

Transcription

Announcer:

The "Behind the Buy" podcast features audio stories told by members of the Federal acquisition workforce who have successfully executed best practice IT contracting strategies from the TechFAR and Digital Services Playbook to help their agency meet its mission.

Anne:

Hello, I'm Anne Rung- Administrator of the Office of Federal Procurement Policy. Today for the Administration's Behind the Buy audio series, we'll hear from a rare talent- someone who has both a legal and technical background talk to us about structuring budgets and contracts to support delivery. Dave "Zven-itch" is the Director of Acquisition Management for 18F Consulting – an office within GSA that helps agencies think thru complex IT services and procurements. He was formerly the General Counsel to the Council of the District of Columbia and is an accomplished "full-stack developer" known for legal hacking inside and outside of the Government. Welcome to today's podcast, Dave.

Anne (Warm-Up Questions):

How did you get involved in software developing and law?

What are your responsibilities as a full-stack developer?

What is "legal hacking?"

What brought you to 18F Consulting?

Anne:

In cases where we use third parties to help build a service, a well-defined contract can facilitate good development practices like conducting a research and prototyping phase, refining product requirements as the service is built, evaluating open source alternatives, ensuring frequent delivery milestones, and allowing the flexibility to purchase cloud computing resources.

How do we improve our chances of success when contracting out development work?

Dave:

- The first thing is to realize is that procurement, including procurement of software development, is all about managing risk. To mitigate risk in software development, some of the strategies that work well especially well are (1) use Agile, (2) use incremental and modular contracting, (3) use open source, and (4) where appropriate, prototype before going to market.

Anne:

How can the TechFAR handbook benefit an agency's general counsel?

Dave:

- The main thing, and it's not just got agency counsel, is that a recognition that the FAR allows agile development. It's permission to do things the right way.

Anne:

In what ways can the contracting shop make their general counsels' jobs easier?

Dave:

- This is really a two-way street. The truth is that we need to break the stovepipes/silos between program offices, contracting offices, and legal offices. So much is lost when teams don't sit together in the same room. Getting everyone together, talking through their needs in a structured way, and focusing on the *vision* is so important.

Anne:

What type of discovery is needed when budgeting for agile contracts?

Dave:

- This is a hard question to answer. Because agile--or at least the way we approach agile--is an exercise in humility. We know that we don't know everything. We know that we'll have a better understanding of what we'll need as we get further down the process. We know that requirements may change, and that's ok. So, discovery should be a constant part of the agile contract--not just finished once the award is made.

Anne:

How can contracting officers ensure that they adequately define requirements without prescribing solutions?

Dave:

- Great question. This is the most important part of agile procurement. We often describe this as "buying capacity" or "buying methodology" instead of "buying solutions." In a sense, waterfall is more prescriptive of solutions, because it assumes what users will need, rather than learning from users about what they actually need.
- There's actually a great acronym used in the development world for this problem: "YAGNI." It stands for "You Ain't Gonna Need It," and it refers to premature optimization. By setting constraints around the vision, and the scope, and the amount of resources, you can avoid YAGNI by using Agile.

Anne:

What flexibilities should be built into an agile IT contract?

Dave:

- I actually struggle with this, because I think we lack good data around what works best in agile procurements. I'm optimistic that we will learn a lot from the Agile BPA in terms of how to best structure agile contracts. My hypothesis is that flexibility in terms of "solution space" is good, but flexibility in terms of responsibility/accountability is bad. An Agile contract should clearly define what the vendor is responsible for, what the government is responsible for, and let the respective individuals do what they do best. And core to all of it, the one inflexible rule should be that the process is in service to the users, not the vendor or the contracting office.

Anne:

What are some effective strategies for holding vendors accountable?

Dave:

- Transparency and communication. The truth is that the government has not been an especially good buyer in the digital services space. We fail to communicate what we want, sometimes because we don't really know what we want. In my mind, the best way to hold a vendor accountable is to set a very clear vision for what we want, establish clear milestones and tasks, and prioritize working software. In both directions then, from the government and from the vendor, transparency and communication are key.

Anne:

How important are CORs in this process?

Dave:

- Critical. The COR is the eyes and ears for the CO and the vendor. They need to be involved and understand the process and needs thoroughly. They don't necessarily need to be an expert, but they need to have a solid understanding of how to run an agile procurement, and have a clear sense of vision.

Anne:

What is your perspective on open source solutions?

Dave:

- At the outset, make no mistake: 18F is an open source shop. There are many reasons to use open source, a lot of which have no bearing on procurement. But it turns out that open source is fantastic for procurement professionals. It avoids vendor lock-in, it can lower the costs, it can provide internal and external transparency around the vendors' deliverables. It can even avoid procurements, if there's an open source solution that is already available.

Anne:

Can you touch on the issue of software and data ownership?

Dave:

- Of course. Under the federal copyright law, the US government cannot claim copyright in software code or data generated by public employees. It is considered part of the "public domain." This means that other people can take the work that the government has used, and use it, adapt it, etc. At 18F, doing open-source work in the public domain has meant that other jurisdictions can use our code and members of the public can contribute to our code. Working in the open and having code in the public been a great thing for 18F and, we think, we'll see even more benefits as we continue.

Anne:

Is there anything we missed that you would also like to cover?

Dave:

- Agile BPA?

Anne:

Thank you Dave for sharing from a legal hacker's perspective. We welcome experience from the entire acquisition workforce because good procurement is bigger than just the contracting shop- it is inclusive of the experiences and stories from the General Counsel, technologists and other key personnel. We want to hear and share your story to increase awareness and adoption of best practices. Share your experiences and learn from your peers by visiting [buyers club dot idea scale dot com](http://buyersclub.com) and clicking "TechFAR Hub Use Cases." Access curated expertise, prices paid data, and contract vehicles for categorized goods and services by visiting the Acquisition Gateway at [hallways dot cap dot gsa dot gov](http://hallways.cap.gsa.gov).

As always, thanks for tuning in.

Listen for us next time, where we'll continue to take you Behind the Buy.