



Pentagon Contracting 101

Overview

Tracking contracts in the U.S. Department of Defense (DOD) is daunting. DOD purchases more than \$1 billion of goods and services every day, accounting for two-thirds of all government purchases. It is the largest federal agency in the United States, consuming more than half of discretionary spending in the U.S. budget. And it employs some 3 million people globally, more than the world's largest corporation.

Because of its size and complexity, DOD contracting practices and scandals frequently set the agenda for contracting (*acquisition* in bureaucratese) across government. For example, the [annual defense authorization bill](#) is the starting point for the majority of the government's acquisition-related legislation. There's even a [Defense Acquisition University](#) where contract managers are trained to manage increasingly complicated contracts.

Size isn't the only thing that makes Pentagon contracting different from that of other agencies. National security enjoys an exalted status when it comes to fiscal discipline. In the words of President Ronald Reagan, "defense is not a budget issue: You spend what you spend." This viewpoint often extends to contracting practices, leading to contracts that end up way over budget and behind schedule. Ultimately this approach can result in inefficient spending and, at worst, profiteering.

Because of DOD's heavy reliance on the private sector for goods and services, the defense industry has a unique degree of influence in government: the defense sector spent [\\$145 million](#) lobbying in 2010 and now employs more than 1,000 lobbyists, according to the Center for Responsive Politics. This means a robust trade and business press ([Defense News](#), [Aviation Week](#), [National Defense](#)) covers the defense industry closely—a good source of information on current defense programs and contracts.

Background

The relationship between the military and the private sector always exists within a political context. Encouraging or criticizing outsourcing waxes and wanes with the times. To understand today's contracting environment, it is particularly important to recognize a few key events and trends from recent decades.

The rapid influx of money into the defense industry during the Cold War military buildup resulted in a series of scandals. These included [Operation Ill Wind](#), in which acquisition officials

sold bidding information to competitors, and cost overruns such as the infamous [\\$640 dollar toilet seat](#). The scandals led to reforms including the [Competition in Contracting Act](#) and reestablishment of the [Cost Accounting Board](#).

When defense spending slowed down in the 1990s, industry pushed back on the changes of the previous decade. The Federal Acquisition Reform Act (FARA) of 1996 rolled back many reforms. Meanwhile, Clinton's [National Performance Review](#)—also known as “Reinventing Government”—encouraged agencies to outsource as many functions as possible to the private sector. Unfortunately, contract managers were not hired at the same pace, leading to a net decrease in oversight.

The pump was primed for massive waste when defense spending spiked again after the Sept. 11, 2001 attacks. The War on Terror and U.S. military operation in Iraq give rise to emergency wartime contracting practices that used risky contracting vehicles. Contracts flew out the door, often with undefined deliverables that allowed contractors to bill the government as they went along. This led to a wealth of stories on contracting waste, fraud and abuse that grabbed public attention and made Halliburton the poster child for wartime waste.

President Barack Obama made contracting reform part of his campaign platform, issuing a [Presidential Memorandum on Government Contracting](#) soon after coming into office. Within the Pentagon, then-Defense Secretary Robert Gates in 2010 introduced a series of “efficiency” reforms that promised to reduce contractor services by 10 percent and eliminate some 30,000 contractor positions by 2015 (but do not specify how or where). The most recent Congressional attempts at contracting reform are the Weapon System Acquisition Reform Act and IMPROVE Act, which attempt to impose penalties on out-of-control contracts.

The cycle of scandal and reform is based in the same fundamental problems, so understanding history can help you spot tomorrow's scandals.

Earmarks

Earmarks are important to understand because they have been vehicles for local defense spending and, often, corruption. Some of the most hard-hitting political spending stories in recent years, including the [lobbyist Jack Abramoff corruption scandal](#) during the Bush administration, involved [earmarks](#).

Different definitions of “earmark” exist, but [Taxpayers for Common Sense](#) defines earmarks as legislative provisions that set aside funds within an account for a specific program, project, activity, institution, or location. Earmarks used to be rare, but their use grew rapidly in the last two decades: [A TCS analysis](#) of the FY1970 defense spending bill found just a dozen earmarks, but by 2005 there were more than 2,000 in the same bill.

Earmarks have evolved from an obscure Congressional practice to a symbol of public disgust with government waste. Earmarks are often seen as the result of a pay-to-play culture where

taxpayer money is diverted to reward campaign contributors, lobbyists, and cronies with pet projects. They redirect resources away from other more important governmental activities, increasing costs and waste and delaying the delivery of government services.

This perception fueled public discontent with Congress leading up to the 2006 elections. In January 2007, the House of Representatives voted overwhelmingly to make members stand by their earmarks, disclosing sponsors' names next to the projects they requested in legislation. The Senate eventually followed suit, and further reforms required lawmakers to disclose all earmark requests (not just the ones that made it into bills).

Yet earmarks remained a petri dish for corruption. In addition to well-known earmark [scandals of the past](#), in early 2010 an earmark lobby shop folded under the weight of a federal investigation and more lawmakers found themselves under scrutiny. The House of Representatives finally adopted a moratorium on earmarking for the current session of Congress, and after President Obama promised to veto any bill containing earmarks in his 2011 State of the Union speech, the Senate again followed their lead.

But programs previously funded through earmarks continue to appear in spending bills. [TCS has compiled databases](#) of both earmarks and earmark requests since 2007 that can be sorted by state, lawmaker, district and company. TCS collaborated with the Center for Responsive politics on a [database that cross-references earmarks with campaign contributions](#). See the TCS [primer](#) on earmarks and the federal budget process for more.

Major problems:

Why are defense contracts a constant source of problems? Here are the essential reasons.

- [Lack of competition](#). Sweetheart deals are all too common in defense spending, whether because of inside connections or outright corruption. Consolidation in the defense industry also means that most government contracts go to just a handful of companies.

Examples: Former Rep. Randy "Duke" Cunningham, a Republican from California, was [convicted in 2005](#) after pleading guilty to conspiracy and tax evasion for receiving nearly \$2.4 million dollars in bribes from defense contractors. Former Rep. John Murtha, a Democrat from Pennsylvania, was caught up in two separate corruption controversies during his time in Congress. In the 1980's he was recorded as considering a future acceptance of a \$50,000 [bribe for political favors](#) and later he helped direct [\\$137 million in earmarks to defense contractors](#).

- [Revolving door](#). Many Beltway contracting and consulting firms are staffed by former military brass who bring fat rolodexes and heavy reputations to the job.

Examples: A former [United States Air Force](#) civilian official and Boeing Executive named Darleen Druyun was involved in corruption controversies involving a plan to [speed up payments from the U.S. Air Force to McDonnell Douglas](#) and a flawed leasing agreement that would

[charge the U.S. government highly exaggerated prices for tankers.](#) A Boston Globe December 2010 series [tracked flag officers](#) from retirement through their transition into the private sector, and found that many were lining up business before they even left the Pentagon.

- Contractors performing government tasks. Contractors are prohibited by law from performing “inherently governmental functions” such as overseeing other contractors, but the definition of such functions is fuzzy.

Example: Hundreds of thousands of contractors hold top-secret security clearances, according to the Washington Post series [Top Secret America](#).

- Severe cost overruns. A 2007 Government Accountability Office report found that major weapons programs had incurred \$300 billion in cost overruns. This is due primarily to:
 - a) Underbidding by contractors
 - b) Changing requirements by government
 - c) Increasing complexity of systems

Example: The F-35 Joint Strike Fighter, the most expensive defense program in history, is now projected to cost \$382 billion, 65 percent more than its original estimate 10 years ago.

Resources

Here are some tips for following and understanding defense contracting.

- Sign up for the Defense Department’s daily contract award alert. Go to the contract award [web site](#) and click on “subscribe” on the right-hand menu. The alerts will tell you not only what the contract is worth and the company who won it, but the type of contract (fixed-price, indefinite quantity/indefinite delivery, etc) and where the work will be done. Keep an eye out for contracts either being performed or awarded to a company based in your area.
- The DOD’s [Acquisition Resources and Analysis](#) web page contains links to several useful tools including a list of major weapons programs (also known as major defense acquisition programs, or MDAPs) and Selected Acquisition Reports (SARs). The SARs are required by law to notify the public of severe cost and schedules overruns on MDAPs, so they often make news.
- The [Defense Procurement Acquisition Policy](#) web site also contains a wealth of links, including Congressional reports and DOD acquisition policies. You can also sign up for alerts from the DOD Inspector General and Government Accountability Office, the two primary watchdogs for DOD and the government.

- Several databases track government contracts, but none of them are perfect. The [Federal Procurement Data System](#) is the official government database that tracks spending across all agencies, but it is notoriously difficult to use and often tardy in adding new data. As a senator, Barack Obama teamed up with Sen. Tom Coburn to create the Federal Funding Accountability and Transparency Act, which required the federal government to construct a comprehensive, easy-to-use contracting database. The result is [USAspending.gov](#), which is actually based on a still-active prototype created by the nonprofit watchdog organization OMB Watch called [Fedspending.org](#).
- If you want to find out whether a contractor has a history of bad performance, the [Excluded Parties List System](#) will tell you who is banned from receiving new contracts. Also check out the Project on Government Oversight's [Contractor Misconduct Database](#). POGO's web site also contains a wealth of [links](#) on general acquisition policy.