.

Akaka noted that it has been five years since the Office of the Director of National Intelligence last published a strategic human capital plan.

Efforts to find the right mix of contractors, who provide special expertise and flexibility, with in-house employees, who provide continuity, are under way government-wide as was emphasized by Dan Gordon, administrator of the Office of Management and Budget's Office of Federal Procurement Policy. Praising the intelligence community as "ahead of the curve" in the push, he reviewed the Obama administration's recent policy letter laying out a definition of inherently governmental functions, the related agency managerial responses required and the White House's goal of making contracting decisions without harming small businesses.

The intelligence community "has shown leadership in its inventory of contractors and what they do while other agencies are struggling to do it as comprehensively and thoughtfully," Gordon said.

One function that Gordon's office decided to omit from the guidance, after reviewing 110 separate letters of public comment, was interrogations of enemy soldiers and terrorism suspects. Because Congress already has barred the use of contractors for interrogations while allowing the Defense secretary to waive the ban, Gordon said his team decided to "leave the statutory scheme in place."

Charles E. Allen, a longtime CIA veteran now a senior intelligence adviser at the nonprofit Intelligence and National Security Alliance, said the intelligence agencies "have dramatically improved management of the contractor workforce as a part of the strategic workforce planning efforts that the DNI requires." When he helped run intelligence at the Homeland Security Department as an undersecretary, he said, he did "not ask if intelligence products or inputs were developed by contractor or government employees, but I knew that I had put in the proper safeguards to ensure that priorities and final analytic judgments -- inherently governmental functions in my estimation -- were the ultimate responsibility of federal employees . . . Contractors were part of the team and they were held to the same standard as other government employees on my staff."

Allen said when he arrived at DHS in 2005, the intelligence workforce was 60 percent contractor, but it is now about 40 percent and could drop to 30 percent in the near future.

Mark Lowenthal, a former CIA assistant director now president and chief executive officer of the Intelligence and Security Academy LLC, urged the panel not to focus on "balance and ratios but on what's cost-effective in getting the job done." He noted a "series of fashions" in contractor use. After the Cold War ended, intelligence budgets in the 1990s were flat and contractors were thought to be cheaper because the government didn't need to pay for benefits, he said. But then contractors began "loading their rates" to provide health care and retirement benefits to employees, and the government rushed into a contractor hiring boom in the wake of the 9/11 terrorist attacks.

The downside of that hiring push, Lowenthal said, is that the contractors often were retired analysts backing up an in-house staff of analysts, half of whom had less than five years of experience. "It's the least experienced analytical staff since 1947, and this demographic trend will play out in years to come," he said, which is "a little bit scary."

The agencies don't have much say in the budgets they get, Lowenthal added. But in his 25 years at the CIA, he said he experienced "no confusion about contractor roles. They couldn't solicit or review other contracts, but they were an integral part of my staff and could manage projects and represent me at meetings."

Another complication, Lowenthal added, is the need for flexibility in "our nonlinear world." A year ago, for example, he would not have asked for multiple staffers with knowledge of Tunisia, but since the sudden overthrow of that country's government in January, he would have to bring on more.

The case for beefing up the in-house intelligence staff was made by Scott Amey, general counsel at the Project on Government Oversight, whose study asserting a price premium the government pays for contractors was cited by Akaka. The government pays contractors 1.66 times what it costs to have the work performed by federal employees, according to ODNI figures that POGO's research confirms, Amey said. That amounts to \$207,000 annually for a contractor employee versus \$125,000 for a federal employee.

"The government might become more flexible if it didn't have to worry about contractors performing inherently governmental functions and bickering in the field," he said. In order to focus on "quality over quantity" in the contractor balance, Amey added, ODNI "should take a step further and examine cost efficiency."

Representing military intelligence was Joshua Foust, a former Defense Department intelligence officer now a fellow at the American Security Project. He disagreed with "faulty assumptions that the government can't control contractor waste and fraud or costs. The real problem is not abuse but that government has designed a system that encourages abuse," he said.

Rather than contractor malice, he pointed to "vaguely worded" requirements and "poorly written statements of work," which are the responsibility of the agencies, whose employees too often are poorly trained. "Misconduct is perfectly legal in the contract" in some cases, he said, giving as an example the "blanket-purchase agreement" awarded by the Interior Department in 1998 to the firm CACI to provide information technology support for inventory control for the Army. During the Iraq war, those contractors were involved in the prisoner abuse situation at Abu Ghraib prison.

Akaka asked what could be done to prevent the so-called revolving-door situations in which a federal employee resigns one day and reports for work the next to perform the same tasks as a better-paid employee of a contractor. The recommendation agreed upon by most witnesses was to expand to all agencies a policy introduced at the CIA in 2007 by then-Director Michael Hayden requiring employees to wait 18 months after they retire before accepting a contractor's job offer.

Allen recalled that at the CIA, contractors actively recruited some of his best personnel, and Lowenthal said some federal employees got a bonus from contractors simply for having a security clearance, like a "signing bonus for baseball players." Amey added that such a policy would protect the government's investment in training against contractor "poaching."

The issue of security clearances will be revisited in December, Allen said, when his organization is set to deliver a white paper recommending that the federal government widen use of digital technology to accelerate transfer of a given individual's security clearance from one intelligence agency to another. "Right now, it's a fairly painful process, and contractors have to wait months to be fully cleared and vetted," he said.