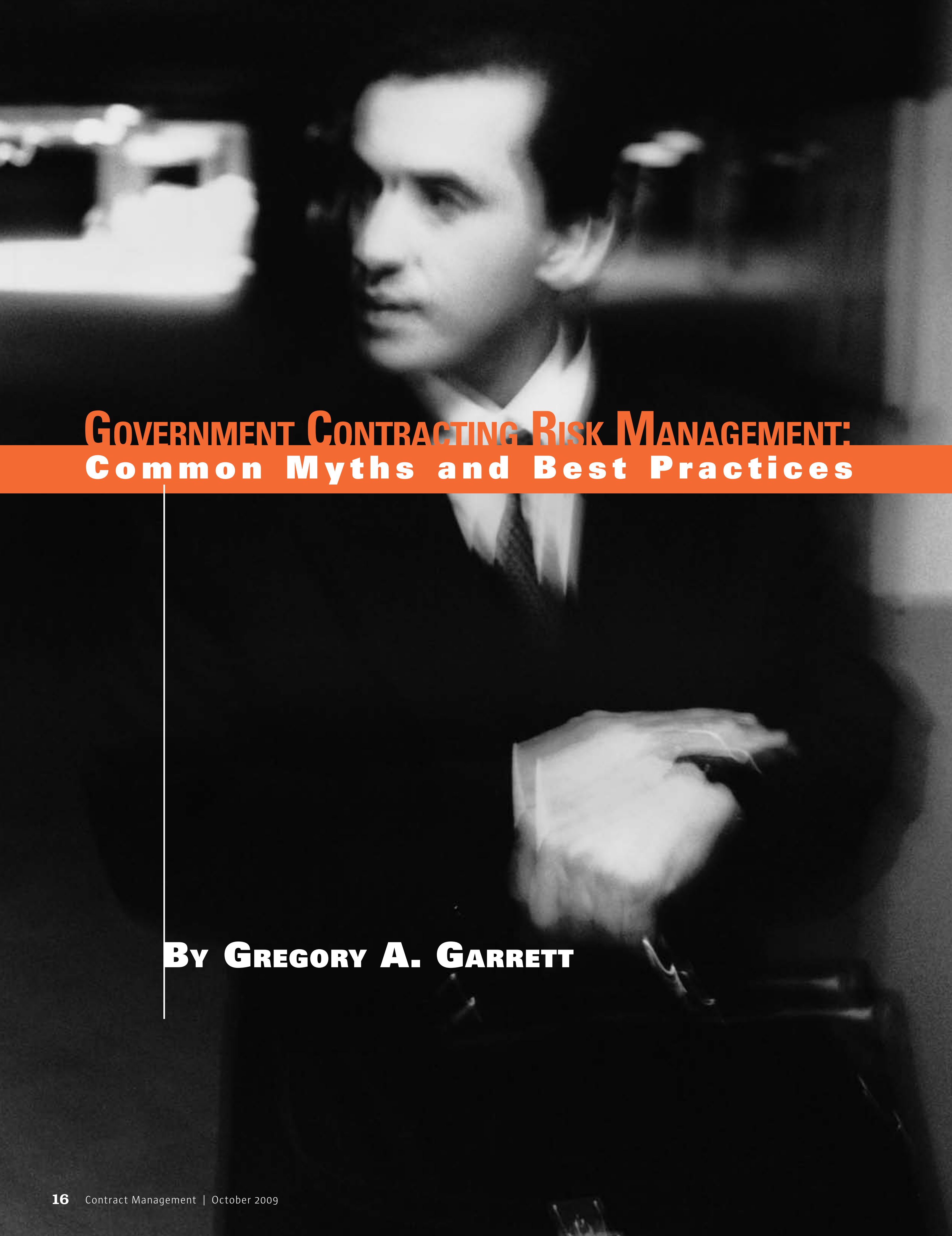
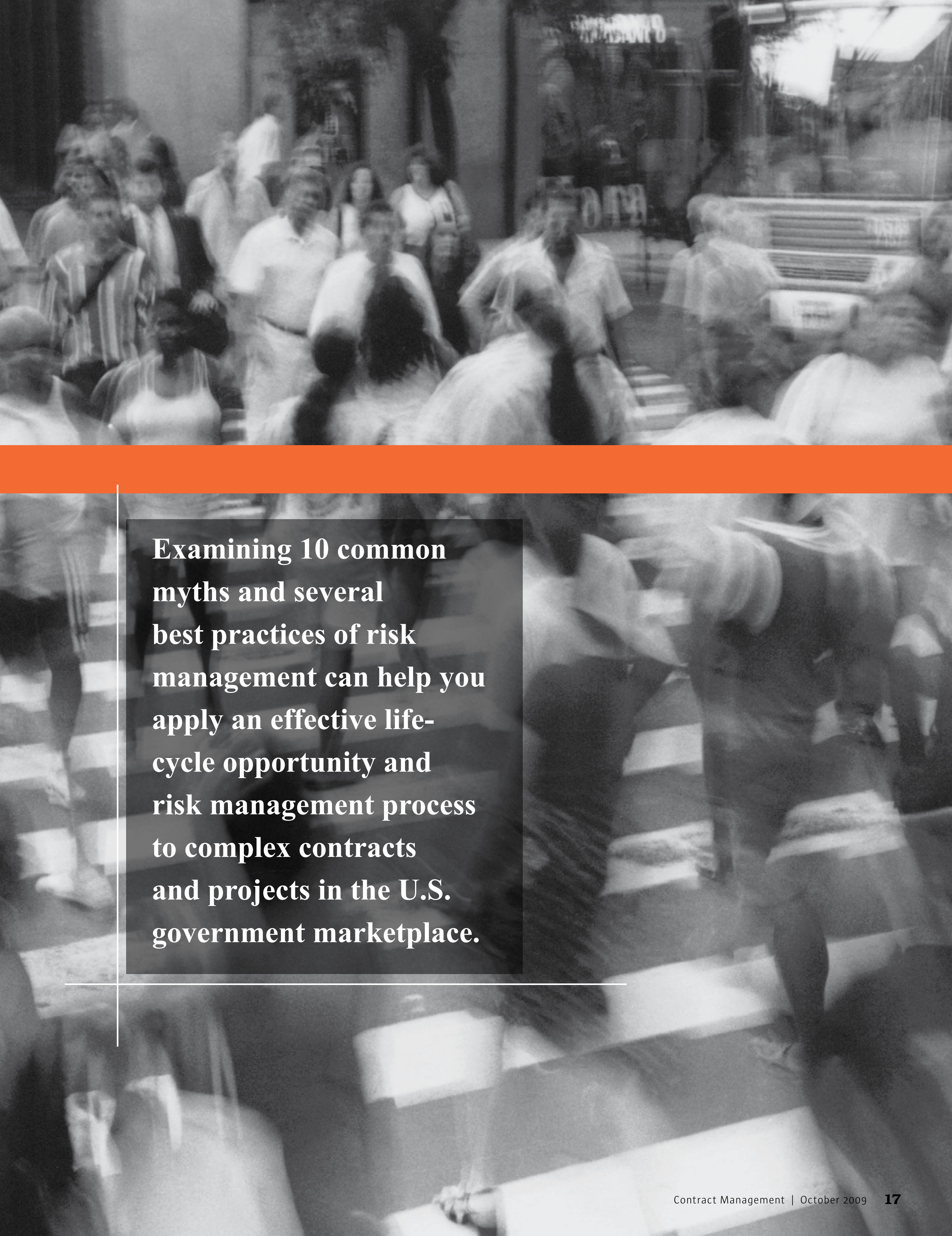


Government Contracting Risk Management: Common Myths and Best Practices

By Gregory A. Garrett



Examining 10 common myths and several best practices of risk management can help you apply an effective life-cycle opportunity and risk management process to complex contracts and projects in the U.S. government marketplace.

The top three areas of concern to most government buyers of products and services typically include that the products and/or services will not be of satisfactory quality, will not be performed and/or delivered on time, and will cost more than the original contractor estimate. Unfortunately, these undesirable incidents happen all too frequently, especially with large, complex contracts and related projects involving the integration of hardware, software, and professional services.

In the U.S. government marketplace, the probability of the occurrence of these problems increases as the following risk factors are involved:

- Noncompliance with detailed *Federal Acquisition Regulation* (*FAR*) and government agency *FAR* supplements,
- Noncompliance with the U.S. government's Cost Accounting Standards,
- Unstable contract or program requirements,
- Political and media pressures,
- Unstable contract or program life-cycle funding,
- Accelerated or delayed delivery schedules,
- Variations in quantity, and
- Increased government oversight of contractors.

"Risk management" is the ability to efficiently and cost-effectively mitigate potential problems and it is fundamental to good business in both the public and private sectors.

In this article, we will discuss some of the common myths and best practices of applying an effective life-cycle opportunity and risk management process on complex contracts and projects in the federal marketplace.

Common Myths

Myth #1: Risk management is well defined, cost-effectively practiced, and successfully implemented by most government contractors.

Reality: Most government contractors do not have a comprehensive or life-cycle opportunity and risk management methodology for their businesses. Risk management is often fragmented by functional areas (financial, contracts, engineering, manufacturing, professional services, supply-chain management, etc.).

While some organizations do take the time to conduct a risk identification and assessment as a part of their bid/no bid process, other government contractors, who are in a "zeal for a deal," bid nearly everything and then hope and pray they can deliver on their promises. Risk mitigation planning and cost-effective implementation is not consistently practiced by many contractors. Also, risk management best practices are often not efficiently or cost-effectively flowed down from prime contractors to their respective subcontractors, often resulting in late deliveries, higher costs, reduced profits, and upset government customers.

Myth #2: The use of firm-fixed-price (FFP) government contracts places all risk on the contractors.

Reality: The government also shares the risks associated with FFP pricing arrangements. The government bears the risk that the selected contractor may not adequately perform the work, thus requiring a remedy for the contractor's failure to deliver (i.e., withhold of payment, liquidated damages, termination for default, etc.). The government also has the risk of unclear definition or specification of the requirements and deliverables. It is entirely possible for a contractor to perform the work as required and specified by the government, but the government still does not get what it really needs or wants because of its inadequate statement of requirements, outcomes, or deliverables.

In addition, FFP government contracts may contain certain government contractual obligations. For example:

- Government-furnished property,
- Government-furnished equipment, and/or
- Government-furnished information in accordance with FAR Part 45.

Myth #3: The creation of a performance-based contract (PBC) will reduce risks and ensure the government obtains successful contract or project results.

Reality: Unfortunately, many government agencies do not properly create PBCs, often resulting in higher risks and poor to mediocre performance results. For example, many government agencies suffer from the following challenges:

- Incomplete or inadequate performance work statements or statements of objectives;

- Use of overly detailed and highly prescriptive statements of work;
- Insufficient quality assurance surveillance plans;
- Poor selection of performance standards and metrics to drive contractors to high-performance results;
- Inappropriate contract incentive plans and/or failure to properly administer and reward superior results or apply penalties for poor performance;
- Inadequate post-award contract administration support due to shortage of resources, inadequate training, and poor quality control; and
- Unreliable data contained in the Federal Procurement Data System, resulting in no one really knowing to what extent performance-based contracting is being used, and how successful it is or could become, in improving government contracting.

Risk mitigation planning and cost-effective implementation is not consistently practiced by many contractors.

Myth #4: The use of government-furnished property (GFP) will always reduce the cost and risk of the contract or project.
Reality: Sometimes GFP does reduce the cost and risk of the contract or project, but many times it does not. In fact, some government contractors refer to GFP as "government-furnished problems" because the government property is frequently delivered late, damaged, or defective. Plus, the GFP requirements stated in FAR Part 45 can add additional costs for the marking/identification, tracking, maintenance, transportation, and documentation of the subject property.

Myth #5: All risk factors can be identified, quantified, and mitigated.
Reality: If a government agency or contractor develops and practices opportunity and risk management as an integrated aspect of all of its business activities and uses knowledge management throughout the contract or project life cycle, then most risk factors can be identified, quantified, and mitigated. However, many organizations do not develop and practice risk management as an integrated aspect of all of their business activities.

Plus, most organizations have not fully embraced the power of capturing, sharing, and reusing knowledge to enhance opportunity and risk management. Most organizations in both the government and industry need to ensure they have developed and implemented knowledge-based tools to capture knowledge before, during, and after the performance of the work, not just after completion of the contract or project. However, even when performing all of the aforementioned actions, it is still possible for some unknown and unforeseen challenge(s) to occur.

Myth #6: The longer and more detailed the government's solicitation planning and source selection process, the more likely it will be for the government to reduce risks and obtain high-performance outcomes from contractors.

Reality: It is not the *quantity* of people or total time spent, it is the *quality* of the people and their respective knowledge, experience, dedication, and executive-level commitment that typically determines whether a government agency's acquisition planning yields high-performance outcomes from the selected contractor(s).

Myth #7: The more competitors in a federal procurement, the better the competition.

Reality: Again, the *quantity* of bidders does not necessarily directly relate to the *quality* of the competition. Sometimes, there may be only one or two high-quality providers of the needed products, services, or solutions. Therefore, seeking three or more bids or proposals may actually result in higher acquisition costs due to a longer bid or proposal evaluation process and related source selection activities.

Myth #8: All government contractors are crooks!

Reality: Most government contractors are honest, reliable, and dedicated companies focused on supporting government agencies in achieving their respective mission requirements while meeting their stakeholder objectives. Unfortunately, there is a relatively small percentage of government contractors who do act illegally and their bad actions are frequently and widely publicized by the press and Congress, creating a very negative perception of the industry as a whole.

Myth #9: Project management and contract administration are less important to risk management than acquisition strategic planning and source selection.

Reality: In fact, project management and contract administration are *just* as important, if not more so, to risk management than acquisition strategic planning and source selection. Simply put, it is good to have an effective plan and a qualified contractor, but it is better to ensure project execution of the plan and contractor delivery of the promised results. Too often government agencies and contractors are in such a "zeal for the deal" that they focus nearly all of their resources on the pre-award and award phases of the acquisition and too little resources for the critical post-award project management and contract administration activities.

Myth #10: Past Experience = Successful Performance

Reality: Solely because a person or organization has experience in providing a product, service, or solution in the past does not necessarily mean that the individual or entity will be successful in delivering a similar product, service, or solution in the future. Conversely, if the individual, organization, or company has a track record of poor performance in their past experience, then it is likely they will have challenges in achieving successful performance outcomes in the future. Clearly, the lowest risk scenario is to find a contractor with extensive experience, expertise, and demonstrated high-performance results on delivery of similar products, services, and solutions.

Opportunity and Risk Management Best Practices

In order to reduce business risks and optimize performance results in the federal marketplace, government agencies and contractors should develop a comprehensive or holistic approach to opportunity and risk management. A comprehensive approach to opportunity and risk management should appropriately address

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the “4 Ps” to success: People, Processes, Performance, and Price.

Best Practices Addressing the 4 Ps

People

- Select highly qualified, competent, and certified business professionals;
- Provide appropriate individual, team, and organizational performance standards, metrics, and incentives;
- Provide timely and professional continuing education, cross-functional education and experience, and on-the-job training in risk management;
- Provide timely and appropriate performance feedback;
- Develop realistic requirements and delivery schedules;
- Develop and implement an effective mentor/coaching program;
- Ensure that effective training in opportunity and risk management processes and tools is provided;
- Create and consistently practice a “tone at the top” message of the need and value of life-cycle risk management; and
- Use expert consultants as needed—seek advice.

Processes

- Develop an integrated life-cycle opportunity and risk management process that appropriately addresses all functional areas of the organization from the beginning to the end of each contract;
- Incorporate knowledge management tools to ensure knowledge is captured, shared, and reused before, during, and after work is performed throughout the contract or project life cycle;
- Practice disciplined systems engineering and program management;
- Implement an effective earned value management system;
- Use multiyear procurement and multiyear funding to ensure stable funding;
- Develop and use an effective cost estimating and accounting system;

- Ensure risk identification tools and techniques are developed and appropriately implemented;
- Develop an appropriate governance structure;
- Provide effective processes and tools to assess the probability and financial impacts of potential risks (technical, schedule, and contract);
- Allocate funds for appropriate risk mitigation planning and actions;
- Build a world-class supply chain for your organization; and
- Maintain configuration control of the contract or program requirements and limit the number of changes.

It is not the *quantity* of people or total time spent, it is the *quality* of the people.

Performance

- Create a performance-based culture within your team and organization;
- Communicate your organization and team's vision, mission, and performance goals;
- Develop PBCs with your clients and suppliers;
- Create an effective ethics and compliance internal control system;
- Practice risk management using a life-cycle opportunity and risk management process;
- Ensure regulatory and contract compliance;
- Terminate all or part of poorly performing programs as soon as possible;
- Remove poor individual performers if they are not adding value to the team and project;
- Remedy or terminate poor-performing subcontractors; and
- Manage contract or project changes.

Price

- Select appropriate pricing arrangements, given their risk versus reward opportunities;
- Ensure life-cycle costs are properly included in the budget and contract funding;
- Create a management reserve in the contract or project budget;
- Avoid buy-in situations;
- Price and negotiate contract or project changes appropriately;
- Select and tailor contract terms and conditions to properly address items not priced into the contract;
- Use appropriate cost estimating methods and techniques;
- Conduct a price analysis and/or cost analysis;
- Obtain independent cost estimates; and
- Hire cost/pricing experts, either internally or via consultants.

Summary

The U.S. government marketplace is full of business opportunities and risks for both government agencies and contractors involved in the buying and selling of products, services, and solutions. In this first article of this three-part series, we have addressed ten of the common myths associated with risk management in the government marketplace and we have shared numerous proven best practices to identify, evaluate, and mitigate risks throughout the contract management life cycle using a comprehensive approach that addresses the 4 Ps to success.

In the following two articles in this series, we will provide a much more detailed discussion of the opportunity and risk management process and the types or categories of risk your organization may encounter when managing complex government contracts and projects. Plus, we will provide numerous detailed and specific processes, tools, and techniques to address the contractual, financial, schedule, technical, and legal aspects of opportunity and risk management in the buying and selling of professional services in the federal marketplace. **CM**

ABOUT THE AUTHOR

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Send comments about this article to cm@ncmahq.org. To discuss this article with your peers online, go to www.ncmahq.org/cm1009/Garrett and click on "Join Discussion."

This article is a modified extract from the new book *Risk Management for Complex U.S. Government Contracts and Projects* by Gregory A. Garrett (NCMA, 2009). See page 81 to learn more.

Transforming the VA's workforce and processes to deliver excellent services and products to America's Veterans.

Department of Veterans Affairs
Office of Acquisition and Logistics

Our Nation's heroes deserve the best of our brightest.

The Department of Veterans Affairs has established the **Center for Acquisition Innovation** (CAI) to focus on the delivery of acquisition support to VA operations servicing our nation's Veterans.

The CAI is supporting VA's most challenging acquisitions through improving operations, creating innovative solutions and building on best practices. Our acquisition professionals are gaining outstanding experience, expanding VA's capabilities, and making a difference meeting mission critical goals.

The **VA Acquisition Academy** is dedicated to developing professionals who are trusted business advisors capable of providing innovative acquisition solutions that serve the Veteran.

Through our professional schools—The Acquisition Internship School, The Contracting Professional School, The Program Management School, and The Acquisition Corps Development School—we take a holistic approach to optimize the performance of the entire acquisition team.

The **National Acquisition Center** is the largest combined contracting activity within the VA, supporting the health care requirements of Federal Government agencies.

The Center solicits, awards and administers VA's Federal Supply Schedule and National Contract Programs including the acquisition and direct delivery of pharmaceuticals, medical/surgical/dental supplies, high technology medical equipment and just-in-time distribution programs.

With over 1,850+ contracts, the NAC's programs realize annual sales of over $14 billion.

The Department of Veterans Affairs has established the **Technology Acquisition Center** (TAC) in Eatontown, NJ. This new Center is dedicated to providing acquisition and program management expertise.

The TAC supports life cycle management of enterprise-wide solutions in information and technology for the VA's Office of Information and Technology (OIT).

The TAC is staffed with highly experienced acquisition and program management professionals who can provide procurement vehicles to ensure mission success.

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For currently available positions, visit **www.USAjobs.gov** and select "Deputy Secretary for Acquisition & Logistics" under Department of Veterans Affairs in "Agency Search"

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