



# ***NPS Annual Research Symposium***

***Topic: Why Didn't the DOD Defend Their FDO's?***

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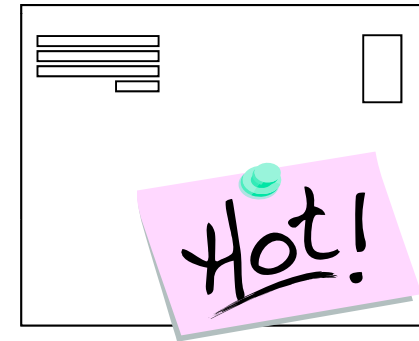
***11 May 2011***



## *Why Kill Award Fee?*

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- **GAO Report, Defense Acquisitions, Dec 2005**
  - Recommended reform of current incentive practices
  - Recommended fee tied to acquisition outcomes
- **USD (AT&L) and SAF Policy Letters, Mar-Apr 2006**
  - Linked fees to performance outcomes
  - Rollover to be used only on an exception basis
- **DPAP Policy dated 24 Apr 2007**
- **SAF/AQ Policy 15 Jun 2007**
- **Report commissioned by Congress in 2008**  
to Review impact of DoD policy changes
- **AT&L Policy Initiative – Jun 2010**





# *Why Kill Award Fee?*

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- **Recommendations of Audit Report**
  - **Instructed the military services to move to Outcome based award fee criteria – achievable & promote accountability for acquisition outcomes**
  - **Ensure that award fee structures are motivating excellent performance - only pay for above satisfactory performance**
  - **Require appropriate approving officials to approve new contracts to make sure that these actions are taken**
  - **Issue Guidance on the use of Rollover**
  - **Develop mechanism for capturing award & incentive data within existing data systems**
  - **Develop performance metrics to evaluate the effectiveness**
  - **Develop mechanism to share best practices for acquisition strategies**



## *Why Kill Award Fee?*

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- **What was the fundamental problem with award & incentive fees?**
  - **Contractors were receiving high (90%+) award fees on programs perceived by Congress as unsuccessful**
    - **Disconnect in definition of what constitutes success**
      - **Congress focuses on Cost & Schedule**
        - Major programs over cost & behind schedule
      - **Fee Determining Officials focus on Mission Success**
        - Technical performance & Mission assurance to warfighter is criteria for success
  - **Different paradigm results in different success criteria and resultant rating**



## *Why Kill Award Fee?*

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- What were the Weaknesses in DOD's Use of Award & Incentive Fees according to the GAO?
  - The Report Said that the DOD Focuses on contractor performance
    - Pays most of AF for “improved Ktr performance”
      - Regardless of whether outcomes fell short of, met or exceeded expectations
    - Gives Ktr multiple chances to earn fees that they failed to earn in previous periods
    - Pays Ktr AF for satisfactory performance
      - “Even though acquisition regulations and guidance intend for such fees to be used to motivate excellent performance”



## *Why Kill Award Fee?*

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- **What were the Weaknesses in DOD's Use of Award & Incentive Fees according to the GAO?**
  - **Does Not Focus on Acquisition Outcomes**
    - **DOD does not effectively link AF criteria to acquisition outcomes**
      - **DOD pays Ktr's AF even if acquisition outcome falls short of DOD's expectations**
      - **DOD Programs have suffered**
        - **Cost Increases**
        - **Schedule Delays**
        - **Technical shortcomings to warfighter**
        - **Still Paid Billions in Award Fees**



## *Why Kill Award Fee?*

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- Rollover
  - Process of moving unearned AF from one evaluation period to a subsequent evaluation period
  - Guidance from Services said to use Rollover on an exception basis
  - GAO estimated that 52% of DOD AF contracts used Rollover
- Report also critical of fee for satisfactory performance
  - *Important to distinguish between CPAF and other contract types with Award Fee as an add-on - REPORT DID NOT DIFFERENTIATE* (Indicator that perhaps the GAO did not understand award fee use)



## *Why Kill Award Fee?*

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- **GAO Conclusion**
  - **DOD has little evidence that monetary incentives improve results as intended**
  - **Recognized disconnect between DOD Senior Acquisition Leadership and DOD contracting and program management officials**
  - **“Awarding large amounts of fee for satisfactory or lesser performance and offering contractors multiple chances to earn previously withheld fees has fostered an environment in which DOD expects to pay and contractors expect to receive most of the available award fee regardless of outcomes.”**





## *Why Kill Award Fee?*

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- **What Happened Next?**
  - **Did DOD contest the findings of the Report?**
  - **Were the obvious inadequacies responded to?**
  - **Did DOD Leadership provide support to the FDO's determinations?**
- **DOD responded by accepting most of the Findings**
  - **Concurring with three of the seven Findings**
  - **Partially concurring with four of the seven Findings**
  - **Agreed to conduct a study and issue policy based upon the results of that study**



## *Why Kill Award Fee?*

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- DOD has issued several policy letters over the past few years with regard to the use of Award Fee contracts
  - Several emphasized that “objective” criteria should be used in award fee plans
    - This policy was confusing due to the fact that the FAR has always stated that there should be a preference for objective incentive criteria not subjective ones
  - Gradual shift to a policy today that effectively prohibits the use of CPAF contract types.
  - Other use of Award Fees considered on a case by case basis
    - FPIF/AF,CPIF/AF etc.



## *Why Kill Award Fee?*

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- **What's the Big Deal?**
  - **Who Cares if we eliminate CPAF contract types?**
  - **First, and most importantly this Report cast aspersions upon Fee Determining Officials throughout the DOD**
  - **Senior Officials within the DOD appeared to accept the allegation that FDO's were either incompetent or corrupt in their evaluations of contractor performance**
  - **How else to explain the awarding of fee to contractors who had failed to perform the work under their contract**
  - **Contractors being rewarded for ineffective performance is not what the taxpayers expect from the government**



## *Why Kill Award Fee?*

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- **Is there an alternate explanation for the data gathered by the GAO?**
  - **Major Programs seem to be failing, yet fees are awarded that seem to be recognizing excellent performance**
  - **The paradigm seems to be incompetent Officials rewarding their cronies in Industry**
  - **Perhaps this is not the case**
    - **The difference is clearly in the definition of success**
    - **GAO emphasized Cost & Schedule**
    - **Program Managers emphasize technical performance & mission success**



## *Why Kill Award Fee?*

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- **Is there an alternate explanation for the data gathered by the GAO?**
  - **Initial over-promising during competitions resulted in contracts that had overly optimistic cost and schedule goals for highly technical systems**
  - **Development contracts carry substantial risk**
    - **That is the reason for the use of Cost Type contracts**
    - **Pushing the envelop in the development of next-generation systems carries inherent risk**
    - **Working through that risk is responsible for some of the higher ratings under development award fee contracts**
    - **FDO's recognize and reward contractors for dealing with that risk**



## *Why Kill Award Fee?*

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- **Other considerations**
  - **Fundamental flaw with the Award Fee process is to ask individuals to assess the performance of a program that is so closely tied to their own performance**
  - **Failure of a program may appear to be failure of the government's program manager**
  - **Inherently unfair to ask an individual to evaluate themselves**
  - **DOD has become a one-failure reality and promotions only go to those who are "successful"**
    - **Negative information not well-received**
  - **Having a stake in the game makes it difficult to avoid a bias**
  - **Even those with the integrity to be objective have subtle pressures to appear successful– "the conspiracy of hope"**
  - **Only when program appears totally unsuccessful is fee eliminated**



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- **Other considerations**
  - **There is a reason that PM's and Contracting Officers believe that Award Fee contracts are effective in ensuring communication and responsiveness**
  - **If FDO's could not justify their decisions, then they should be better trained or removed from their positions**
  - **The award fee contract is effective if properly implemented**
    - **Criteria need to be outcome based**
    - **Administration of all types of contracts requires effective communication to be successful**



## *Why Kill Award Fee?*

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- **Bottom Line**
  - **Award Fees out of favor**
  - **Impact to Services ability to develop systems minimal due to lack of new program starts in budget environment**
    - **Programs started in 90's now in production phase**
      - **Minimal use of CPAF contract arrangements**
  - **Focus now on “efficiencies” translates into cost savings**
  - **Fixed Price contracts to control costs have been attempted in the past with limited success**
  - **Damage to Services credibility as Centers of Excellence for acquisition severely damaged**
  - **DOD leadership rolled over on the GAO report and did not properly defend their FDO's decisions**





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# QUESTIONS?



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*Integrity - Service - Excellence*