

SYM-AM-18-067



**PROCEEDINGS
OF THE
FIFTEENTH ANNUAL
ACQUISITION RESEARCH
SYMPOSIUM**

**WEDNESDAY SESSIONS
VOLUME I**

**Acquisition Research:
Creating Synergy for Informed Change**

May 9–10, 2018

Published April 30, 2018

Approved for public release; distribution is unlimited.

Prepared for the Naval Postgraduate School, Monterey, CA 93943.



ACQUISITION RESEARCH PROGRAM
GRADUATE SCHOOL OF BUSINESS & PUBLIC POLICY
NAVAL POSTGRADUATE SCHOOL

Analysis of Procurement Ethics in the Workplace¹

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Introduction

In 2017, the DoD obligated more than \$330 billion in contracts for mission-critical supplies and services. This includes the planning, awarding and administering of more than three million contract actions (USA Spending, 2018). DoD contracting officers play a critical role in the contracting process. Contracting officers are the only individuals authorized to award and administer contracts and make related determinations and findings (FAR, 2018). Additionally, contracting officers serve as the primary focal point for contractual issues, managing horizontal interfaces with external organizations, as well as vertical interfaces with internal organization (Rendon & Wilkinson, 2016). This role places contracting officers, in comparison to other members of the DoD workforce, in a challenging position from the perspective of ensuring contracts comply with laws, codes, and regulations. The DoD has established ethical codes of conduct to be observed by every member of the defense workforce. Additionally, the National Contract Management Association (NCMA) has also established a code of ethics for the members of the contract management profession. However, not everyone in the DoD, including senior government officials, or members of the acquisition workforce, may be aware, knowledgeable, or even in compliance with established ethical standards of conduct (Rendon & Rendon, 2015, 2016; Whitely et al., 2017). Thus, contracting officers face additional ethical challenges in ensuring contract management processes are performed in an ethical manner, compared to other members of the DoD workforce. The purpose of this research was to explore ethics and compliance strengths and challenges in the contract management workforce (Rendon & Wilkinson, 2016, pp. 49–50).

Research Approach

The research was supported by the Ethics Research Center (ERC) and used their National Business Ethics survey. The ERC collaborated with the National Contract Management Association (NCMA) to survey the NCMA membership on their current ethics environment and to identify possible ethics risks and challenges. The NCMA membership, which includes buyers and sellers from government and industry, represents the contract

¹ Author's Note: This proceedings paper contains excerpts from Rendon, R. G., & Wilkinson, J. W. (2016, July). Ethics in the workplace: A comparison between the contract management and general business workforces. *Contract Management*, 56(7), 49–58.



management workforce in this comparison. The survey results were then compared to ERC's National Business Ethics Survey (NBES) database of past survey results from the general business workforce. The survey is a voluntary, anonymous, online survey that was deployed to approximately 18,000 NCMA members representing buyers and sellers. Of the eligible survey participants invited to take the survey, 897 responded, resulting in a response rate of 4.9%. The sampling error of the findings is +/- 3.2% at the 95% confidence level. The purpose of this paper is to present the results of the survey and the implications of these results on the DoD contracting workforce (Rendon & Wilkinson, 2016, pp. 49–50).

Research Findings

The survey items focused on four measurable outcomes related to ethics and compliance:

1. Pressure to violate the law
2. Observe misconduct
3. Reported the observed misconduct
4. Experienced retaliation for reporting the misconduct

The survey also included items related to the ethical culture of their organizations (from the perspective of top management, supervisors, and coworkers), strengths of the ethical culture of their organizations, and organizational independence.

As reflected in Figure 1, the survey findings reveal that the contract management workforce, as represented by the responding NCMA membership, felt pressure to violate the law, observed ethical misconduct, and reported the observed misconduct at a higher rate than the general business population (Rendon & Wilkinson, 2016, pp. 50–54). Specifically, the findings indicate the following:

- 23% of the CM workforce respondents experienced pressure to compromise ethical standards or violate the law compared to 9% in the NBES. The greatest sources of pressure included meeting deadlines, satisfying performance goals, interpreting requirements loosely, and allowing vaguely worded contracts. The sources of pressure were reported by more than 40% of the CM workforce respondents.
- 45% of CM workforce respondents observed misconduct compared to 37% in the NBES. The five most-observed procurement-related types of misconduct included improper contract awards (28%), improper use of single source awards (13%), misuse of contract change orders (12%), contract violations (11%), and improper provision of personal services (11%).
- 77% of CM workforce respondents reported the misconduct that they observed compared to 63% in the NBES, and 84% of the survey respondents felt prepared to handle potential misconduct.
- 14% of the CM workforce respondents experienced retaliation compared to 21% in the NBES, and 75% of those respondents reported that retaliatory behavior to their organization's attention.

As reflected in Figure 2, the survey findings reveal that the buyers and sellers differed in their responses to the survey questions (Rendon & Wilkinson, 2016, pp. 50–54). Specifically, the findings indicate the following:

- 30% of buyers felt pressure to violate the law compared to 19% of sellers.
- 55% of buyers observed misconduct compared to 40% of sellers.



- 74% of buyers reported the observed misconduct compared to 82% of sellers.
- 18% of buyers experienced retaliation for reporting the observed misconduct compared to 11% of sellers.

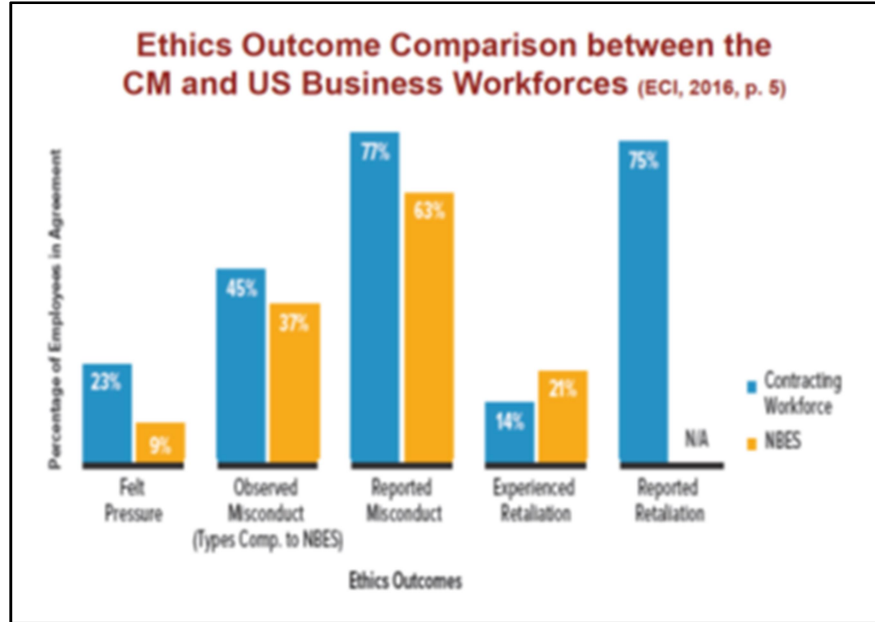


Figure 1. Ethics Outcome Comparison Between the CM and U.S. Business Workforces
(ECI, 2016, p. 5)

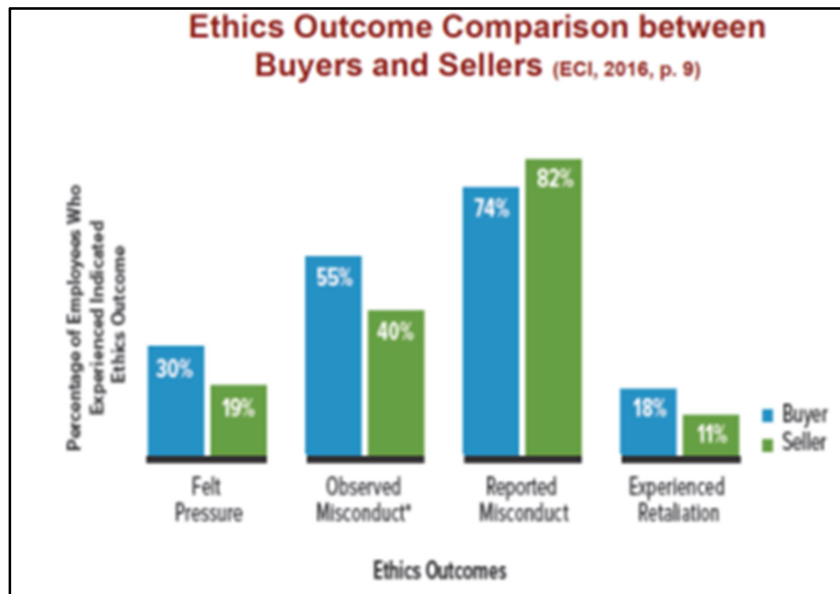


Figure 2. Ethics Outcome Comparison Between Buyers and Sellers
(ECI, 2016, p. 9)

As reflected in Figure 3, the survey findings reveal that the contract management workforce, as represented by the responding NCMA membership, had differing views of

their top management, supervisors, and co-workers ethics culture (Rendon & Wilkinson, 2016, pp. 50–54). Specifically, the findings indicate the following:

- 53% of CM workforce respondents feel that the ethics culture among their top managers is strong/strong-leaning compared to 69% in the NBES.
- 63% of CM workforce survey respondents feel that the ethics culture among their supervisors is strong/strong-leaning compared to 68% in the NBES.
- 72% of the CM workforce respondents feel that the ethics culture among their co-workers is strong/strong-leaning compared to 65% in the NBES.

As reflected in Figure 4, the survey findings reveal that the buyers and sellers differed in their responses to the survey questions related to ethics culture (Rendon & Wilkinson, 2016, pp. 50–54). Specifically, the findings indicate the following:

- 58% of the sellers feel that top management ethics culture is strong/strong-leaning compared to 46% of the buyers.
- 66% of sellers feel that the supervisor ethics culture is strong/strong-leaning compared to 60% of buyers.
- 75% of sellers feel that the co-worker ethics culture is strong/strong-leaning compared to 72% of the buyers.

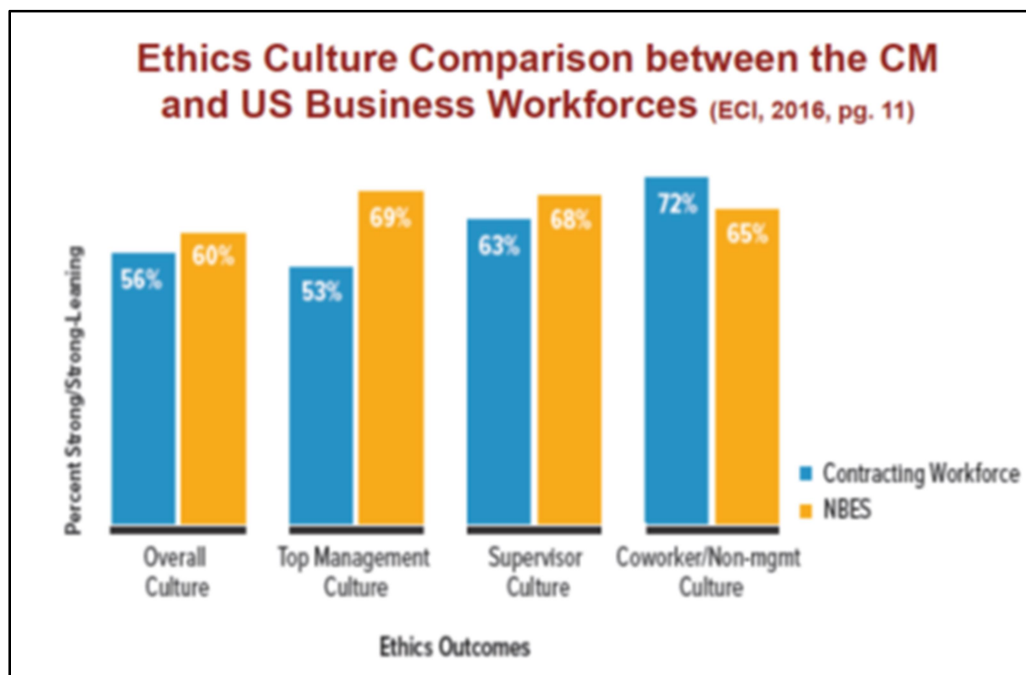


Figure 3. Ethics Culture Comparison Between the CM and U.S. Business Workforces
(ECI, 2016, p. 11)



Figure 4. Ethics Culture Comparison Between Buyers and Sellers
(ECI, 2016, p. 14)

Discussion

The survey findings reveal that the contract management workforce felt pressure to violate the law, observed ethical misconduct, and reported the observed misconduct at a higher rate than the general business population. These findings are supported by the previous discussion of the contracting officers' position in the organization. Contract managers are positioned at a pivotal point, interfacing with both internal and external organizations on all contractual matters, giving them a unique vantage point for identifying any ethical violations or procurement fraud "red flags" compared to the general business population. Additionally, since the contract management workforce receives extensive training on procurement integrity and ethical rules, they have a heightened awareness of these ethical requirements and an increased sensitivity to violations in the workplace. The lower percentage of retaliation experienced by the contracting workforce, when reporting misconduct, compared to the general business workforce is also interesting. This finding may indicate that members of the contract management workforce have a stronger commitment to procurement integrity and have a higher level of credibility in the eyes of the senior government officials (Rendon & Wilkinson, 2016, pp. 54–56).

The comparison of these survey results between buyers and sellers is most interesting. The percentage of buyers experiencing the four main ethics outcomes targeted by this survey was higher compared to the sellers. Only the percentage of buyers reporting the observed unethical conduct was lower compared to sellers. One area of further research would be to explore what percentage of buyers in the survey work for government agencies compared to buyers working for industry. A difference in the ethics culture between the contract management workforce in the government and the non-contract-management workforce in the government may be resulting in increased instances of pressure, observed ethical misconduct, and experienced retaliation. Another area of further research would be to explore the extent that the government contract management workforce receives extensive training on procurement integrity and ethical rules as opposed to the non-contract-

management workforce within the government. This may lead to determining if only the government contract management workforce has the heightened awareness of these ethical requirements and the increased sensitivity to violations in the workplace. After all, it is the government contracting officer who signs the contract and who is responsible for ensuring the contract management process is conducted in accordance with procurement statutes and regulations. While other members of the acquisition workforce have the same goal to achieve the expected contract performance, they are typically measured by different metrics and may not necessarily share the concerns of the contracting officer (Rendon & Wilkinson, 2016, pp. 54–56).

It is also interesting to note that the survey findings reveal that a lower percentage of the contract management workforce, compared to the general business population, perceives that the ethical culture of top management and supervisors are “strong/strong-leaning.” Yet, a greater percentage of the contract management workforce perceives its co-workers as having a “strong/strong-leaning” ethical culture. Once again, this may be because the members of the contract management workforce perceive themselves as having a stronger commitment to procurement integrity and having a higher level of credibility among their contract management peers (Rendon & Wilkinson, 2016, pp. 54–56).

It is also noteworthy that the strength of the top management, supervisor, and coworker ethical cultures are consistently higher among sellers than among buyers. However, the survey results do not indicate whether the top management and supervisors are within the contracting authority chain of command or within the organizational chain of command. Within the government, many members of the contract management workforce report to more than one supervisor and top manager, some within the contracting chain of authority (e.g., the procuring contracting officer, the level above the procuring contracting officer, the chief of the contracting office, the director of contracting, etc.) as well as within the organizational chain of command (e.g., the project manager, program manager, program executive officer, etc.). Once again, these questions (i.e., what is the percentage of buyers that work for the government and what is the percentage of top managers and supervisors that are part of the contracting chain or the organizational chain) deserve additional investigation to further explore this area (Rendon & Wilkinson, 2016, pp. 54–56).

Conclusion

Contract managers, because of their position in the organization, face additional ethical challenges than many other employees in any given organization. The ERC and NCMA survey of the NCMA membership on their current ethics environment identified possible ethics risks and challenges. The survey findings revealed that the majority of the surveyed contract management workforce did feel pressure to violate the law, did observe ethical misconduct, and reported the observed misconduct at a higher rate than the general business population. The survey also showed that the contract management workforce perceives that the ethical culture of top management and supervisors as “strong/strong-leaning” at a lower rate than the general business population. The implications of the survey findings point to the importance of the DoD workforce (both contracting and non-contracting) being trained in ethics rules and compliance requirements; the importance of contract management processes that are mature, aligned, and supportive of ethics rules and compliance requirements; and the importance of internal controls that are effective in ensuring that the personnel comply with the required contract management processes (Rendon, 2015; Rendon & Wilkinson, 2016, p. 58).



References

- Ethics & Compliance Initiative. (2016). *National business ethics survey of the contracting workforce*. Arlington, VA: *Ethics Research Center*. (To view the complete report, visit the NCMA website—<https://www.ncmahq.org>.)
- Federal Acquisition Regulation (FAR), 48 C.F.R. ch. 1 (2018).
- Rendon, J. M., & Rendon, R. G. (2016). Procurement fraud in the U.S. Department of Defense: Implications for contracting processes and internal controls. *Managerial Auditing Journal*, 31(6/7), 748–767.
- Rendon, R. G. (2015). Benchmarking contract management process maturity: A case study of the U.S. Navy. *Benchmarking: An International Journal*, 22(7), 1481–1508.
- Rendon, R. G., & Rendon, J. M. (2015). Auditability in public procurement: An analysis of internal controls and fraud vulnerability. *International Journal of Procurement Management*, 8(6), 710–730.
- Rendon, R. G., & Wilkinson, J. W. (2016, July). Ethics in the workplace: A comparison between the contract management and general business workforces. *Contract Management*, 56(7), 49–58.
- USA Spending. (2013). Retrieved from <http://www.usaspending.gov/>
- Whiteley, J. T., Foster, J. A., & Johnson, K. A. (2017). *Contracting for Navy husbanding services: An analysis of the Fat Leonard case*. Monterey, CA: Naval Postgraduate School.





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