FLORIDA STATE UNIVERSITY

THE PRIVATIZATION PROCESS IN FLORIDA:
Policy Options to Improve the Management of
State Contracted Services

AN ACTION REPORT SUBMITTED TO THE FACULTY OF THE COLLEGE OF SOCIAL
SCIENCE IN CANDIDACY FOR THE DEGREE OF MASTER OF PUBLIC
ADMINISTRATION

REUBIN O’D. ASKEW SCHOOL OF PUBLIC ADMINISTRATION
AND POLICY

BY
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Pam Pfeifer
Director, Governor’s Center for Efficient Government
Florida Department of Management Services
Office of the Secretary
2105 The Capitol
Tallahassee, Florida 32399-0950

Dear Ms. Pfeifer:

Please allow me to submit, for your review and consideration, *The Privatization Process in Florida: Policy Options to Improve the Management of State Contracted Services*. The report is the product of extensive research and analysis conducted throughout 2004. This report recognizes the recent accomplishments of the Governor’s Center for Efficient Government and offers policy recommendations to improve the management of the state’s privatization process. My intention is to provide you with policy recommendations that will complement your program’s mission.

Since the inception, the Center for Efficient Government was successful in developing the Project Gate Management Process to evaluate contracts, research contract management best practices, and develop uniform standards and procedures. By achieving these fundamental tasks, the Center for Efficient Government has established a centralized infrastructure to organize the administrative functions of contracted services.

In completing a program analysis of the Center for Efficient Government, I found many of the administrative functions outlined in option four of this report already exist. However, after further research and analysis, I would like to submit recommendations to assist you in executing the vision of the Governor and the mission of your program.

My recommendations, supported herein by data and analysis, are listed as follows:

- The Legislature must partner with the Center for Efficient Government to ensure stronger legislative controls are not cumbersome or duplicative;
- Program audits should be conducted on the effectiveness of the Center for Efficient Government, evaluating the Project Gate Management Process and other policies and procedures;
- The Project Gate Management Process should contain a feedback loop to provide information which allows the process to change its performance to achieve desired outcomes.
The Center for Efficient Government must amend the Project Gate Management Process to include continuous reviews throughout the life of the contract;

The Legislature must exercise its authority and utilize the Project Gate Management Process to evaluate privatization initiatives and individual contracts;

The new Public Purchasing Training and Certification program should be provided with the resources necessary to build capacity to meet the demand of training contract personnel statewide;

The Public Purchasing Training and Certification program should receive a program audit to ensure its effectiveness in meeting the need of recruiting, training and retaining qualified contract personnel; and

All agency contract management personnel should be equipped with the best practices and resources.

Under your direction, the implementation of these recommendations will ensure the efficient and effective delivery of public services and protect taxpayers’ resources.

Sincerely,

Anthony Provenzano, MPA
ACKNOWLEDGEMENTS

I owe a debt of gratitude to faculty, friends and staff at Florida State University, Askew School of Public Administration and Policy for their continued support throughout this research project. A special thank you is in order for the individuals who shared time in their busy schedules for an interview: Senator Alfred Lawson, Representative Holly Benson, Representative Loranne Ausley, Derry Harper, Douglas Darling, Pamela Pfeifer, Hilary Brazzell, Gary VanLandingham, Mark Neimeiser, Fred Springer, Simone Marstiller and Dominic Calabro. I would also like to recognize the state purchasing officers who responded to the survey.
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EXECUTIVE SUMMARY

Privatizing public services is a recurring trend of federal, state and local government reform. It consists of a range of procedures and activities aimed to generate more private sector involvement in delivering services traditionally provided by government (OPPAGA, 2004). The outsourcing of public services is typically considered a means of maximizing economic efficiency. However, there are concerns privatization costs more than it saves, and reduces government control to ensure service quality and accountability. Experience has indicated privatization can operate well in some cases, produce varied results in others, and present a variety of problems if the process is not properly managed (OPPAGA, 1999).

In June 2003 an Audit Report from the Florida’s Executive Office of the Governor (EOG), Office of the Chief Inspector General examined the effectiveness of existing controls on contracted services. The report indicated, as documented in approximately 500 audit findings over a three-year period, controls over contracting were in complete disarray. Over the years, a piecemeal of incremental policy has evolved into a patchwork of statutes and rules, which have failed to provide state agencies with an effective and consistent privatization process (EOG, 2003).

The responses to the problems identified in the EOG’s audit were twofold. First on March 11, 2004, Governor Bush signed an Executive Order creating the Center for Efficient Government (CFEG). The purpose was to develop a center for excellence which evaluates current contracting efforts, identifies opportunities for additional outsourcing projects and oversees the management
of future outsourcing initiatives. Secondly in January 2004 the Department of Management Services spearheaded and delivered Florida’s first Public Purchasing Training and Certification program (DMS, 2004).

The objective of this applied research project is to examine four policy options to improve the management of the state’s contracted services. They include stronger legislative controls and oversight, statewide training and certification of agency contracting personnel, agency reports and state/independent audits, and a centralized infrastructure to support the management of contracted services.

The methods used provide an in-depth analysis of Florida’s current privatization process and offer the state effective policy recommendations. The recommendations are fundamentally linked to three outcome goals: 1) employ improved management practices, 2) ensure accountability, 3) provide appropriate and sufficient oversight, and 4) safeguard taxpayers’ resources.

The policy recommendations were derived from interviews, surveys and program analyses. It is the researcher’s intention for the recommendations to be implemented to address the gaps identified within the Governor’s Center for Efficient Government. The recommendations are as follows:

- The Legislature must partner with the Center for Efficient Government to ensure stronger legislative controls are not cumbersome or duplicative;
• Program audits should be conducted on the effectiveness of the Center for Efficient Government, evaluating the Project Gate Management Process and other policies and procedures;

• The Project Gate Management Process should contain a feedback loop to provide information which allows the process to change its performance to achieve desired outcomes.

• The Center for Efficient Government must amend the Project Gate Management Process to include continuous reviews throughout the life of the contract;

• The Legislature must exercise its authority and utilize the Project Gate Management Process to evaluate privatization initiatives and individual contracts;

• The new Public Purchasing Training and Certification program should be provided with the resources necessary to build capacity to meet demand of training contract personnel statewide;

• The Public Purchasing Training and Certification program should receive a program audit to ensure its effectiveness in meeting the need of recruiting, training and retaining qualified contract personnel; and

• All agency contract management personnel should be equipped with best practices and resources.
I. PROBLEM STATEMENT

Privatizing public services is a recurring trend of federal, state and local government reform. It consists of a range of procedures and activities aimed to generate more private sector involvement in delivering services traditionally provided by government (OPPAGA, 2004). The outsourcing of public services is typically considered a means of maximizing economic efficiency. Many proponents of privatization express by outsourcing state functions, government can reduce costs while increasing the scope and quality of service (Gilmour & Jenson, 1998). However, there are concerns privatization costs more than it saves, and reduces government control to ensure quality and accountability. Experience has indicated privatization can operate well in some cases, produce varied results in others, and present a variety of problems, if the process is not properly managed (OPPAGA, 1999).

The Florida Legislature, Chief Inspector General’s Office, Auditor General, and the Office of Program Policy Analysis and Government Accountability have expressed concerns with the management of the state’s contracted services. Auditors and agency managers have identified shortfalls in Florida’s privatization process. Numerous reports have indicated several factors contribute to problems with the current process:

1) A piecemeal of statutes and rules aimed at addressing specific abuses and concerns rather than providing a comprehensive contracting system;

2) No statewide infrastructure to train or certify contract management personnel;

3) Lack of direction from the agency required by statute to provide guidance and technical assistance;
4) State’s corporate culture does not foster the sharing of contracting best practices;
5) Agencies use different processes and procedures for awarding and managing contracts;
6) Inadequate systems for monitoring and rating vendor performance; and

The purpose of this applied research project is to examine Florida’s existing privatization process
and provide policy alternatives for improving the management of the contracted services. The
report will analyze four policy options and offer recommendations that will support a cohesive,
efficient and effective statewide contracting process. The recommendations are fundamentally
linked to four outcome goals: 1) employing improved management practices, 2) ensuring
accountability, 3) providing appropriate and sufficient oversight, and 4) safeguarding taxpayers’
resources.
Background

In order to understand Florida’s privatization process, it is important to examine four key components: the current outsourcing process; the scope of privatizing Florida’s public services; the problems associated with the current process; and any efforts to improve the privatization process in Florida.

Privatization is defined as any process aimed at shifting functions and responsibilities, either in whole or in part, from the public sector to the private sector (Feigenbaum, 1994). The privatization process requires necessary management practices and procedures to deliver government services traditionally provided by the public sector. These practices include:

1. Contracting out – the private sector enters into a contract with the governmental entity to perform all or a portion of programs or services;
2. Outsourcing – the public sector regulates the program, while other entities operate the function or deliver the services; and
3. Creating public-private partnerships – the public and private sector enter into a contract to perform the activities of a company (i.e., planning, budgeting and operating a public facility or service) (OPPAGA, 2004).

In 1998, Governor Jeb Bush pledged to reduce the number of state employees by 25%.

Governor Bush envisioned what theorists often refer to as hollow government: 1) the reduction
of government spending, 2) privatization to the maximum, and 3) the employment of private
sector management practices (Cooper, 2003). Governor Bush claimed by outsourcing public
services privatization would bring cost savings, technical expertise and shift start-up costs to the
private sector, thus reducing large bureaucracies.

Since taking office, Governor Bush has challenged state agencies to identify more efficient and
effective ways of providing programs and services to Florida’s citizens (DMS, 2004). In recent
years, there have been significant increases in outsourcing the state’s public services. With an
annual operating budget of $57.3 billion, Florida will spend billions of dollars on contracted
services in 2004. A study conducted by the Senate Government Reform and Oversight
Committee found 30% of the state appropriations in Fiscal Year 1997-1998 were for purchased
services. These privately operated services included transportation, medical care, correctional
facilities, welfare employment services and building maintenance (OPPAGA, 2004).

In June 2003, an Audit Report from the Executive Office of the Governor (EOG) examined the
effectiveness of existing controls on contracting for public services. The report indicated, as
documented in approximately 500 audit findings over a three-year period, controls over
contracting were in complete disarray. A piecemeal of incremental policy over the years has
evolved into a patchwork of statutes and rules, which have failed to provide state agencies with
an effective and consistent privatization process (EOG, 2003).

The EOG’s report concluded the most significant problems were identified in three core
activities: performance monitoring (45%), procurement methodology (20%) and contract writing
The audits also alluded to problems, not as severe, with payment (10%), needs assessment (7%) and contract closure (1%). The contributing factors associated with these activities are deeply rooted in Florida’s inability to establish a statewide infrastructure to support the rapid advancement of privatization. Subsequently, the lack of a statewide contracting system has led to inconsistent and deficient management practices (EOG, 2003).

The Florida Department of Management Services (DMS) is the agency statutorily responsible for developing the state’s contractual policies. The EOG report indicated several agencies’ managers interviewed claimed DMS had abandoned those responsibilities. These individuals professed DMS would not provide appropriate guidance or approval for contracting actions in an appropriate time (EOG, 2003).

In response to the problems identified in the EOG’s audit, the DMS reorganized the Division of State Purchasing in July 2003. Subsequently, DMS spearheaded and delivered Florida’s first Public Purchasing Training and Certification program in January 2004. The purpose of the program is to offer statewide training and certification to purchasing professionals. These individuals will learn to effectively design, solicit, negotiate, award and manage state contracts while adhering to a high code of ethical behavior (F. Springer, personal communication, September 24, 2004).

Attempts were made by DMS in the 2004 Legislative session to recommend the necessary statutory changes to develop a purchasing training and certification program. Although DMS
was unsuccessful, changes have been made to the state’s purchasing rules regarding purchasing, training and certification.

Currently, the Public Purchasing Training and Certification program does not operate under a specific budget allocation within the DMS. The program utilizes existing resources allocated to the Division of State Purchasing. The FY 2004-2005 budget for the Division of State Purchasing is approximately $4 million (F. Springer, personal communication, September 24, 2004).

Opponents of privatization claim it reduces public accountability, does not ensure quality of service, creates workforce issues and is associated with higher long-term costs. Additional oversight and accountability are necessary to ensure Floridians receive a fair return on their investment as state functions continue to be privatized. In years past, the Florida Legislature enacted statutory requirements for competitive sourcing and contract monitoring to ensure Florida receives a fair value. In addition, Congress has enacted statutory safeguards, such as the authorization of audits, to prevent and detect the misuse of state funds (EOG, 2003).

Several attempts by Florida’s watchdog agencies have been made to improve the privatization process. After unfavorable evaluations by the Auditor General and Office of Program Policy Analysis and Government Accountability (OPPAGA), allegations were made regarding the mismanagement of state contracts and conflicts of interest with large contracts. The Auditor General and OPPAGA made recommendations to the Legislature to rewrite laws regarding large government contracts. In fact, OPPAGA’s January 2004 report titled, “The Legislature Could Strengthen State’s Privatization Accountability Requirements,” supported findings of the Chief
Inspector General and suggested mandating the use of business cases, improving requirements for performance contracts, and strengthening the oversight of agency outsourcing initiatives (Florida House of Representatives, 2004).

March 11, 2004, Governor Bush signed an Executive Order 04-05, directing the Department of Management Services, the agency statutorily responsible for organizing outsourcing initiatives, to establish the Center for Efficient Government. The purpose was to create a center for excellence, which evaluates Florida’s current contracting efforts, identifies opportunities for additional outsourcing projects and oversees the management of future outsourcing initiatives (DMS, 2004).

The Executive Order required the Center for Efficient Government to administer the following:

- Create a centralized Project Gate Management Process (Figure 1) for initiating, reviewing and evaluating statewide outsourcing initiatives.
- Develop standards, templates and guidelines for agencies and a reporting mechanism to the Legislature and Governor.
- Review all existing outsource initiatives to ensure compliance with Center standards and business case criteria.
- Provide the President of the Senate, the Speaker of the House and the Governor with a written report containing an initial list of outsourcing initiatives to be developed over the next three years.
- Maintain a database containing information about outsourcing initiatives.
- Develop and implement a state employee transition program for all impacted employees.
The Project Gate Management Process has utilized an Oversight Board to evaluate privatization initiatives at each key decision point or gate. The Oversight Board composed of five executive agency heads will evaluate all proposed outsourcing initiatives with a contract exceeding $10 million per fiscal year. The board will also review any contract requested by the Governor or the Legislature. Members of the Oversight Board include: Chair – Secretary of the Department of Management Services, Secretary of the Department of Transportation, Secretary of the Department of Health, Executive Director of the Department of Revenue and Executive Director of the Agency for Workforce Innovation (DMS, 2004).

The Governor’s vision is:

“The Center for Efficient Government will provide long term stability in government operations by assisting agencies in identifying opportunities for efficiency, assessing the feasibility of proposed efforts and in managing the process using best business practices in
order to ensure efficient and effective delivery of state services and maximize the oversight of taxpayer resources” (DMS, 2004).

Two bills tied to the state’s procurement process were introduced in the 2004 Legislative session. Senate Bill, CS/SB 2932, titled, “Government Procurement,” and House Bill, HB 1819 titled, “Procurement.” Although, both bills died during the last day of session, April 30, 2004, they have impacted the activities of the Department of Management Services. Senator Michael Bennett and the Senate Committee on Governmental Oversight and Productivity sponsored the proposed senate bill. The major effects of the proposed bill were:

- Require all government entities to submit the listings of subcontractors on bids or proposals.
- Require the DMS to establish criteria, in rule, to certify contract negotiators.
- Provide for certified negotiators to perform state procurement costing on contracts exceeding $1 million.
- Permit agencies to require vendors to submit certified cost or pricing data.
- Authorize reverse auction procurements (Florida Senate, 2004).

Representative Holly Benson and the House Committee on State Administration sponsored House Bill 1819. The primary effects of the proposed changes were:

- Establish the Center for Efficient Government, administratively housed in the DMS, including a board composed of agency heads with specific duties. It also develops standards, protocol and templates for use by agencies, creating a process for review to the Legislature, and maintains a database.
- Authorizes a new method of procurement “Invitation to Participate,” where online reverse auction can occur.
• Provides for nontraditional contracting arrangements to be considered procurements and subject to traditional contracting statutory requirements (Chapter 287, F.S.).

• Requires legislative review of outsourcing or privatization initiatives exceeding the contract amount of $10 million or impact FTE positions.

• Requires the involvement of certified negotiators on contracts exceeding $1 million.

• Amend legislative intent regarding the integrity of public contracting to include the conduct of public employees (Florida House of Representatives, 2004).

On April 30, 2004, Governor Bush instituted Executive Order 04-89, instructing executive agencies to focus on the transition of state employees in the business case proposal submitted to the Center for Efficient Government for all outsourcing initiatives. All agencies must develop career placement strategies (e.g., requiring impacted state employees to be interviewed by contractor and considered for employment). Agencies may provide job skills training for any impacted employee not offered comparable employment within one year. State agencies may offer critical employee retention salary increases for individuals identified as essential in a successful transition of the contracted service to the contractor. The executive order also includes: employee recognition allowances, severance compensation and early retirement incentive packages (EOG, 2004).

**Literature Review**

The researched literature is relevant to four concepts which have implications for improving the privatization process: legislative controls, training and certification of contract management personnel, agency reporting, and the establishment of a statewide infrastructure to support best
practices. These issues provide the foundation for the applied research project’s management policy options.

First, alternative legislative actions necessary to improve the contract management process. A combination of legal steps, safeguards and oversights are discussed in support of legislative controls (Cooper, 2003; Gilmour & Jensen, 1998; Wallin, 1997). State Legislatures have the authority and the ability to create legislation ensuring effective practices and protect the public. Cooper (2003) argues the legislative steps to integrate government contractual law and general administrative law are critical to streamline the contract process. Typically, administrative law focuses on detecting and preventing corruption and contracting law emphasizes contractual administrative procedure. Although, some attorneys may oppose this process, restructuring these distinct areas of law provides a cohesive foundation for regulating and managing contracted services.

Wallin (1997) provides lessons learned from the development and implementation of Massachusetts’ privatization process. A case review offers a legislative response to problems in Massachusetts. Several legislative provisions added to proposed legislation in 1993 were designed to tighten controls over the contract process. Enacted into law, the restraints and safeguards are:

- Five-year limit on contract (sunset law).
- Conflict of interest provision prohibiting state employees involved in the contract process to work for the vendor (the revolving door phenomena).
- Regulation of all contracts $100,000 and higher.
- A requirement that employers offer positions to qualified state employees.
- Provisions for vendor compliance with affirmative action and equal opportunity laws.
- A guarantee for employees of contractors of the average private sector wage, or the state wage for similar services, whichever is lower.
- Oversight of the whole process by the state auditor (who is given veto power over the entire privatization process).

*Note: In Massachusetts, the state auditor is an independently elected constitutional office providing the Governor, the Legislature and the general public with independent evaluations of various agencies and programs.

Henig (1990) claims the government’s role as an oversight entity is to ensure private contractors meet performance standards. Too often the public suffers as a result of government’s inability to compete with the private market. Resources necessary to monitor accountability are spent regulating corrupt or unfair market practices.

Second, the literature presents critical components necessary to develop an internal statewide contract management/monitoring training program. An effective training program requires uniform polices and procedures and develops standardized forms to be used by agencies (EOG, 2003). Successful policy contains a training process based on effective models, applies incentives for career development, provides certification for agency personnel and implements best practices (EOG, 2003; Cooper, 2003; Wallin, 1997).
Cooper’s Integration-Operation-Separation Model emphasizes the importance of governance and contractual relationships in the procurement process. The paradigm presents a framework describing the regulatory relationship as vertical in nature and the contractual relationship as horizontal (Figure 2). The two models operate in tandem creating tension among the separate paradigms. It is essential to recognize the dynamics of the vertical and the horizontal forces. It is the role of the contract administrator to balance efficiency, effectiveness, economy, equity, responsiveness and responsibility. By understanding the complexities of regulatory and contractual relationships, Cooper’s model is useful in training contract personnel.

**Figure 2. The Integration-Operation-Separation Model**

The Executive Office of the Governor’s “Audit Report: Road to Excellence in Contracting” recommends a statewide training program be developed by DMS which would provide incentives to encourage professional development, and certify all agency contract administrators, managers, negotiators and monitors (EOG, 2003).

As states move forward and begin developing statewide training programs, they must consider monitoring best practices. Best practices are pragmatic tools gained from practical experience
used to improve the procurement process. Best practices are techniques used to detect and avoid problems in the acquisition, management and administration of contracts (OFFP, 1994). In 1994, the United States Office of Federal Procurement Policy (OFPP) established a contract administration project to identify best practices due to problems and deficiencies with the current process. The project team conducted interviews with contracting officials, and the private sector to obtain best practices applicable to the public sector. After extensive research, a guidebook (Appendix 1) was created providing best practices in three areas of contract management: roles and responsibilities of contract managers, improving methods of processing invoices and vouchers, and improving procedures for closing contracts (OFPP, 1994).

Contract personnel play a critical role in affecting the outcomes of the contract management process. It is essential as training programs are developed, governments implement the best management practices to ensure accountability and safeguard tax dollars (OFFP, 1994). States must create policy to implement comprehensive, cohesive contract management training systems (EOG, 2003).

Third, the literature recognizes the role of agencies in improving governments’ procurement process. Cooper (2003), Wallin (1997) and Wise (1990) focus on the responsibilities of public sector executives in managing the privatization process. Wallin (1997) suggests states provide agencies privatization checklist which highlights the “best demonstrated practices” of previous privatization initiatives. The privatization checklist is a comprehensive model used to assist in the privatization decision making process. In Massachusetts, the model prompts agency executives, when developing privatization initiatives, to consider minority business participation,
affirmative action, work force transition, quality assurance, public employee participation in bidding, conflict of interest provisions and cost comparison.

In Florida, the Department of Management Services Center for Efficient Government has developed a similar model using Gate Management Process Standards (Appendix 2). The standards provide guidelines for agencies to evaluate and determine if privatization is the most effective and efficient approach. This is accomplished by applying business case templates, and cost comparison guidelines (Appendix 3) to agency privatization project initiatives (DMS, 2004).

Some Floridians prefer agency reporting to prevent improprieties from occurring under one branch of government and to assist in the privatization decision making process. Annual reports produced by agencies to the legislature providing detailed information on new contracts are a way to provide legislative oversight and improve the privatization process. In fact, several of Florida’s watchdog agencies have suggested the Office of Program Policy Analysis and Government Accountability (OPPAGA) be charged with random evaluations of new contracts indicated by the agency reports (OPPAGA, 2004). Agency reporting is also viewed as an oversight of campaign contributions and should be reported and monitored with all conflicts of interest.

Cooper (2003) expresses the majority of concerns with corruption are addressed with the awarding of contracts (process leading up to bidding and selection of the contractor). Subsequently, a significant amount of time and resources have focused on this stage of the practice, compared to the significant need of improving the entire management process.
Government needs to take a stronger role to ensure performance standards are being met and taxpayer investments are safeguarded (Henig, 1990).

Fourth, the literature explores the effectiveness of comprehensive contract management systems. These systems build the governments’ capacity to support the administrative functions of contract management and competitive sourcing. Comprehensive systems or statewide infrastructures provide uniform policies, employ effective management practices and create laws for legislative and agency oversight.

Cooper (2003) and Moe (1987) emphasize the significance of building capacity to support contract management infrastructures. In order to provide effective contract management, the recruitment, training and retention of qualified, experienced contract managers is critical. Contract management staff should be equipped with the most advanced management practices and resources, including innovative contract management computer systems, software and technical assistance.
III. RESEARCH METHODOLOGY AND EVALUATIVE CRITERIA

Research Methodology

The methods used to collect data and analyze the management policy options for this research project are as follows:

1. Evaluate academic journals pertaining to privatization and contract management using:
   - Web LUIS Academic Index, 1996 to date.

2. Conduct semi-structured interviews (Appendix 4), using quantitative questioning (n=12).
   Each interview took appropriately 45-60 minutes. Individuals interviewed:
   - Florida Legislature (Senator Al Lawson; Representative Holly Benson; Representative Loranne Ausley; Hilary Brazzell, Legislative Analyst, Committee on State Administration; Gary VanLandingham, Interim Director, Office of Program Policy Analysis and Government Accountability).
   - Department of Management Services (Pam Pfeifer, Director, Center for Efficient Government; Fred Springer, Director, State Purchasing).
   - Department of Financial Services, Douglas Darling, Director, Accounting and Audits.
   - State Technology Office, Simone Marstiller, Chief Information Officer.
   - American Federation of State, County and Municipal Employees (AFSCME), Mark Neimeiser, Legislative/Political Director.
   - Florida Tax Watch, Dominic Calabro, Chief Executive Officer.
3. Administer a survey (Appendix 4) developed to capture the attitude of the states’ Agency Purchasing Officers (n=9).

   - House Bill 1819 Procurement
   - Committee Substitute/Senate Bill 2932 Governmental Procurement

5. Assess management and training procurement programs.
   - Governor’s Center for Efficient Government
     - Semi-structured Interview
   - Department of Financial Services
   - Department of Management Services Public Purchasing Training and Certification Programs
     - Semi-structured Interview
     - Florida Government Conference - Florida’s Purchasing Training and Certification Workshop

6. Review federal and state laws and policies regarding contract management practices and safeguards.

7. Exam popular media (newspaper articles, non-profit newsletters, internet sources and television).

This applied research project examines four policy options aimed to improve the management of the state’s contracted services. The methods used provide an in-depth analysis of Florida’s current privatization process and offers the state policy recommendations.
The evaluation of the academic journals using Web LUIS and JSTOR provided the basis of the literature review and was used to develop the semi-structured interview and survey tool. The interview and survey was composed of structured, open-ended questions to capture the interviewee’s attitude toward the policy option recommended. The survey was used to provide an attitudinal opinion of each policy option using the evaluative criteria and to offer suggestions for effective policy and program improvements.

Surveys were sent to Florida’s state Agency Purchasing Officers (from this point, known as “state purchasing officer survey data”). Individuals interviewed were selected based on their involvement (position) in the current privatization process. Legislators, committee staff, executive staff, program heads, state and independent auditors, agency contract personnel and state employee union representatives were interviewed (from this point, known as the “policy maker/auditor interview data”).

There were three separate analyses completed using SPSS. The first analysis compiled data received from the interview with the policy makers/auditors. The second analysis used the state purchasing officer survey data. The third analysis combined both data sources for an overall assessment of the auditors, policy makers and administrators’ attitudes toward implementing the policy options presented.

In addition, the analysis of the procurement legislation in the 2004 Legislature, the Governor’s Executive Orders, and purchasing/training programs provided useful background information to surmise the state’s intention of improving the current privatization process.
Evaluative Criteria

This study uses four criteria to determine the feasibility of implementing the proposed management policy options:

1. **Administrative operability.** This criterion measures the existing systems’ administrative capability of implementing each policy option. The methods used to collect data on this criterion are the semi-structured interview and survey.

2. **Economic possibility/administrative cost.** This measures the economic efficiency and feasibility associated with implementing policy. Economic efficiency ensures costs are maximized. Economic feasibility is achieved when the long-term benefits exceed the initial cost to implement the policy. The method used to collect the data on this criterion is the semi-structured interview, survey and assessment of current programs.

3. **Political viability/political feasibility.** This measures the political will of implementing policy options (i.e., Do lawmakers and executives support this policy?) The methods used to collect data on this criterion are the semi-structured interview and survey.

4. **Political effectiveness.** This measures the overall effectiveness of implementing the proposed policy options (i.e., Will the policy be successful and prevent more problems from occurring?) The methods used to collect this information include: semi-structured interview and survey, assessment of current programs, and examination of popular media outlets.

Three of the four criteria (administrative operability, political feasibility and political effectiveness) use the Likert scale to measure the attitudes towards implementing the suggested policy options, with 5 being most desirable and 1 being most undesirable. In order to simplify
the data analysis and interpretation, the five point scale was collapsed into three categories: 1) agree, 2) disagree, and 3) undecided/don’t know.

A comprehensive analysis of the four criteria is presented in the conclusion, Table 1 – Summary of Policy Options and Evaluative Criteria. The policy options are ranked on a scale of low, moderate or high. These rankings are based on what extent each option contributes to improving the overall management of the state’s contracted services. The evaluative criteria are derived from the four outcome goals: 1) employing improved management practices, 2) ensuring accountability, 3) providing appropriate and sufficient oversight, and 4) safeguarding taxpayer resources.

The limitations of this research include low survey response, restrictive questioning and small sample size. Only 10 of 28 targeted surveys were received for analysis of state agency purchasing officers’ attitude towards policy options. Furthermore, the same tool was used for the interview and survey, using attitudinal, instead of open-ended questions, which restricted their response. Lastly, caution must be used when simplifying data with a small sample size for interpretation.
This section provides an analysis of the four policy options identified to improve the management of the state’s contracted services:

1. Stronger legislative controls and oversight.
2. Statewide training and certification of agency contracting personnel.
3. Agency reports and state/independent audits.
4. Centralized infrastructure to support the management of the state’s contracted services.

Each option was evaluated using the criteria presented in section three: administrative operability, administrative cost, political feasibility and political effectiveness.

**Option One: Stronger Legislative Controls and Oversight**

This is continuously debated and often considered a course of action necessary to improve the privatization process. There are often questions over the amount of legislative involvement needed. This poses a challenging policy question. Where do you draw the line between legislative and executive responsibilities with regard to the state’s privatization process?

In examining Florida’s current privatization process, many interviewees (policymakers and state/independent auditors) discussed their position on legislative involvement. Although the individuals questioned differed in their opinion, 73% agree Florida’s existing system is in need of stronger legislative controls (Figure 3).
Administrative Operability

Florida’s capability of implementing stronger controls and oversight can be rated high due to the recent accomplishments of the Governor’s Center for Efficient Government. The Department of Management Services has developed this Center, which is responsible for overseeing the management of the state’s contracted services (DMS, 2004). By creating the Project Gate Management Process, it is very easy for the Legislature to build upon this existing infrastructure to implement stronger controls and oversight where they deem fit. However, it is important to remember, “while the Legislature is capable of passing legislation it deems necessary, such legislation could be cumbersome or duplicative of already existing executive controls and it would not be practical to implement” (S. Marstiller, personal communication, September 8, 2004).

Economic possibility/administrative cost

The administrative cost of implementing stronger legislative controls would be minimal. The Project Gate Management Process gives the Legislature the ability to request contract reviews by
the Oversight Board. This will reduce the amount of money spent on conducting independent contract reviews. The Legislature also has the ability to tweak the Project Gate Management Process, where it deems appropriate, to impose stronger legislative controls (P. Pfeifer, personal communication, August 20, 2004).

The additional cost for stronger legislative oversight would be absorbed by existing resources (such as legislative staff cost, OPPAGA staff cost for reviews and the Center for Efficient Government staff). Furthermore, in regard to economic possibility, the cost associated with implementing stronger legislative controls and oversights would be minimal compared to the benefit received (A. Lawson, personal communication, September 20, 2004).

**Political viability/political feasibility**

Two bills were introduced in the 2004 Legislative session imposing stronger legislative controls over the state’s procurement process. Both bills were defeated, clearly indicating lawmakers were not interested in micromanaging the state’s service contracts (M. Neimeiser, personal communication, August 19, 2004). Representative Holly Benson (D- Tallahassee), who co-sponsored House Bill 1819 - Procurement with the House Committee on State Administration, argued the political climate is popular and supports stronger legislative control and oversight. Representative Benson indicated Florida’s privatization process was a major concern of the last Legislative session, despite the fact two bills died (H. Benson, personal communication, August 24, 2004).
Finally, the research findings show 27% of the policy maker/auditor group interviewed agree stronger legislative controls are politically popular. Seven-eighth percent of the state agency purchasing officers surveyed also agreed. This implies the policy maker/auditors are aware of the general attitudes of their peers and feel stronger controls and oversight is not a popular issue. Ironically, the agency administrators who implement the procurement policies feel stronger legislative controls are of importance to the lawmakers.

Political effectiveness

The political effectiveness of stronger legislative controls and oversight is dependent upon the relationship between the executive and legislative branch. There is evidence of a partnership between and Legislature and the Governor’s Center for Efficient Government (H. Brazzell, personal communication, August 30, 2004). Although partnering on stronger legislative policy is necessary, it is not sufficient. Stronger legislative policy would prove useful, but its effectiveness would need to be evaluated in the future, through program and financial audits (D. Harper, personal communication, September 1, 2004).

In the research findings, there is a notable independent variation between political viability and political effectiveness. Sixty-seven percent of the policy makers/auditors and 33% of state agency purchasing officers agree stronger legislative controls and oversight would be effective, if implemented (Figure 4).
Figure 4. Stronger Legislative Controls: Political Viability vs. Political Effectiveness

The findings imply the policy makers/auditors (who are aware stronger legislative controls are not popular among legislators) agree the policy would be effective, if implemented. On contrary, the state agency purchasing officers (who implement the policy) agree the attitude of the legislature supports stronger legislative controls, and if implemented, the policy would not be effective.

When the findings of the two groups were combined, 45% agree stronger legislative policy is political viable and 50% agree it’s politically effective. Therefore, both evaluative criteria for this policy option are rated as moderate.

**OPTION TWO: STATEWIDE TRAINING AND CERTIFICATION FOR CONTRACTING PERSONNEL**

Cooper’s Integration-Operation-Separation Model (Figure 2) emphasizes the significance of learning the different dynamics associated with contractual relationships in the procurement process (Cooper, 2003). In creating policy to improve the management of contracted services,
states often overlook the importance of training contract personnel. Without appropriate training programs, public managers are not prepared to deliver effective outcomes efficiently and economically (DMS, 2004).

In Florida, numerous reports have indicated a procurement training program is necessary to improve the contracting process, encourage professional development and certify agency contracting personnel (EOG, 2004). Over the last year, the DMS has responded by collaborating with the National Institute of Government Purchasing (NIGP) to implement the first Public Purchasing Training and Certification program. The DMS and NIGP developed a statewide program using best practices to provide effective contract management training models. These training models offer participants the tools necessary to effectively, efficiently and economically acquire, manage and administer contracts, in order to achieve the best value for the use of public funds (DMS, 2004 & OFPP, 1994).

**Administrative Operability**

The DMS was instructed to develop a training and certification program in an effort to improve the management of the state’s contracted services, without any additional funding. While the program model uses the most up-to-date contract management practices, the need for future evaluation is necessary to assess its long-term effectiveness. Without proper funding, the administrative operability of this new program is questionable, even with the new statewide infrastructure in place.
In the study, the findings show only 65% of all the individuals interviewed and surveyed agree the system is capable of administering a statewide training and certification program. This might imply both policy makers/auditors and state agency purchasing officers do not agree the state will fully support the efforts of this program. Without additional funding and support, the effectiveness of this well researched and designed program will not be effective. Therefore, administrative operability of the training and certification of contract personnel would be rated as moderate.

**Economic possibility/administrative cost**

The DMS has incurred the cost of developing and implementing the Public Purchasing Training and Certification program. The cost of the classes are paid by each individual participant. There are seven classes with schedules ranging from 1-3 days, and cost from $80 to $440 (average = $329), two review sessions, and one exam paid by NIGP.

The state needs to build the training capacity of this program to provide an effective statewide training program. Currently, the training team is composed of two DMS central office administrators who offer quarterly trainings. The state needs more trainers in order to train the thousands of city, county and state purchasers. It is essential to build capacity early in the program to ensure training is received, is effective, and the state is getting the best value for training highly qualified contract managers. In the end, the economic possibilities/opportunity costs are greatest when it is done right the first time (D. Calabro, personal communication, August 18, 2004).
Political viability/political feasibility

Prior to the Department of Management Services response to the EOG report titled, “Road Map to Excellence in Contracting,” the political viability of a statewide purchase training and certification program did not exist. In fact, the research findings show only 55% of the individuals questioned, agree statewide training and certification of contract personnel is politically popular, and 25% were undecided.

Political effectiveness

Despite the lack of political support (political viability), the findings indicate 95% agree a statewide purchasing training and certification program would be effective in improving the management of the state’s contracted services. The individuals interviewed agree a statewide contract management training and certification program can be effective if:

1. Staff are properly trained and not artificially constrained.
2. Provisions in law dictate who and how the training is conducted.
3. A strong infrastructure is built to handle training capacity.
4. A several pronged approach is used to transform other systems which impact state contracting (e.g., contract and administrative law).
5. Training is required from the top down – appointed position down to contract manager.

Option Three: Agency Reports and State/Independent Audits

Agency reporting and state/independent audits are required by the Legislature to ensure programs are operating in the manner the state intended. Through legislation enacted in recent years, a few states have required independent oversight and agency reporting on contracts to
ensure services are provided efficiently and effectively, and the financial investment of citizens is protected.

Florida has had numerous audit reports indicating problems with the state’s current contracting process. This option would require agencies to report to the Legislature on all contracts exceeding $10 million. The report would include specific criteria for the Legislature to review. The policy would also include audits to be conducted by the Office of Program Policy Analysis and Government Accountability (OPPAGA).

**Administrative Operability**

Implementing this policy would be easily done. However, with the recent effort of the Governor’s Center for Efficient Government to compose a five member oversight board, requiring agency reporting on individual contracts might be a duplication of the existing executive order. It is important for the Legislature to exercise its authority to request contracts are reviewed by the oversight board.

**Economic possibility/administrative cost**

The administrative cost of requesting additional reports and audits on new contracts would be minimal. The real advantage exists in the benefits received for ensuring the state is provided the best quality, efficient and economical services and are free of any improprieties associated with the contracting process.
**Political viability/political feasibility**

The authority to implement policy requiring agency reporting and independent/state audits is important to the Legislature (H. Benson, personal communication August 24, 2004). By exercising this authority on contracts exceeding $10 million, the Legislature could ensure specific information is provided and agencies are held accountable. Although these management tools are important to the Legislature, the political will of implementing such policy is not. In fact, research findings indicate only 45% of policy makers/auditors interviewed agree annual agency reporting and independent/state audits are politically popular. Even though this policy is not appealing to law makers, it is politically necessary (A. Lawson, personal communication, September 30, 2004).

**Political effectiveness**

While agency reporting and state/independent audits provide more accountability, often the data received doesn’t serve useful purposes (D. McCleary, personal communication, August 2004) and reports often go unread. However, if the reports and audits are conducted in an organized effective manner, the Legislature can be provided with effective tools which provide information to ensure agencies are held accountable.

When the policy maker/auditor and state purchasing officer groups are combined, the findings show 50% agree, 5% disagree, and 45% are undecided or don’t know, if agency reporting and independent/state audits would be effective.
OPTION FOUR: CENTRALIZED INFRASTRUCTURE TO SUPPORT THE MANAGEMENT OF STATE CONTRACTED SERVICES

The fourth option creates a substantiated, comprehensive policy, which outlines the critical functions necessary to improve Florida’s privatization process. In this policy, a centralized infrastructure provides the framework to support the administrative functions of the state’s contract services. It provides, but is not limited to the following:

- Establishes statewide uniform policies and procedures;
- Implements effective management and training practices;
- Provides a comprehensive statewide training and certification system to contract administrators, managers, negotiators and monitors;
- Establishes privatization decision-making processes, for example, business templates and effective cost comparisons;
- Provides technical assistance to state agencies;
- Coordinates annual agency reporting;
- Recommends necessary legislative oversight policy;
- Implements legislative controls to safeguard taxpayer investments; and
- Applies innovative information system technology.

In the study, the participants from both groups were asked, “Do you agree a centralized statewide contract management infrastructure would improve the current privatization process?” The findings indicated 91% of the policy makers/auditors agree and only 33% of the state purchasing officers agree. The Pearson Chi-Square test was conducted to determine if the attitudes among the policy makers/auditors and administrators differed significantly. The results indicated the
attitudes toward implementing a comprehensive program to improve the management of the state’s contracted services were significantly opposed (p = .024). This implies the administrators who implement the policy do not support the action of the policy makers/auditors and feel the program will not be successful. In fact, in numerous survey responses, many state purchasing officers claimed different approaches to improve the management of contracted services have failed, and this option would too without sufficient support.

**Administrative Operability**

The Governor’s Center for Efficient Government (CFEG) was created by Executive Order for the purpose of providing many of the administrative functions mentioned above. Therefore, the administrative operability of implementing this policy option scored high. However, the degree the CFEG has been effective is to be evaluated in the future (D. Harper, personal communication, September 1, 2004). In section five, the author makes recommendations necessary to improve current efforts of the Center for Efficient Government.

**Economic possibility/administrative cost**

The administrative cost of implementing a comprehensive, centralized infrastructure to support the management of the state’s contracted services would be moderate. The current cost of the Center for Efficient Government and the Public Purchasing Training and Certification program is minimal. However, in order to provide effective contract management training to effectively train and retain qualified contract managers, the state needs to build capacity in the Public Purchasing Training and Certification program.
**Political viability/political feasibility**

The data on the political popularity of implementing a comprehensive, centralized infrastructure to support the administrative functions of the state’s contracted services was inconclusive. The findings indicated, of both groups polled, 50% agree the policy is politically popular, 10% disagree, and 40% were undecided or didn’t know. When the policymaker group was separated from the state purchasing officer group, 64% felt this policy was popular. As for the state purchasing officers, only 33% agree a centralized infrastructure would be supported by the Legislature.

**Political effectiveness**

The research findings offered a notable variation between the policy maker/auditor group and state purchasing officer group. Ninety-one percent of the policy makers/auditors and 44% of state agency purchasing officers agree a centralized infrastructure to support the management of the state’s contracted services would be effective. These findings are misleading due to the 34% of state purchasing officers who were undecided or didn’t know (Figure 5). With 34% of the state purchasing officer group undecided, the findings are skewed by inconclusive data.
Figure 5. Centralized Infrastructure Policy: Political Maker/Auditor vs. State Purchasing Officers
This applied research project examines four policy options intended to improve the management of the state’s contracted services. Table 1 summarizes the results.

<table>
<thead>
<tr>
<th>Option</th>
<th>Administrative operability</th>
<th>Economic possibility/administrative cost</th>
<th>Political viability/political feasibility</th>
<th>Political effectiveness</th>
<th>Overall Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option</td>
<td>Stronger legislative controls and oversight</td>
<td>High = 3</td>
<td>Moderate = 2</td>
<td>Moderate = 2</td>
<td>Moderate = 2</td>
</tr>
<tr>
<td>Option</td>
<td>Statewide contract training and certification</td>
<td>High = 3</td>
<td>Moderate = 2</td>
<td>Moderate = 2</td>
<td>High = 3</td>
</tr>
<tr>
<td>Option</td>
<td>Agency report and audits</td>
<td>High = 3</td>
<td>High = 3</td>
<td>Low = 1</td>
<td>Low = 1</td>
</tr>
<tr>
<td>Option</td>
<td>Centralized infrastructure</td>
<td>High = 3</td>
<td>Moderate = 2</td>
<td>Moderate = 2</td>
<td>High = 3</td>
</tr>
</tbody>
</table>

The analysis uses a ranking scale of low, moderate and high, with low being negative and high being positive in relation to the evaluative criterion. Table 1 summarizes the policy analysis conducted in section four and indicates option 2 and option 4 have scored the highest. Since stronger legislative controls (option 1), statewide contract management training and certification (option 2), and independent audits (option 3) are components of option four’s comprehensive, centralized infrastructure policy, all suggestion for policy improvement will be presented in the final recommendations.
Conclusion

Based on the methods used to analyze the four policy options, the preferred option is the provision of comprehensive, centralized infrastructure to organize the administrative functions of the state’s privatization process. In completing the program analysis of the Center for Efficient Government (CFEG), the researcher found many of the administrative functions outlined already exist in option four.

Since its inception, the CFEG has developed a Project Gate Management Process to evaluate contracts, research contract management best practices, develop uniform standards and procedures, coordinate with legislative staff, and work with the State Purchasing Office to develop a Public Purchasing Training and Certification program. By achieving these fundamental tasks, the Center for Efficient Government has established a centralized infrastructure to organize the administrative functions of the state’s contracted services. Florida has demonstrated the need to deliver services in an efficient and economic manner to ensure the state receives the best value for every tax dollar spent. However, in order to ensure the process is effective and transparent, additional policy changes are necessary.
Recommendations

The policy recommendations were derived from interviews, surveys and program analyses. It is the intention of the researcher for the recommendations to address gaps identified within the Governor’s Center for Efficient Government.

The recommendations are as follows:

- The Legislature must work closely with the Governor’s Center for Efficient Government to ensure stronger legislative controls are not cumbersome or duplicative of already existing controls.

- Program audits should be conducted on the effectiveness of the Center for Efficient Government, evaluating the Project Gate Management Process and other policies and procedures.

- The Project Gate Management Process should contain a feedback loop to ensure privatization initiatives/contracts are meeting the needs intended by the state. The feedback loop will provide necessary information to change performance and achieve desired outcomes.

- The feedback loop would provide information to the Oversight Board, the Legislature and the Governor.

- The Center for Efficient Government must amend the Project Gate Management Contract to include review throughout the life of the contract.

- The Legislature must exercise its authority and utilize the Project Gate Management Process to evaluate privatization initiatives and individual contracts.
• The new Public Purchasing Training and Certification program should be provided with the resources necessary to build capacity to meet the demand of training contract personnel statewide. The program should use the additional resources to develop a “Train the Trainer” model to efficiently execute its mission.

• The Department of Management Service’s Public Purchasing Training and Certification program should be audited to ensure its effectiveness in meeting the needs of recruiting, training, and retaining qualified contract personnel.

• All agency contract management personnel should be equipped with the most advanced management practices and resources, including innovative contract management computer systems, software and technical assistance.
REFERENCES


Anthony M. Provenzano (B.S., Psychology; MPA, Florida State University) has held health and human service positions in administrative, advocacy, research and clinical settings. Mr. Provenzano has worked at the state level to develop, implement and evaluate policy and programs for at-risk children and families. His interest is in effective policies and administration to improve the management of state services. Mr. Provenzano recently accepted an offer with a private consulting firm.
APPENDICES

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FOREWORD

This is the first in a series of guidebooks on best practices developed by the Office of Federal Procurement Policy. This guidebook contains best practices in contract administration that should be useful tools to program and contracting officials in administering federal contracts. The covered areas are:

Roles and Responsibilities of the Contracting Officer's Technical Representative (COTR).

Reviewing and Processing Vouchers.

Contract Closeout

These practices should not be viewed as mandatory regulatory guidance; instead they should be viewed as techniques that we hope are useful in performing the contract administration function.

As best practices are developed in other areas of contract administration, a supplement will be issued to the guidebook.

We wish to thank the procurement and program officials from the major Executive Departments and agencies, and those representatives from the private sector, who provided information on their experiences in contract administration as the basis for this guidebook.

Copies of the guidebook may be obtained from the Executive Office of the President's Publications Office by writing Office of Publications, 725 17th Street, N.W., Room 2200, New Executive Office Building, Washington, DC 20503.

Steven Kelman

Administrator

Office of Federal Procurement Policy

Office of Management and Budget

CONTRACT ADMINISTRATION

Contract Administration involves those activities performed by government officials after a contract has been awarded to determine how well the government and the contractor performed to meet the requirements of the contract. It encompasses all dealings between the government and the
contractor from the time the contract is awarded until the work has been completed and accepted or the contract terminated, payment has been made, and disputes have been resolved. As such, contract administration constitutes that primary part of the procurement process that assures the government gets what it paid for.

In contract administration, the focus is on obtaining supplies and services, of requisite quality, on time, and within budget. While the legal requirements of the contract are determinative of the proper course of action of government officials in administering a contract, the exercise of skill and judgment is often required in order to protect effectively the public interest.

The specific nature and extent of contract administration varies from contract to contract. It can range from the minimum acceptance of a delivery and payment to the contractor to extensive involvement by program, audit and procurement officials throughout the contract term. Factors influencing the degree of contract administration include the nature of the work, the type of contract, and the experience and commitment of the personnel involved. Contract administration starts with developing clear, concise performance based statements of work to the extent possible, and preparing a contract administration plan that cost effectively measures the contractor's performance and provides documentation to pay accordingly.

Post award orientation, either by conference, letter or some other form of communication, should be the beginning of the actual process of good contract administration. This communication process can be a useful tool that helps government and contractor achieve a clear and mutual understanding of the contract requirements, helps the contractor understand the roles and responsibilities of the government officials who will administer the contract, and reduces future problems. It is helpful to have a pre-meeting with applicable program and contracting officials prior to the post award orientation conference so that there is a clear understanding of their specific responsibilities and restrictions in administering the contract. Items that should be discussed at the pre-meeting include such things as the authority of government personnel who will administer the contract, quality control and testing, the specific contract deliverable requirements, special contract provisions, the government's procedures for monitoring and measuring performance, contractor billing, voucher approval, and payment procedures.

Where appropriate, an alternative dispute resolution (ADR) technique known as "partnering" should be discussed with the contractor to help avoid future contract administration problems. Partnering is a technique to prevent disputes from occurring. It involves government and contractor management staff mutually developing a "plan for success," usually with the assistance of a neutral facilitator. The facilitator helps the parties establish a nonadversarial relationship, define mutual goals and identify the major obstacles to success for the project. Potential sources of conflict are identified, and the parties seek cooperative ways to resolve any disputes that may arise during contract performance. The process results in the parties developing a partnership charter, which serves as a roadmap for contract success. Many agencies have successfully used partnering on construction projects and are now beginning to apply these principles in the automated data processing/information resources management area.

Good contract administration assures that the end users are satisfied with the product or service being obtained under the contract. One way to accomplish customer satisfaction is to obtain input directly from the customers through the use of customer satisfaction surveys. These surveys help to
improve contractor performance because the feedback can be used to notify the contractor when specified aspects of the contract are not being met. In addition, the contracting and program officials can use the information as a source of past performance information on subsequent contract awards. Customer satisfaction surveys also help to improve communications between the procurement, program, and contractor personnel.

OVERVIEW OF THE CONTRACT ADMINISTRATION PROJECT

Several weaknesses have been identified in contract administration practices used by civilian agencies. The principal problem is that contracting officials often allocate more time to awarding contracts rather than administering existing contracts. This often leads to problems in contractor performance, cost overruns, and delays in receiving goods and services. Several other deficiencies have been noted such as unclear roles and responsibilities of the contracting officer's technical representatives (COTR), excessive backlog in contract closeout and incurred costs audits, improperly trained officials performing contract oversight, unclear statements of work that hinder contractor performance, and inadequate guidance on voucher processing and contract closeout. These weaknesses were identified in reports issued by the Office of Management and Budget, namely, the "Report on Civilian Agencies Contracting Practices" (1992), the "Report on Service Contracting Practices" (1993), and the "Interagency Report on Civilian Agency Contract Administration" (1993).

The primary objective of the contract administration project is to establish best practices that agencies can use to improve contract administration to assure responsiveness to customers and best value to taxpayers. Improving contract administration practices will help to achieve excellence in contractor performance so that the government receives goods and services on time, and within budget.

A Contract Administration Team has been established to plan and carry out this project. The team conducted interviews with contracting officials in the major departments and agencies and the private sector to gather best practices or tricks-of-the-trade that could be applicable on a governmentwide basis. Also, guidance documents that had been developed by the agencies and the private sector were reviewed to help develop the best practices included in this guidebook.

Best Practices are defined as techniques that agencies may use to help detect and avoid problems in the acquisition, management, and administration of contracts. Best practices are practical techniques gained from practical experience that may be used to improve the procurement process.

Although several weaknesses have been identified as mentioned above, this guidebook provides best practices in three areas of contract administration: clarifying the COTR's roles and responsibilities, improving methods of processing contract vouchers and invoices, and improving procedures for closing contracts.

Matrixes have been developed that state the concerns surrounding these three areas, with suggested best practices that can be used to help address them.
CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE

(COTR)

The government is becoming increasingly aware of the importance of proper contract administration in ensuring the maximum return on our contract dollars. The COTR plays a critical role in affecting the outcome of the contract administration process.

The technical administration of government contracts is an essential activity. It is absolutely essential that those entrusted with the duty to ensure that the government gets all that it has bargained for must be competent in the practices of contract administration and aware of and faithful to the contents and limits of their delegation of authority from the contracting officer. The COTR functions as the "eyes and ears" of the contracting officer, monitoring technical performance and reporting any potential or actual problems to the contracting officer. It is imperative that the COTR stay in close communication with the contracting officer, relaying any information that may affect contractual commitments and requirements.

The COTR's contract administration duties can be simple or complex and time-consuming, depending on the type of contract, contractor performance, and the nature of the work. Minimizing the use of cost-reimbursement contracts and relying more on fixed price performance based contracts should reduce the amount of resources and time devoted to contract administration. For example, a fixed-price contract requires less surveillance by the COTR than a cost-reimbursement contract requires with its technical surveillance and auditing of cost-requirements.

Agencies and departments have many different phrases to describe the COTR. Other titles used are: Contracting Officer Representative (COR), Government Technical Representative (GTR), and Government Technical Evaluator (GTE). For purposes of this guidebook, COTR is being used, as it is the most common title for this function.

<table>
<thead>
<tr>
<th>CONCERNS</th>
<th>BEST PRACTICES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of training on COTR duties.</td>
<td>Establishing a COTR training and certification program is a well balanced approach that prepares the COTR to perform the job and also strengthens contract administration.</td>
</tr>
<tr>
<td></td>
<td>Many agencies have a mandatory COTR training program. Although some may not, their COTRs still attend a basic COTR course; procurement ethics training; refresher COTR training; and Procurement Integrity training.</td>
</tr>
<tr>
<td></td>
<td>COTRs are encouraged to keep pace with changes in</td>
</tr>
</tbody>
</table>
procurement by completing a minimum of eight additional hours of contract administration training every three years, preferably through a refresher COTR training course.

Courses in service contracting and preparing statements of work are very helpful for COTRs who handle complex contracts and service contracts; it helps them in the preparation of the contract administration plan.

In addition to the general training on COTR duties, many agencies have their contracting officers and the COTR review the contract in detail and concur on the specific oversight approach for the contract.

To emphasize the importance of the COTR role, some agencies conduct Executive Seminars to train the COTR's supervisors.

<table>
<thead>
<tr>
<th>Lack of training on COTR duties. (CONTINUED).</th>
<th>An example of a unique COTR certification program is one that correlates the amount of training to the dollar value and complexity of contracts:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- The <strong>first</strong> level is a minimum of 16 hours of training for those COTRs who handle contracts of relatively low complexity and low contract management risk. The contracts are for dollar values of $1,000,000 or less and are fixed-price type or straight-forward cost-type contracts.</td>
</tr>
<tr>
<td></td>
<td>- The <strong>second</strong> level is a minimum of 40 hours of training for those COTRs who handle contracts of moderate to high complexity and contract management risk. The contracts are for dollar values greater than $1,000,000 and cost-type contracts, specifically those that have award fee, incentive fee or other complex contracts.</td>
</tr>
<tr>
<td></td>
<td>- The <strong>third</strong> level is a minimum of 40 hours in addition to project management training for those COTRs who handle major systems contracts.</td>
</tr>
<tr>
<td>After the COTR certification process is completed, some agencies conduct a formal ceremony to present the certificate and acknowledge the importance of the COTR in monitoring contractor performance. A special emblem may be provided to the COTR indicating the specific area in which he/she has been certified.</td>
<td></td>
</tr>
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</table>

| Lack of a well-defined relationship between the contracting officer and the COTR. | A partnership between the COTR and the contracting officer is essential to establishing and achieving contract objectives because these two officials are responsible for ensuring that the |
contracting process is successful.

Some agencies have developed a joint partnership agreement that is signed during the preaward phase which defines how the parties will work together. The agreement will contain milestones for the various actions to be taken by each party. In some cases, daily meetings between the COTR and the contracting officer are required.

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<thead>
<tr>
<th>Lack of a well-defined relationship between the contracting officer and the COTR. (CONTINUED).</th>
<th>It is essential that the program personnel and the procurement office work as a team. In many agencies, this is accomplished by contracting officers attending training with the COTR and discussing relevant questions and concerns about the contract. In other agencies, the teamwork concept is enhanced by designating the COTR early in the process which helps the COTR to become familiar with the program requirements and assist the contracting officer in developing the contract administration plan and the statement of work.</th>
</tr>
</thead>
<tbody>
<tr>
<td>In an effort to help the contracting process work better and foster teamwork, the COTR should ensure that the contracting officer understands the program mission. In some cases, the COTR could invite the contracting officer to accompany him/her to meetings, conferences, and inspections so that the contracting officer can become familiar with the program requirements. Also this affords other field program personnel an opportunity to meet the contracting officer.</td>
<td>The COTR should furnish to the contracting officer a copy of government-contractor conference reports and correspondence in order to keep the contracting officer up-to-date on contractor performance.</td>
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<tr>
<td>The COTR should be identified as the primary focal point for the customers to call concerning contractor performance. The COTR should also provide the customers with a copy of contract requirements.</td>
<td>An example of a relationship that may exist between the procurement office and the program office is where the contracting officer works for and reports directly to the program manager. The program manager has full authority for fulfilling the requirements of the contract with the client. The contracting officer may be viewed as a facilitator to ensure that good contracting principles are adhered to while achieving the program's goals.</td>
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</table>

| Undefined COTR roles and responsibilities. | Some COTRs view their job as a "plum assignment" because they know their judgement is critical to the success of the |
program requirements obtained through contracts. It is essential that program offices designate technically competent people with specialized qualifications and expertise as COTRs.

The COTR is nominated in writing by the program organization, and notified by letter written and signed by the contracting officer. In turn, the COTR acknowledges acceptance by signing and returning a copy of the designation letter to the contracting officer.

The COTR letter should define the COTR's role and list specific duties and tasks, including tasks that should not be performed. The letter can be tailored specifically for each contract by listing specific duties and tasks relevant to that contract. The COTR letter can be signed by the COTR's supervisor to indicate that he or she recognizes and accepts the demands on the COTR's performance. A copy of the letter should be provided to the project officer and the contractor so they will understand clearly the COTR's roles and responsibilities.

The COTR can be designated in writing in the contract schedule. Some agencies specify the COTR's name and duties in Section G, Contract Administration, of the contract.

Some agencies have inserted a "Technical Direction" clause which establishes the scope of the COTR's responsibilities in relation to the contractor in their contracts. The clause further defines the role of the COTR during contract performance.

As a result of lessons learned from contracting officials, COTRs should be responsible for the following:

- Developing a cost effective contract administration plan.
- Following the plan to monitor contract performance.
- Informing the contracting officer of any technical or contractual difficulties encountered during performance in a timely manner.
- Informing the contractor of failures to comply with technical requirements of the contract or to show a commitment to customer satisfaction, particularly if the contractor does not make corrections.
- Coordinating site entry for contractor personnel, if applicable.
- Evaluating proposals for and participating in negotiation of changes, modifications, and claims at the request of the contractor.

<table>
<thead>
<tr>
<th>Undefined COTR roles and responsibilities. (CONTINUED).</th>
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<tr>
<td>Informing the contractor of failures to comply with technical requirements of the contract or to show a commitment to customer satisfaction, particularly if the contractor does not make corrections.</td>
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<td>Coordinating site entry for contractor personnel, if applicable.</td>
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<tr>
<td>Evaluating proposals for and participating in negotiation of changes, modifications, and claims at the request of the contractor.</td>
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</table>
contracting officer.

Maintaining a file that would contain the following: contract and any modifications, all contract correspondence, inspections, records, memos and conversations with the contractor, invoices/vouchers, COTR appointment letter, and trip reports.

Performing final inspection/acceptance of all final work required under the contract, including the review/approval of reports.

<p>| Undefined limitations of authority. | COTRs are responsible for understanding the contract terms and conditions and knowing the scope and limitations of their authority. COTRs are encouraged to contact the contracting officer for guidance if they are unclear about their authority or any aspects of the contract. Some agencies specify in Section G, Contract Administration, of the contract, information on the COTR's limitation of authority. As a result of lessons learned from contracting officials, COTRs should avoid the following: Awarding, agreeing to, modifying, increasing the scope and dollar value of, or signing any contract. Making commitments or promises (oral or written) to any contractor. |
| Undefined limitations of authority. (CONTINUED) | Issuing instructions (oral or written) to a contractor to start or stop work. Directing changes (oral or written). Authorizing delivery or disposition of government-furnished property. Obligating the government. Granting deviations from or waiving any of the terms and conditions of the contract. Changing the period of performance. Authorizing subcontracting or the use of consultants. |</p>
<table>
<thead>
<tr>
<th>Inadequate surveillance and monitoring of contracts.</th>
<th>Authorizing the use of overtime. Executing a contract on behalf of the government.</th>
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<tbody>
<tr>
<td>The development of a contract administration plan is essential for good contract administration.</td>
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<tr>
<td>Plan can be simple or complex but must specify what the performance outputs of the statement of work are, and describe the methodology to conduct the inspections. This saves time and resources because the COTR is not monitoring the mundane, routine portions of the contract; instead the COTR is focusing on the major outputs of the contract.</td>
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<tr>
<td>The contract administration plan should contain a quality assurance (QA) surveillance plan as a subpart. Development of a plan is important since it provides a systematic structured method for the COTR to evaluate services and products that contractors are required to furnish. The QA plan should focus on the quality of the product delivered by the contractor and not on the steps taken or procedures used to provide that product. It includes appropriate use of pre-planned inspections, validation of complaints and random unscheduled inspections.</td>
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</tr>
<tr>
<td>Enhanced monitoring of contracts can be achieved by having government quality assurance monitors, technical inspectors, and COTRs report on the contractor's technical performance. They make site visits and speak with the contractor concerning the progress of the contract. Surveillance plans are used by them on a daily basis. Random samples are drawn, and schedules of inspection made using a contract administration checklist. A sampling plan should be designed using quality standards. Monitoring should be commensurate with the criticality of the service or task and the resources available to accomplish the monitoring.</td>
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<tr>
<td>As a result of lessons learned from contracting officials who monitor cost-reimbursement contracts, the COTRs should perform a head count periodically, examine time cards and sign-in sheets, review the overtime, and maintain spreadsheets to track direct costs and expenses.</td>
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<tr>
<td>Another valuable tool in monitoring is reviewing contractor reporting requirements such as progress reports, shop plans, and blueprints which often can uncover potential cost overruns, late deliveries, and poor contractor performance.</td>
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<tr>
<td>Many agencies have found that documenting surveillance and</td>
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monitoring is key to the contract administration process.

Whatever form of monitoring the government utilizes, care should be taken so that the contractor does not have just cause to cite COTR interference in its operations.

Convening quarterly meetings with top level contractor officials, agency senior procurements, and program officials to discuss the contractor's performance helps the COTR ensure that contract terms and conditions are being adhered to.

Consider the use of customer satisfaction surveys for major contracts to determine how program officials, customers, and others interacting with the contractor evaluate the contractor's performance. Some private sector firms now use customer satisfaction surveys to help assess how customers feel about the services they are receiving.

Lack of incentives.

Consider giving an incentive award to the COTR of the year based on such criteria as the amount of savings achieved, quality, timeliness, minimum technical contract changes, and customer satisfaction.

Some agencies cover COTR duties in the COTR position description and have contract administration as a critical job element in the COTR's performance evaluation. This is essential for COTRs who handle large, complex contracts, especially cost-reimbursement ones, that requires extensive surveillance.

An agency COTR newsletter is one mechanism for promoting the accomplishments of the COTR, as well as providing information on changes in procurement laws and legislation.

VOUCHER/INVOICE REVIEW, APPROVAL, AND PROCESSING

Voucher processing is just as important as any other aspect of contract administration. Payment to the contractor for the supplies and services delivered is the government's obligation under the contract. The government expects the contractor to meet all contract requirements for quality, quantity and timeliness. The contractor expects no less of the government in meeting its obligation to timely, accurate payment for supplies and services received. A plan or process for quickly and efficiently meeting this obligation is as essential as the COTR's oversight monitoring plan.

Therefore, it is incumbent upon program, procurement, and finance officials to understand clearly their roles and responsibilities related to reviewing and processing vouchers. This will ensure that payment is only made to contractors who perform in accordance with contract terms and conditions. It is essential that these tasks are discussed with the contractor and COTR during the post award orientation conference. An important aspect of voucher review, approval, and processing is good
communication between the COTR, contracting officer, and finance official to ensure that payment is made on time.

For purposes of this guidebook, the words "vouchers" and "invoices" are used interchangeably.

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<tr>
<th>VOUCHER PROCESSING</th>
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<td>CONCERNS</td>
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<td>Unclear roles and responsibilities of procurement, program, and finance officials with regard to review and approval of contractor invoices and vouchers.</td>
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<td>Unclear roles and responsibilities of procurement, program, and finance officials with regard to review and approval of contractor invoices and vouchers.</td>
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<tr>
<td>finance officials with regards to review and approval of contractor invoices and vouchers. (CONTINUED).</td>
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</tr>
<tr>
<td>Inconsistent review and approval by contracting officials of vouchers for cost reimbursement contracts prior to payment.</td>
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<tr>
<td>Insufficient guidance to Contracting Officer's Technical Representatives (COTRs) on how to conduct voucher reviews.</td>
</tr>
<tr>
<td>Insufficient guidance to Contracting Officer's Technical Representatives (COTRs) on how to conduct voucher reviews. (CONTINUED).</td>
</tr>
<tr>
<td><strong>No assessment of reasonableness of direct costs when approving vouchers under cost-reimbursement contracts. (Only technical progress and product or service quality are reviewed).</strong></td>
</tr>
<tr>
<td><strong>No verification that approved indirect cost rates are being used.</strong></td>
</tr>
<tr>
<td><strong>Insufficient policies and procedures on voucher submission and approval.</strong></td>
</tr>
<tr>
<td><strong>Insufficient information on the voucher for thorough desk review of claimed costs to determine allowability, allocability, and reasonableness.</strong></td>
</tr>
<tr>
<td><strong>Delays in processing vouchers.</strong></td>
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Performance measurements may be useful tools to help the finance office determine how well the agency is doing in reviewing and processing invoices/vouchers for payment in order to comply with the Prompt Payment Act.

Prompt payment performance standards may help detect weaknesses in the process and thus improve business relationships with the contractors, and reduce costs to the government.

<table>
<thead>
<tr>
<th>Delays in processing vouchers. (CONTINUED).</th>
<th>Tracking such performance data as the amount and number of penalty payments, the reason, number and amount of discounts taken, the number and amount of lost discounts, and late payments provide valuable information to the finance office.</th>
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<tbody>
<tr>
<td></td>
<td>Established standards, i.e., the number of days for review and approval by the contracting officer and COTR, helps to process vouchers in a timely manner.</td>
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<td></td>
<td>If timely payment of vouchers is a problem, a dedicated person in the contracting office (normally a clerical position) may be needed to log vouchers in and out, check figures for accuracy, and assist the contracting officer, the financial officer and COTR in timely processing of vouchers and invoices.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Insufficient documentation, record keeping, and tracking of invoices and vouchers.</th>
<th>Maintaining a voucher payment log, either manually or computerized, in the contract file helps to track the contractor's claimed costs and fee (if applicable) against contract costs and fee.</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Maintaining a copy of each paid voucher in the official contract file helps to ensure proper accountability.</td>
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<td></td>
<td>Establishing a separate post office box for receipt of vouchers may help to avoid delays in processing.</td>
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<tr>
<td></td>
<td>Automated invoice tracking systems may help to track vouchers and provide information to show if they are delinquent for payment because standards were not met.</td>
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<tr>
<td></td>
<td>Automated invoice tracking systems may provide such reports as: voucher status by specialist, overdue vouchers, vouchers that have been rejected, and voucher history.</td>
</tr>
<tr>
<td></td>
<td>Contractor support may be used, if necessary, to operate the automated invoice tracking system. Care should be taken to ensure that the contractor does not make decisions about</td>
</tr>
</tbody>
</table>
vouchers that should be made by contracting officials.

Sending a list of names of authorized persons to sign invoices and vouchers on each contract to the finance office with periodic updates avoids delays in paying vouchers.

**CONTRACT CLOSEOUT**

Contract closeout begins when the contract has been physically complete, i.e., all services have been performed and products delivered. Closeout is completed when all administrative actions have been completed, all disputes settled, and final payment have been made. The process can be simple or complex depending on the contract type for cost-reimbursement contracts. This process requires close coordination between the contracting office, the finance office, the program office, and the contractor. Contract closeout is an important aspect of contract administration.

The contract audit process also affects contract closeout on cost-reimbursement contracts. Contract audits are required to determine the reasonableness, allowability, and allocability of costs incurred under cost reimbursement contracts. Although there is a preaward audit of the contractor's proposal, there is a cost-incurred audit of the contractor's claim of incurred costs and a close out audit to reconcile the contractor's final claim under the contract to incurred costs previously audited. When there is a delay in completing the cost-incurred and closeout audits, contracting officials often cannot complete the closeout process for many cost reimbursement contracts. Although the FAR does allow agencies to use quick closeout procedures (desk reviews) to close some cost reimbursement contracts without a closeout audit, inconsistencies have been noted in the use of the procedures.

It is important that contracting officials have a good working relationship with the agency's auditors and the cognizant audit agency to accomplish contract closeout under cost-reimbursement contracts.

<table>
<thead>
<tr>
<th>CONCERNS</th>
<th>BEST PRACTICES</th>
</tr>
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<tbody>
<tr>
<td>Lack of management attention to contract closeout.</td>
<td>Establishing a separate closeout function within the contracting organization emphasizes the importance of contract closeout.</td>
</tr>
<tr>
<td></td>
<td>The best time to concentrate on contract closeout is during the October to February timeframe when the contract placements workload may be less.</td>
</tr>
<tr>
<td></td>
<td>Using contractor support may be an efficient way to accomplish contract closeout when in-house resources are limited.</td>
</tr>
<tr>
<td></td>
<td>Such administrative functions as creating the closeout file, soliciting required closeout forms from internal organizations,</td>
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</tbody>
</table>
obtaining the contractor's release are duties that can be performed through contractor support as long as the forms are executed and approved by the contracting official.

Although the contract specialist continues to work with the contractor through physical completion under "cradle-to-grave" contract administration, this does not prohibit a separate group from performing the closeout function.

For civilian agencies entering into agreements with the Defense Contract Management Command to perform contract administration and contract closeout functions may be useful when in-house resources are limited.

Rewarding employees through incentive awards (i.e., on-the-spot cash awards) for the highest number of closeouts completed is a good motivation factor.

Using measurements standards such as those prescribed in the FAR for closing various types of contracts helps to keep the focus on the closeout effort.

Cross-training in contract closeout is good for contract specialists as it helps them to understand the importance of writing good contracts.

<table>
<thead>
<tr>
<th>Poor Management Information Systems to monitor the contract closeout process.</th>
<th>Consider using a management information system with milestones to track contract closeout from physical completion through final payment.</th>
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<tbody>
<tr>
<td>Integrating the closeout system with a word processing capability allows for automatic generation of closeouts letters which speeds up the closeout process.</td>
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<tr>
<td>Using contractor support for data entry services may be an alternative when in-house resources are limited.</td>
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<thead>
<tr>
<th>Poor coordination between contracting activity, inspectors general (IG), and cognizant audit agency.</th>
<th>It may be helpful to notify the IG and the cognizant audit agency whenever a cost-reimbursement contract is awarded that requires an incurred cost or indirect cost rate proposal audit. Providing that information at the time of award helps the audit agency program future requirements into its workload projections.</th>
</tr>
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<tbody>
<tr>
<td>Forecasting audit needs and communicating those needs to the IG and the cognizant audit agency helps to improve working relationships. Developing an information management system may be a useful tool to facilitate that process.</td>
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</tbody>
</table>
Prioritizing audit requirements and communicating these requirements to the IG and the cognizant audit agency helps in projecting the audit workload.

Specifically stating in the audit request any special information that should be included in the audit report makes the report more useful and improves working relationships between the contracting office, the IG's office, and the cognizant audit agency.

Using a team approach consisting of contracting officials and audit staff to determine those contractors that should be audited helps to forecast audit requirements better.

Sharing such information with the cognizant audit agency as a listing of prime and subcontracts awarded that are subject to defective pricing reviews or contracts physically completed but not closed over three years helps the auditors better to define the audit backlog, determine audit resources, and prioritize contractor locations for audits.

Poor coordination between contracting activity, inspectors general (IG), and cognizant audit agency. (CONTINUED)

Subsequently, requesting the cognizant audit agency to provide such information as the directory of for-profit contractors with the audit office responsible for the contractor's audit and those contractors that are late in submitting their indirect cost rate proposals or submitted inadequate proposals helps the contracting office project its closeout workload.

Large backlog of unscheduled audits.

Using quick closeout procedures to the extent practicable helps to reduce the audit workload. When a determination can be made that there is no evidence of fraud or waste, the contractor's performance is good, and there is no history of unallowable costs, then quick closeout procedures may be appropriate.

Performing risk assessments to determine contractors that should be audited will help to better manage the audit workload.

Using more fixed price contracts helps to reduce the requirements for contract audits.

Encouraging contractors to submit their final vouchers in a timely manner avoids delays in requesting the final closeout audit under cost reimbursement contracts.

Using rate checks (labor and indirect cost rate) to the maximum extent possible instead of full blown audits when such audits would not add value helps to reduce audit backlog.

Noncompliance with FAR

Using the post award orientation session to educate the
provision for submitting Indirect Cost Rate (ICR) Proposals by some contractors delays the audit process. Contractors (in particular small business firms) on the requirements for contract closeouts and the need to submit ICRs in a timely manner should help make the closeout process easier.

Avoiding Disputes in Contract Closeout.

In construction, claims sometimes cause closeout problems. An alternative dispute resolution technique known as "partnering" should be considered. Creating a partnership agreement with the contractor helps to avoid disputes. Having the partnership agreement signed by all parties -- the contracting officer, COTR, and the contractor -- creates a buy-in to the overall goal: "Completion on time, within budget, and without claims."

Lack of a specific dollar threshold for using quick closeout procedures.

Using specific dollar thresholds for quick closeouts may be practicable so long as the government's interests are protected, low risk is involved, and indirect rates can be verified.

Knowing the contractor's history of incurred costs, billings, and performance are additional factors to be considered when establishing thresholds for using quick closeouts.

Establishing a good working relationship with the finance office helps in the closeout process. Getting the finance office to provide a listing of contracts where money will be lost if final settlement does not occur helps to target attention on those contracts that may be closed through quick closeout procedures.

Closeout documentation.

Always use a checklist and include it in the contract file when closing contracts. This helps to assure that all actions have been completed.

---

**CONCLUSION**

A good contract administration program is essential to improving contractor performance under federal contracts. The best practices that have been included in this guidebook is a first step at providing some practical guidance that should help to improve the contract administration process.

We believe that program and contracting officials need to realize the importance of good contract administration. Convening a forum to discuss these best practices may help agency components focus more attention to them and begin using them to help resolve problems they may encounter. Structuring a contracting administration program by the type of activity, e.g., contract monitoring, voucher review, contractor performance evaluation, using various levels (Level 1 - proactive, level 2 - active, and level 3 - reactive) may also help to better allocate contract administration resources so that these best practices can be useful.

In addition, giving an annual contract administration award to recognize individual and group accomplishments in contract administration highlights its important to the procurement process.
Some agencies even include contract administration as a performance goal of contracting officials as an incentive for them to do a good job in this area.

In conclusion, we hope that the best practices included in this guidebook will be useful. Suggestions for any other best practices in the three areas, in other areas of contract administration, or pertaining to the contracting process should be forwarded to:

Office of Federal Procurement Policy

Room 9001, New Executive Office Building

725 17th Street, N.W.

Washington, DC 20503
The purpose of this document is to convey the standards by which the Governor’s Center for Efficient Government evaluates outsourcing projects at key milestones in the Gate Management Process. The guidelines set forth herein were developed to promote fair and transparent best business practices in government in order to foster accountability, competition, efficiency and innovation in the way state agencies deliver services to Florida's citizens. To assist agencies in contracting for services outside the scope of the Board’s review, broadly applied, these guidelines may be applicable to any contracted services project, regardless of size and scope. The Center for Efficient Government will continue to seek feedback from State agencies to aid in updating this document and ensuring a positive and beneficial outcome.

The Gate Management Process provides for a method of evaluating each stage of any outsourcing initiative: Business Case Development, Procurement, Contract Management, Transition Management and Post Implementation: Performance Measurement. Standards are outlined for each of these stages. The end of each stage represents a Gate for review and validation.

Gate Management Process Standards
May 2004
# Business Case

for

[Project Name]

*Insert the name of the project*

## Date

*Provide a new date for each version of the document*

<table>
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<tr>
<th>Lead Agency Name</th>
<th>Name</th>
<th>Title</th>
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<tr>
<th>Affected Agencies</th>
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<tr>
<th>Project Contact</th>
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<th>Justification Statement</th>
<th>Why is the project needed as compared to other alternatives?</th>
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<th>Estimated Cost</th>
<th>How much does the agency anticipate this project will cost?</th>
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<th>Timeframe</th>
<th>How long does the agency anticipate this project will take?</th>
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Provide information being requested in table above.
Stage 1.0: Business Case Development

Scope, Rationale, Feasibility and Strategy

1.01 Executive Summary
1.02 Provide the Benchmark: Describe Current Service, Program or Function
1.03 Rationalize Basis for Introducing Competition into Service
1.04 Describe Assumptions and Methodology
1.05 Formulate and Detail Recommended Solution
1.06 Identify State and Agency Impact
1.07 Explain Transition Management Strategy
1.08 Identify and Document Critical Success Factors
1.09 Outline the Proposed Procurement Process
1.10 Conclusion

Business Case Development

A comprehensive business case is essential to provide a broad analysis and plan of the overall project to facilitate early buy in and provide a verifiable basis for conducting an outsourcing initiative. The business case should clearly identify the current situation leading to the need or desirability for the proposed outsourcing project, the expectations of the project in terms of the key benefits to be achieved, estimated financial costs associated with the proposed project and a clear basis for the recommendation to outsource.

A business case should be drafted after a project has been conceptually designed and vetted. It is important to develop a business case within the context of an agency’s core mission and other programs, functions or services. If the business case is for a project affecting more than one agency, it should be framed within perspective of the State’s policy and budget priorities.

A business case should be a living document through the execution of a contract. The preliminary business case is a working document that will lead to the first Gate Management Process Review by the Center for Efficient Government’s Oversight Board. If key assumptions or the methodologies change, or as additional information is made available, the business case should be updated. Once a contract is executed, a final business case should be created to reflect issues agreed upon in the contract; specific performance metrics based on the broad success factors outlined in the preliminary business case should be included in the final business case.

The purpose of creating a sound business case is to clearly demonstrate value added to the State in outsourcing a service, convey one consistent message to all stakeholders and to provide the roadmap for how the project would be developed, procured, implemented and managed. Factors used to determine how the success of a contract would be measured should be provided in this document and shall serve as a non negotiable factor for the remainder of the project if implemented.

Specific goals of a robust business case shall be to:
- Communicate a clear business need.
- Obtain management commitment and approval for the project.
- Clearly present the rationale and documentation for investment.
- Justify the project in terms of benefits to be realized.
- Provide an audit trail for decisions to be made during the planning and implementation stages.
- Estimate costs, benefits and risks associated with the proposed project.
- Ensure that senior management and owners of the business case fully understand the implications and scope of the project.
- Provide transparent rationale for gaining support from the Governor and Legislature as well as stakeholders.
- Demonstrate that the implementing agency is capable of implementing and managing the project.
- Provide a framework for decision-making in the planning and management of the project.
- Provide a structure for further stages.
- Serve as a management tool to achieve maximum value.
- Document the policy, budget and functional objectives.
- Identify key stakeholders and formulate the plan with their input to ensure buy-in on the front end and commitment to managing the changes required to successfully implement the program.

How to Create a Sound Business Case

Draft the document to communicate to all stakeholders - a broad audience:
- Be clear and concise.
- Be persuasive.
- Provide a clear vision of the end result/benefits.
- Clearly demonstrate the need for the project.
- Prove that the agency is prepared and capable of implementing the project.
- Communicate why the timing is appropriate.
- Make it interesting.

The initial business case will not be inclusive of data available after the execution of a contract or reflect all changes or decision points that will arise during the implementation phase. Rather, it should be as comprehensive as possible and serve as a healthy exercise for the State in determining the potential of the project and making the case for statutory or budget authority if needed.

Do not lose the message in too many technical details. All data does not need to be provided in the business case itself; when possible, use truncated data to make a point and provide appendices to validate the data used or provide more detail for reference.

A good business case should be developed with the input of key stakeholders, both internal and external, and drafted by a team of people – subject matter experts, budget staff, legal staff, personnel and purchasing officers, experienced project managers, senior managers and seasoned technology project managers where applicable, at a minimum. It is important that all of these stakeholders have the opportunity to provide input or feedback on the front end of a project as each will have a different perspective and will, at some point, be responsible for managing certain components of an initiative.
Key Components of a Sound Business Case

The ultimate goal of a strong, comprehensive business case is to outline the scope of the proposed project, describe the rationale for contracting out, demonstrate that the feasibility of such a project has been analyzed and outline the strategy for procuring, managing and implementing the project.

The following describes the recommended structure and content for a business case.

**SCOPE**

1.01 Executive Summary

This should be a short narrative overview identifying the scope and purpose of the business case, including the current status of the program or service, areas of inefficiencies that need to be addressed and targeted by the proposed effort, and the goal of the proposed outsourcing. Clearly communicate what benefit the State will achieve by contracting for the service or function.

Summarize key points from other sections in the summary. It may be useful to fully develop all other sections of the business case first.

Confirm the business need and scope:

- Summarize the priorities of the Agency (s) associated with this effort.
- Describe why outsourcing is a consideration.
- Describe public policy, market conditions or technology drivers behind the business case, including a brief assessment of best practices in the area of concern where appropriate.
- Document the key objectives to be realized by the proposed effort, and the resulting benefits. Categorize the project's goal as Cost Reduction, Performance Enhancement, or Value Added.
- Make the case for a return on investment.
- Describe any Executive or Legislative action driving the need for change.

1.02 Provide the Benchmark: Describe Current Service, Program or Function

This should be a comprehensive documentation of the current service, program or function, as it is currently conducted by the State. By capturing this information and establishing a benchmark, the agency will be able to compare future outsourcing activities with the benchmark data and determine successes and shortcomings. Further, comparing this data will determine whether or not the areas of inefficiencies that needed to be addressed and targeted by the proposed effort were done, and whether or not the goal of the proposed outsourcing was achieved. Finally, the agency will be able to report as to what benefit the State achieved by contracting for the service or function. It is imperative to establish good benchmark data in order to determine the project's success during the monitoring stage of the Gate Management Process.
Document the current status of the program or service, including inefficiencies and shortfalls that should be addressed. For service outsourcing, include:

- Specific Service Descriptions
- Statutory Authority
- Staffing Information
  - Total number FTE
  - Positions
  - Salary & benefits
  - Length of service
- Budget (prior state fiscal year, current state fiscal year, and projection for next state fiscal year)
- Performance Measures and performance data (last state fiscal year, current state fiscal year, next state fiscal year)
  - Include any related benchmarking data such as customer satisfaction survey results
- Current Service Agreements, including any interagency agreements
- Technology Resources, including hardware, software, and licensing
- All internal and external stakeholders
- Number of customers served

All prior and current state fiscal year information should be consistent with legislative appropriations from the General Appropriations Act. All “next state fiscal year” information should be consistent with information in the agency’s Legislative Budget Request and/or Long Range Program Plan. All other benchmark information should come from the previously referenced documents or other official state planning and budgeting documents.

**RATIONALE**

1.03
Rationalize basis for introducing competition into service

This section should explain how the service, function or program area is critical to the agency’s mission, how it is aligned with the State’s policy and budget priorities and identify all objectives for changing the method of service delivery. Document specific issues that need to be addressed in order to improve the quality of service or achieve new efficiencies. Explain that there is a business need for the service and for contracting it out. Include any performance, operational and financial issues. Explain why the status quo is not desirable and note the drivers of change.

For the sake of comparison, explain what the current service has been compared against; public to private, public to public or improvements in procedures and processes. Identify any best practices for the program available from other public or private sector entities not currently being utilized by the State.

Briefly document the recommended solution and prioritize the remaining alternatives in terms of feasibility, anticipated process or programmatic improvements and benefits. Explain why alternatives other than outsourcing or contracting out were dismissed.
Different alternatives for meeting the goals and business objectives should have been researched and documented prior to drafting the business case. Ensure that all available and appropriate options have been considered. A Cost Benefit Analysis and Risk Analysis should have been conducted for each alternative so that comparisons and appropriate recommendations can be made. A proposed methodology for cost comparisons, attached to this document, may be used as a tool in making cost comparisons between in-house and contract service delivery.

Identify why the function or service could not be improved upon internally and describe all alternatives considered. These should include different levels of outsourcing, agency alternatives for improving service through in-house reengineering or increasing/decreasing the scope and/or requirements of the service being performed. In the description of alternatives, document the following:

- Any assumptions unique to each alternative
- The impact to the agency or program area for each alternative
- The ease or difficulty of implementation for the alternative
- Pros, cons and potential benefits, including soft organizational benefits
- Risks associated with each alternative.

1.04 Describe Assumptions and Methodology

The business objectives and recommended solutions are often based on assumptions associated with policy, legislation, agency direction, market conditions, timing of events, and other considerations that may change over time. This section should clearly articulate such assumptions and should be the basis for all business case rationale. This section should also identify how changes in key assumptions would impact the project and outcome. If key assumptions do change, this document must be updated.

- List all assumptions considered when determining the necessity of performing this project.
- Organize assumptions into major categories such as those related to current policy directives, market and technology conditions and events, internal organizational changes, legislative changes, current cost or funding structure changes, and schedule mandates.

It is important to detail the assumptions upon which the case is built not only because many of them may change, but because the wider audience to whom you are making the case may not have enough background to automatically make similar assumptions. You may also use this section to document how you arrived at certain data where no specific information may be available or to explain estimated figures used to arrive at a conclusion.

The methodology used to develop cost comparisons in the rationale for contracting a service to another entity (1.03) should be detailed in this section, as it is often difficult to compare true cost allocation figures when financial models across sectors are different. The method used should aim to keep the process as simple as possible while ensuring a high degree of validity.

Methodologies used for calculating any other variable figures should also be expressed in this section as should methods used to assign costs or associated figures to resources.
associated with the project. Stakeholders need to understand how the agency arrived at cost and benefit figures.

**FEASIBILITY**

1.05 **Formulate and Detail Recommended Solution**

This section should begin with a high-level narrative description of the proposed solution and full scope of the project. Identify the functionality requirements across the effort that must be addressed and delivered and provide a synopsis of what the residual role of the State would be and how the program area would eventually be reorganized due to the change in delivery of service. This narrative should clearly communicate what the proposed project encompasses and the overall scope in terms of what responsibilities will remain within the agency (ies) and what is being shifted to the vendor. State how the project will contribute to the agency or State’s core mission. In addition, if any statutory change or budgetary authority is needed, provide a description detailing what the changes are and how the agency plans to accomplish these changes (i.e., through the agency’s Legislative Budget Request or via legislation to be proposed during the next Legislative session).

The remainder of this section should be dedicated to providing more detailed information regarding the full scope of the project. This should include the fiscal impact of the project, associated changes in business processes, risks associated with this option, the timeline and milestones planned in pursuing the project and all other related areas necessary to demonstrate that the agency understands the complexity of the project, has done due diligence in researching the business requirements and risks and is prepared to manage all aspects of the project, if implemented. Any expected benefits and savings should be balanced with expected risks and up front costs to the State. Prove here that this balance has been weighed and that this project will provide value added to the State.

The following issues represent the level of detail to be established for the proposed project in this section:

- Functions within the agency that are expected to be affected or created
- High level requirements for each function or program area and a brief description of each requirement
- Business objectives
  - Desired outcome; address all that apply
    - Reduced cost
    - Cost avoidance
    - Increased service level (qualitative or quantitative)
- Scope
  - Identify all services, functions, programs and state assets to be transferred to a contractor
  - Identify processes, systems and employees within scope of project
- Cost model reflecting
Current expense: As-is cost and any associated system(s) replacement cost, including current FTE count

Projected expense: Total outsourcing project costs for length of proposed contract (projected expense)
- Subtotal for provider contract expense
- Subtotal residual organization cost
- Subtotal for workforce transition cost
- Subtotal for any third party monitoring cost
- FTE reduction

Total expected verifiable cost savings
- Over length of proposed contract
- Projected annual cost savings
- Savings timeline

- Published industry average or benchmark for service
- Project timeline and milestones
- Location(s) covered
- Impact on organization (what division or unit of what agencies are impacted, what functions, what personnel)
- Acceptable possible funding methods
- Expected performance, service or program improvements (must be verifiable)
- In final business case – a chart comparing the best and final offers from interested bidders showing company name, annual cost, total cost
- In final business case – justification for award of contract to vendor
- Summary of net change in cost position of the state
- Summary of benefits to the state
- Programs, services, functions or computer systems that will need to run in parallel upon initial implementation of the project

Outline how the project is achievable and explain how the lead agency is or will be able to manage the procurement and project as required to successfully implement the project. Next, detail how the project will be managed. Be sure to identify a project management lead (does not have to be by name) and a project management team. Explain how the project will be monitored. Detail how stakeholder input was taken into consideration and how they will be involved in the development and implementation of the project.

Explain how this is a viable and beneficial project to potential contractors. If this has been done for other public sector entities, please provide details.

Tangible benefits should be quantified. This includes cost savings and possibly revenue impact. Total costs should be identified and organized, both project and operational. Return on Investment (ROI) should then be calculated and substantiated. Cost Benefit Analysis results should be documented for each alternative solution, including outsourcing vs. not outsourcing. Identify benefits in a manner that can be tracked and measured through post-implementation operations. “Soft” benefits and costs should also be documented, such as increased satisfaction to those who use services, and opportunity costs associated with doing the project. Identify alternatives associated with increased/decreased requirements and scope and show costs or impact associated with the change in scope in an effort to provide an apples-to-apples comparison.

- If applicable, identify current/expected total resource costs associated with not conducting this project at all.
Identify total budget by agency.
- Show a cost-to-benefit analysis associated with each viable alternative identified.
  o Document increased revenue opportunity if applicable over anticipated life of outsourcing contract.
  o Document change in total resource costs to the State over life of outsourcing contract for this option. For option to source in-house, contract cost would be zero, and show change in total resource cost.
  o Document anticipated contract costs over the life of the contract for this option.
  o Calculate the ROI associated with each viable option.
- Document funding methods, and list all constraints on funding sources.
- List any federal requirements for funding.
- Document a list of anticipated soft costs and/or benefits associated with each alternative.

1.06
Identify State and Agency Impact

This impact statement should begin by stating what division or unit of the agency (s) are impacted, what functions, personnel and capital or technology resources will be impacted and how any changes in the business process will affect these resources. Any changes affecting the method of service delivery to the customer should be identified and explained. Changes in the business process should also be explained and the process by which these changes will be mapped and managed should be well documented.

Critical components of this section and of the project itself are in demonstrating that a Risk Assessment and SWOT Analysis (Strength, Weaknesses, Opportunities and Threats) have been conducted and how the agency is prepared for the impact on the State if risks are realized. Risk allocation should be clearly communicated.

Risk Assessment

The lead agency should identify and document key risks and craft a mitigation strategy. Document those opportunities for problems that could have a negative impact on the performance and success of the project. Also document risks associated with not performing the project and realizing the business objectives. For an outsourcing recommendation, risks and obstacles associated with outsourcing should also be identified and documented. For each risk, a mitigation approach should be identified.

- First list the current risks to the organization/agency that are REDUCED or mitigated from accomplishing this outsourcing effort.
- List the risks associated with moving forward with the outsourcing initiative. These may include funding risks, service level risks, schedule risks, vendor performance and relationship risks, etc.
- Determine a severity level for each risk.

Determine and document a mitigation approach for each risk identified. Based on the severity, the plan may be to accept the risk and do nothing, or spend money at the onset in preparation of having to mitigate a risk realized.

SWOT Analysis
Analyze the State’s Strengths and Weaknesses as well as the Opportunities and Threats associated with the solution being proposed. Describe how the agency will capitalize on its strengths while reducing the potential negative impact of its weaknesses. Detail opportunities available through the proposed solution and identify a plan of action for threats identified. Identify any constraints on the State to successfully implement the program.

Clarify residual roles and responsibilities on the state side and explain what the impact will be, if any, on the rest of the agency or State. If the project will require the agency reorganizing, describe the new organization and how the reorganization will be achieved.

Some outsourcing projects affect only the agency that is initiating them. However, many projects will impact several, if not all, agencies. Each agency expected to be affected should be identified, including the areas or functions most affected within each agency.

- List all agencies potentially impacted by the outsourcing project. Consider all processes that may change, all events causing possible disruption, and all functions that are expected to impact resource levels.
- Conduct an initial impact analysis facilitated session with representatives from each agency. Determine groups within each agency that may be impacted.
- Summarize Change Management needs for each agency.

Analyze what the impact on the State would be if the project fails to reach full implementation. Identify contingency plans for each major risk.

**STRATEGY**

1.07
Explain Transition Management Strategy:
Communications, Training and Employee Transition

Identify the Project Management Team and describe the roles and responsibilities of each member.

Create a Change Management Team and Outline a Change Management Plan. According to the Center for Efficient Government’s Employee Transition Guide, as a part of an agency’s outsourcing efforts, a change management team shall be created out of current resources composed of high level agency staff. This team shall be defined in the business case for each project. This team shall include, but not be limited to, the agency’s communications director and division director of the affected work unit, work group employees and contractor representatives. The role of this team will be to identify and resolve issues throughout the life cycle of the outsourcing initiative. They shall provide clear pathways for affected employees to seek and obtain information or assistance. The change management team should also provide in-person informational sessions addressing the outsourcing initiative with affected employees, agency management and any external interested parties.

Outline a Communications Plan. This plan should identify all stakeholders and employee classes to be affected by the project. Identify when and how the agency and vendor will
communicate the status of the project and the personal impact on each employee throughout the procurement and implementation stages.

Outline an Employee Transition Plan. Address the data related to affected employees, identify specific positions to be outsourced if possible (if not, identify broad classes) and describe the feasibility and process of implementing the project with minimum impact to these employees. Include any contractual terms related to the transition of employees that will be required for the procurement to succeed. Refer again to the Center’s Employee Transition Guide to draft this portion of the business case:

- The business plan for contracted services shall address a communications plan for affected employees. This plan should identify all stakeholders and employee classes to be impacted by the project and identify when and how the agency and vendor will communicate the status of the project and the personal impact on each employee.

- Each agency shall develop job placement policies for employees affected by an outsourcing initiative. Policies shall include, but not be limited to, requiring that each impacted state employee be interviewed by the contractor and considered for job placement within the company.

- Each agency shall develop a reemployment and retraining assistance plan for employees who are not retained by the agency or employed by the contractor.

- Agencies shall consider incorporating Severance Compensation provisions into outsourcing contracts requiring the vendor to create an employee severance pay pool as part of the contract. Employees who are not offered employment with the state, the vendor, or another entity would be provided severance pay. If an agency feels that this measure is desirable, this provision should be outlined in the business case and be addressed during the procurement process. This option does not preclude an agency from negotiating or entering into a contract providing for other performance and compensation provisions.

- In accordance with existing statutory authority, agencies shall, within their approved budgets, offer Critical Employee Retention salary increases in order to retain those individuals identified as critical to successful transition of the outsourced service to the contractor.

Outline a Training Plan for employees and customers. Summarize the requirements for training, a timeline for training prior to implementation of the project and include continued training for the transition phase.

Describe how the transition period of the State turning over a function or service to another entity will be managed. Identify programs, services, functions or computer systems that will need to run in parallel upon initial implementation of the project. Most services outsourced experience an initial decline in quality of service. Account for how this will be managed if it occurs and, if applicable, describe how customer service levels will be maintained during this period.
Briefly describe how the Project Management Team will transition into monitoring the contract and performance of the project.

1.08 Identify and Document Critical Success Factors

Identify how a return on investment shall be determined and document those characteristics of the project’s end-result that must be met at a minimum for the project to be considered a success.

*Critical Success Factors*

Critical success factors should be easily measurable at the end of a project and should be non-negotiable during the procurement of a contract. Examples include the elimination of a manual processing unit, reduced annual maintenance costs or higher quality service metrics. Provide a full description of business outcomes and service requirements necessary.

- Based on the current state of the agency and on the business objectives identified, list what critical results must be realized for the project to be considered a success.
- Identify which risks are most closely associated with the critical success factors, and re-address mitigation if necessary.
- Identify as many specific, minimum performance metrics that should be included in the final contract as possible.

1.09 Outline the Proposed Procurement Process

This portion of the business case should document the recommended procurement approach and the basis for it. This section shall include but not be limited to:

- Proposed solicitation method
- Anticipated number of respondents
- Proposed evaluation method (i.e. best value to the state or best cost)
- Anticipated procurement timeline
- Anticipated procurement budget if required

A Procurement Review Team should be identified in this section to include, at a minimum, Senior level management from the lead agency, the project manager if already identified, agency budget staff point person, purchasing representative from the lead agency, the General Counsel for the lead agency or his/her designee, a representative from the Department of Management Services Division of State Purchasing and a representative from the Governor’s Center for Efficient Government.

Identify key contractual terms such as duration, how to market the project to potential contractors and milestone delivery.

Briefly state how the procurement and project will be monitored. If a third party is recommended to serve as monitor, outline the procurement process for this contractor as well.
1.10

Conclusion

Reiterate key points made in the Executive Summary. Restate the business need and scope of project. Explain why the recommended solution is the best value for the State and communicate why initiating the project now is appropriate and beneficial to the State. You may also want to include a brief outline of a timeframe and work plan if the business case is for a project being initiated by the Governor, Legislature or the Center.

GATE 1 - Business Case
Style guideline

- All charts should be completed in Microsoft Excel
- All numbers are to be presented as positives
- Header should have agency name and business case title
- Pages should be numbered, with the number centered on the bottom of the page
- The Business Case should be completed in Microsoft Word
  - Font Style – Times New Roman
  - Font Size – 12 point
- An index of the attachments or tables.

Attachments to include but not be limited to:

- Total budget for service by agency, category and fund
- Copy of any statutory, rule and federal authority to provide the service
- List of all constraints on the funding source of the service
- List of any federal requirements for the service or use of funds
- List of all FTE associated with the service with name, position title, years of service with the state, years of service with the agency and current salary
- List of potentially affected parties
**Proposed Methodology for Cost Comparisons**

This provides a structured approach for making cost comparisons between in-house and contract service delivery. The approach outlined here is based on: 1) public financial management thinking; 2) the best identified practices of federal, state, and local governments; and 3) a desire to keep the process as simple as possible while ensuring a high degree of validity.

**Determining the Total Cost of In-House Service Delivery**

The total cost of providing a target service in-house, also known as the fully allocated cost, is the sum of its direct costs plus a proportional share of organizational overhead, or indirect costs.\(^1\) When the direct and overhead costs of a target service are identified, the resulting dollar amount constitutes the *fully allocated cost*, or total cost, of providing a target service in-house.\(^ii\)

\[
\text{In-House Fully Allocated Cost} = \text{Direct Costs} + \text{Share of Indirect Cost}
\]

**A. Direct Costs**

Direct costs are those cost items that only benefit, and thus are totally (100%) chargeable to a service. Examples of direct costs include the salaries, wages, and fringe benefits of government employees who work exclusively (100%) on the in-house delivery of a service, as well as the costs of supplies, materials, travel, printing, rent, utilities, communications, and other costs consumed or expended for the exclusive benefit of a target service.

**B. Direct Costs Frequently Overlooked**

Some direct-cost items are routinely overlooked when computing the cost of providing a service in-house and thus warrant special mention. Frequently overlooked cost items include: interest costs, pension costs, and facility and equipment costs.

**Interest Costs:** Interest on capital items purchased for the exclusive (100%) use of a service through a bond issue or other financing arrangement should be included as a direct cost of in-house service provision. For example, a fire truck purchase that is financed will typically take interest payments from a local government's general fund, but this cost should be counted toward the cost of fire-protection services. (Equipment costs are handled below.)

**Pension Costs:** The pension costs of government employees who work exclusively (100%) on a service should be included as a direct cost of in-house service provision regardless of whether the government fully funds the pension plan or not. Unfunded and underfunded pension plans *defer*, but do not *avoid*, these costs.
Facility and Capital Equipment Costs: Facilities and capital equipment used exclusively (100%) for a service should also be included as a direct cost of in-house service provision. Depreciation costs can be computed, or, if depreciation is not appropriate or no depreciation schedule exists, a use-allowance factor can be computed. (Use allowances are employed for those capital items for which no depreciation schedule exists. For most municipal items, depreciation is appropriate.) Even when no actual cost is incurred, a use allowance factor should still be included because the asset could be used for other government purposes or sold.

C. Overhead Costs

Overhead costs, or indirect costs, are cost items that benefit the service and at least one other government service, program, or activity. The expenses of various administrative and support services provided to a target service by other governmental departments are overhead costs. Examples include: salaries, wages, fringe benefits, supplies and materials, travel, printing, rent, utilities, communications, and other costs that benefit the target service and at least one other government service, program, or activity. A check should also be made to ensure that overhead costs include applicable interest costs, pension costs, and depreciation or use-allowance costs on shared facilities and equipment. If not, these costs should be added to applicable overhead costs.

Overhead costs are generally apportioned among government services, programs and activities according to some allocation scheme. The most common methods are personnel costs, total direct costs and the step-down method. The personnel-cost method assumes that overhead costs are proportional to the number of employees (or full-time equivalent employees). The total direct-cost method assumes overhead is proportional to the budget of the target service. And the step-down method divides all departments into either support or production departments, and works by allocating all the costs of support departments to the other entities they serve.

Many state and local governments have automated accounting systems capable of identifying, tracking, and allocating overhead costs. Frequently, state and local governments develop overhead or indirect cost rates that are simply applied to the personnel or total direct costs of a target service.

Determining the Cost of Contract Service Delivery

The total cost of contract service delivery is the sum of: 1) contractor costs; plus 2) contract administration costs; plus 3) an allowance for one-time conversion costs; minus 4) off-setting revenues.

A. Contractor Costs
Contractor costs may be the easiest component of contract-service delivery costs to compute. Contractor costs are simply the total costs a contractor proposes to charge for performing the target service. Contractor costs can generally be taken directly from a contractor's bid or proposal. There is one exception though, true performance-based contracts where final contract price can fluctuate based on the performance of the contractor. However, there generally is a cap which can be used.

**B. Contract Administration Costs**

Contract administration costs may be the most difficult component of contract-service delivery costs to compute. Contract administration can be defined as all those activities that take place from the time a decision is made to contract out until the contract is fully executed and final payment is made. Contract administration costs include: procurement, contract negotiations, contract award, the processing of amendments and change orders, the resolution of disputes, the processing of contractor invoices, and contract monitoring and evaluation.

\[
\text{Total Contracting Cost} = \text{Contractor Cost} + \text{Administration Cost} + \text{Conversion Costs (Amortized)} - \text{New Revenue}
\]

**Informed Judgment:** E. S. Savas, a nationally recognized expert on contracting, estimates the cost of contract monitoring exclusive of other contract administration costs at between 2 and 7 percent of contractor costs. John Rehfuss, another contracting expert and a former city manager, suggests that the cost of contract monitoring again exclusive of other contract administration costs is probably closer to 5 or 10 percent of contractor costs. This cost may depend on what sort of service is contracted, and the ease with which it can be objectively measured and monitored.

The state should already conduct at least some monitoring of in-house service delivery; so contract-monitoring costs should not represent entirely new costs.

When all contract administration costs not just monitoring costs are considered, estimates can increase substantially. A reasonable estimate for contract administration costs is between 10 and 20 percent of contractor costs. A general rule of thumb in applying this cost range would be to move toward the higher end of the range for small dollar contracts and the low end of the range for large dollar contracts. In instances where existing staff are assigned contract-monitoring responsibilities, the low end of the range should probably be used.

**C. One-Time Conversion Costs** One-time costs are sometimes incurred when converting a service from in-house to contract service delivery. Examples of one-time conversion costs include: 1) personnel-related costs; 2) material-related costs; and 3)
other costs. When substantial one-time conversion costs are involved, these costs should be amortized over multiple years. The front-end-loading of substantial one-time conversion costs into one year can skew cost comparisons between in-house and contract service delivery in favor of the former.ix

**Personnel-Related Costs**: include unemployment compensation, accrued annual and sick-leave benefits, and other severance items that must be paid to terminated government employees. This can be avoided if there are not any reductions-in-force. Every effort should be made to reposition existing employees into other positions.

**Material-Related Costs**: include costs associated with the preparation and transfer of government property or equipment to be made available to a contractor for use in providing a target service.

**Other Costs**: include any other one-time conversion costs, such as penalty fees associated with terminating leases or rental agreements, the costs of unused or underused facilities and equipment until other uses are found or they are sold, and other costs associated with the transition.

**D. Off-Setting Revenues**

An off-setting revenue is any new or enhanced revenue stream (e.g. state or local income, sales, property or other taxes, user fees, etc.) that will accrue to the government as a result of contracting out a target service. An item here that is sometimes overlooked is revenue to be derived from the sale or other disposition of facilities or equipment made redundant as a result of contracting out a service. Any amount included in this section represents a deduction from the cost of contract service delivery.

**E. The Total Cost of Contract Service Delivery**

When contractor costs, contract administration costs, and one-time conversion costs are combined and reduced by any off-setting revenues, the resulting dollar amount represents the total cost of contract service delivery.

**Comparing the Costs of In-House and Contract Service Delivery**

**A. When to Use Fully Allocated Costs**

As noted earlier, the total cost, or fully allocated cost of providing a service in-house is the sum of its direct and overhead indirect costs. Cost comparisons using fully allocated costs are useful in determining if the in-house cost of providing a target service is comparable with private-sector market prices.x The state of Texas, for example, routinely compares the fully allocated cost of in-house service delivery with private-sector market prices. If the fully allocated cost of in-house service delivery is greater
than 110 percent of the prevailing private-sector market price, the state agency must reduce its costs within a specified period of time or the service may be targeted for contracting out. (Need to check for accuracy)

**B. When Not to Use Fully Allocated Costs**

The use of fully allocated costs is generally inappropriate in estimating the savings to be realized by contracting out a target service that is currently being conducted in-house. In other words, the amount of money that is likely to be saved is not simply the difference between fully allocated in-house costs and the total contracting cost. This is because contracting out does not generally result in a dollar-for-dollar reduction in governmental overhead costs. For example, the contracting out of a target service, or a portion thereof, may result in decreasing the workload of service departments like personnel, finance, and facilities management but the workload reductions may be insufficient to have any significant effect on the costs of maintaining these departments. When attempting to determine the potential cost savings associated with the contracting out of a target service, the appropriate in-house costs to use in the comparison are the **avoidable costs**.

**C. Avoidable Costs**

Avoidable costs are those in-house costs that will not be incurred if a service, or portion thereof, is contracted out. How-to contracting books, as well as several contracting-out guides prepared by state and local governments, recommend the use of avoidable costs when assessing the likely cost savings achievable through contracting out. The use of avoidable, or incremental, costs is also the generally accepted managerial accounting approach to conducting the financial component of a business **make-or-buy** decision. Determining which in-house costs are avoidable is not a simple task. Of course, virtually all direct costs will be avoidable. But ascribing what portion of overhead costs are avoidable is a matter of judgment, and depends largely on three factors:

1. The determination of the public sector to reallocate resources efficiently;

2. The extent of the privatization effort, both in the service area and in other services that employ the support of the same government departments; and

3. The time period in which resource allocation is expected to occur.

**Resource Reallocation:** In the private sector, the decision to discontinue a particular function is usually accompanied by a swift reallocation of resources in support areas as well. For example, a company that eliminates a product line that accounts for 30 percent of sales will not only eliminate those positions directly involved in manufacturing that product, but is also likely to reduce the size of support staff, such as personnel, procurement, accounting, etc., by something approaching 30 percent. The private sector has a strong incentive to reduce overhead as much as possible. The public
sector lacks such strong incentives, and the extent to which overhead costs can be avoided in the wake of contracting out is partly a function of political will.

**Extent of Privatization:** The reduction in overhead costs is related to the extent of the privatization. There is a cumulative effect to be considered, in that contracting out not only in the target service but in other services which make use of the same overhead support functions influences the potential for overhead reduction. For instance, contracting out a service with only five employees would be unlikely to reduce overhead by any appreciable amount, unless several other small programs were also being contracted out as well. Several small contracts, which considered separately would have a negligible impact on overhead, could in the aggregate reduce overhead significantly.

**Time Factor:** There are many costs that cannot be avoided in the short term that may be avoidable in the long term. For example, contracting out of a portion of transit service may leave a public entity holding a lease for more storage and maintenance capacity than is necessary. In the short term, that cost may be unavoidable, but in the long term the public entity could decline to renew the lease. Similarly, there may be instances in which contracting out leaves a public entity overstaffed but legally obligated not to lay off workers. In the short term, this represents an unavoidable cost, but in the long term, staff levels could be reduced to efficient levels through attrition.

Avoidable costs can never exceed fully allocated costs. You can never avoid more than the service currently costs to provide. Over the long term, however, an organization should reconfigure itself so that overhead is adjusted downward to an efficient level. MIT's Jonathan Richmond has written that "in the longer term, as a general rule...marginal costs approach and converge with fully allocated total costs." In this way, fully allocated costs can be thought of as the long-term theoretical upper limit of avoidable costs.

This emphasis on avoidable costs does not mean that computing the fully allocated costs of providing a service in-house is a superfluous exercise. In order to determine the costs to be avoided by contracting out, the fully allocated costs of in-house service delivery must first be determined. And, as mentioned previously, fully allocated costs are appropriate when comparing operating efficiencies of the public and private sectors.

In all cases, the sought-after figure when estimating cost savings should be:

\[
\text{Avoidable Costs} - \text{Total Contractor Costs} = \text{Cost Savings}
\]

Ibid., 1987.


In the step-down method, the costs of support-service departments (e.g., finance, procurement, facilities management, etc.) are allocated to user departments (i.e. line units that directly service citizens) based upon the actual amount of support services received during some prior time period or the anticipated amount of support service to be received in some future time period. For a more detailed explanation of the step-down method see: Guide To Implement the Competitive Cost Review Program (Austin: Office of the State Auditor, State of Texas, 1989), pp. 28-31.


These cost categories were developed by the City of Cincinnati. See City of Cincinnati, 1985, p. 17.

Stevens, 1984.


INTERVIEW AND SURVEY FORM

Name: ________________________________
Agency: ______________________________
Position Title: _________________________
*E- mail: ______________________________

*To receive a copy the study, please provide an e-mail address.

This survey is being conducted by Anthony Provenzano in candidacy for the degree of Master’s of Public Administration at Florida State University

For each survey question, circle the most appropriate answer and provide any relevant comments.

**POLICY ALTERNATIVES:**

1. Stronger Legislative Controls and Oversight

<table>
<thead>
<tr>
<th>Do you agree stronger legislative controls and oversight policy are necessary to improve the management of the state’s contracted services?</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Strongly agree</td>
</tr>
</tbody>
</table>

Comment: ________________________________

<table>
<thead>
<tr>
<th>What language would you recommend for legislative controls and oversight policy?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comment: ________________________________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Administrative Operability – Do you agree the existing system is capable of implementing legislative oversight policy?</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Strongly agree</td>
</tr>
</tbody>
</table>

Comment: ________________________________
### Economic Possibility/Administrative Cost

Are you aware of any costs associated with implementing Legislative oversight, such as independent or agency audits?

Comment:

### Concerns have arisen concerning political kickbacks, campaign financing and other improprieties. Do you agree stronger campaign financing policy is necessary?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:

### Political viability/Political feasibility

Do you agree legislative oversight policy is a politically popular option to improving the management of the state’s contracted services?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:

### Political effectiveness/Technical feasibility

If stronger legislative oversight policy is implemented, do you agree stronger legislative oversight policy would be effective?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:

### 2. Statewide Training and Certification of Agency Contracting Personnel

Do you agree a statewide training and certification of agency contracting personnel policy is necessary to improve the state’s contracted services?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:
Do you feel career development incentives for agency contracting personnel are important?

<table>
<thead>
<tr>
<th>a) Very important</th>
<th>b) Important</th>
<th>c) Moderately important</th>
<th>d) Of little importance</th>
<th>e) Unimportant</th>
</tr>
</thead>
</table>

Comment:

What types of management training practices have you identified that would improve the current contract management process?

Comment:

**Administrative Operability** – Do you agree the existing system is capable of implementing such policy?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly Disagree</th>
</tr>
</thead>
</table>

Comment:

**Economic Possibility/Administrative Cost** – Are you aware of the costs associated with implementing a statewide training and certification system for all agency contracting personnel?

Comment:

**Political viability/Political feasibility** – Do you agree policy for a statewide contract management training and certification system is popular politically?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:
### Political effectiveness/Technical feasibility – Do you agree a statewide contract management training and certification is an effective policy option?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:

### 3. Annual Agency Reports on New Contracts and Random Independent Audits

Do you agree annual agency reports and independent audits would improve the management of the state’s contracted services?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:

### Economic Possibility/Administrative Operability – Do you agree the existing system is capable of implementing such policy?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:

### Administrative Cost – Are you aware of any cost associated with implementing annual agency reporting and random independent audits?

Comment:
Political viability/Political feasibility – Do you agree policy for annual agency reports or random independent audits is popular politically?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:

Political effectiveness/Technical feasibility – Do you agree this policy option would be effective in improving the management of the state’s contracted services?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:

4. A Centralized Infrastructure to Support the Management of the State’s Contracted Services

An infrastructure would provide, but not be limited to, the following:

- Establishing statewide uniform policies and procedures
- Implementing effective management and training practices
- Providing a comprehensive statewide training and certification system to contract administrators, managers, negotiators and monitors
- Establishing privatization decision-making processes, for example, business templates and effective cost comparisons
- Providing technical assistance to state agencies
- Coordinating annual agency reporting
- Recommending necessary legislative oversight policy
- Implementing legislative controls to safeguard taxpayer investments
- Applying innovative information system technology

Do you agree a centralized statewide contract management infrastructure to support the management of the state’s contracted services would improve the current privatization process?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

Comment:
### Administrative Operability

**Question:** Do you agree the existing system is capable of implementing such policy?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

**Comment:**

### Economic Possibility/Administrative Cost

**Question:** Are you aware of the cost of implementing such policy.

**Comment:**

### Political viability/Political feasibility

**Question:** Do you agree policy for a centralized infrastructure to support the management of the state’s contracted services is popular politically?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

**Comment:**

### Political effectiveness/Technical feasibility

**Question:** Do you agree this policy option would be effective in improving the management of the state’s contracted services?

<table>
<thead>
<tr>
<th>a) Strongly agree</th>
<th>b) Agree</th>
<th>c) Undecided</th>
<th>d) Disagree</th>
<th>e) Strongly disagree</th>
</tr>
</thead>
</table>

**Comment:**