

Pro-cure-ment Pa-ral-y-sis: [*Proh-kyoor-ment Puh-ral-uh-sis*]
Pathology – Organizational Disease: *A state of helpless stoppage, inactivity or inability to act; a procurement process rendered incapable of responding to basic operational requirements by officials suffering from an acute fear of criticism.*

Procurement Paralysis

by
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Here are three illustrations of the disease – actual cases, with their identities concealed – and some prescriptions.

1) A well-known federal agency requires a new software application to improve its operations and reporting. The manager in charge determines there exist commercial off-the-shelf software products that will more than meet the agency's requirements. To her surprise, she discovers that two years earlier another federal agency had

competitively purchased several licenses for one of these software products, but these licenses are no longer being used.



The manager inquires if the unused software licenses could be transferred to her agency. The vendor indicates this is not a problem, but there will be a fee of 15% of the purchase price to cover installation and updates to the latest version.

Delighted at being able to save money, the manager forwards a requisition for contracting action – only to be told she must prepare and issue a full-blown Request-for-Proposal (RFP), lest the government be criticized for not being “fair” to the other potential vendors. A flurry of briefing notes later, and after being personally criticized as “a rule breaker,” she relents and begins the 6-9 month RFP process to ultimately buy (at full price) something that the government already owned.

2) A manager is working on a project aimed at developing new and more user-friendly content for her agency's website. In the interest of saving time and money, she seeks to determine if there are external contractors who have already developed this type of content, and if they would be willing to license their content to her agency.

Ever mindful of the need for openness and transparency, she develops a concise written summary of her query in the form of a non-binding Request for Information (RFI), and forwards her document for procurement review before publicly posting the notice on MERX.

Following weeks of silence, and fearful that her project will be delayed, she follows up, only to be informed that it will be several more weeks until a comprehensive review of her seven-page document can even be assigned to a reviewer, let alone completed or approved.

Despite having followed a well-established RFI template, she is told there are “serious risks” associated with her query that must be considered before her voluntary and non-binding RFI to industry

can even be considered. Frustrated, she gives up, pulls her staff off other assignments, and begins the slow and unproductive process of re-inventing the wheel.

3) The newly appointed Director, Review at a mid-sized department, is pleased to learn that his predecessor had the foresight to establish a multi-year standing offer agreement with 20 different firms, each qualified to provide a variety of review, audit, evaluation and investigation services.

With staff shortages in his unit, and increased demands for accountability, his ability to issue call-ups to the firms for project work is the only thing enabling him to meet expectations. With 12 months to the end-date of the standing offer agreement, and aware of the lead times required, he makes needed updates to the text, and forwards the file to his departmental contracting group for review and next steps.

While helpful, and appreciative of the urgency, the contracting officer informs him that new government-wide rules require that a “mandatory supply arrangement” at the common services organization be used to establish contracts for these services. No problem, he thinks, we’ve got a year. But after ten months, countless document reviews and conflicting policy directions, the process is no further ahead. Exasperated, and out of options, the director is forced to beg his departmental contracting officer to bend the rules and extend the current standing offer for a few more months, if only to complete commitments to ongoing projects.

Dr. Martin Luther King Jr. diagnosed this phenomenon: “Normal fear protects us; abnormal fear paralyzes us”.

The clinical symptoms of paralysis are obvious enough within the federal procurement process, and there can be little doubt that it is a growing (and some might say, abnormal) fear of criticism which is at the root of this paralysis, but when did normal fear morph into abnormal? What changed?

Given its inherent sensitivities, there has always been a reticence to criticism within government procurement, as well as a very normal fear on the part of officials over negative audits, media stories, supplier complaints, or of being singled out as a rule breaker. There is little that is new in any of this.

A healthy amount of normal fear serves a useful and protective purpose within government procurement, encouraging prudence and caution, avoiding contracting fraud, bid rigging, manipulation, bias, scandals, etc.).

Yet, for all of its faults (after all, the hazards weren’t entirely avoided), yesterday’s procurement process seemed to work and produce results, at least most of the time. Where did today’s procurement paralysis come from? What is causing the abnormal fear that is driving this paralysis, and what can be done to correct it?

To many, the increasing paralysis within federal procurement seems to have begun immediately following the introduction of recent so-called reforms. The goals of greater accountability and increased cost savings at the heart of these reforms are surely a good thing, and no reasonable person could argue that government shouldn’t take responsible steps to prevent future scandals, such as Sponsorship, or to find ways of saving money. These are inherently good things, after all.

However, to achieve these outcomes by instilling a paralyzing fear of reprisals and criticism within our public officials is obviously not helping, and is likely only making matters worse.

If fear-induced paralysis, inaction and a culture of extreme risk avoidance are not the outcomes that the ar-

chitects of the procurement reforms were intending (and surely, they are not), then what could and should be done to turn this around?

A prescription for this paralysis is urgently needed.

Toward this end, readers are encouraged to forward their thoughts and suggested prescriptions to the author. A compilation of good ideas and practical suggestions received will be summarized in a later column.

I’ll get the ball rolling on this, by offering a suggested prescription of my own:

Government needs to stop treating its procurement process as a den of iniquity, deserving relentless and punitive enforcement. Effective oversight, monitoring and reasonable controls are good; a permanent state of fear and reprisals leading to paralysis is not. Procurement needs to work well for government to work well. Let’s better define how to achieve success, in addition to how to avoid failure. Without both, procurement is simply not capable of producing the results that Canadians expect.

While there are always risks associated with this process, a mature, balanced and thoughtful strategy of risk mitigation (normal fear) will produce better results over the long term than a preoccupation with catching someone doing even the smallest thing wrong, as opposed to rewarding people for doing right.

The Sponsorship Scandal was a black eye for federal procurement, but the transgressions were identified and for the most part the perpetrators were brought to justice. Although not perfect, on balance the system worked. It’s now time to take a deep breath, and to recognize that the time has come to move on.

The government is currently developing a new procurement policy, expected to be released later this year. If one were serious about toning down the climate of abnormal fear and putting an end to the paralysis, I can’t think of a better place to start. 