Department of Veterans Affairs
DEPUTY ASSISTANT SECRETARY FOR ACQUISITION AND MATERIEL MANAGEMENT
WASHINGTON DC 20420

IL 049-06-7
August 31, 2006

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT INFORMATION LETTER

TO: Under Secretaries for Health, Benefits, and Memorial Affairs; Assistant Secretary for Management; Chief Facilities Management Officer, Office of Facilities Management; Veterans Integrated Service Network Directors; Directors, VA Medical Center Activities, Domiciliaries, Outpatient Clinics, Medical and Regional Office Centers, and Regional Offices; Directors, Denver Distribution Center, Austin Automation Center, Records Management Center, VBA Benefits Delivery Centers, and VA Health Administration Center; and the Executive Director and Chief Operating Officer, VA National Acquisition Center

ATTN: Heads of the Contracting Activity, VA Contracting Officers, and VA Contracting Officer's Technical Representatives

SUBJ: Performance-Based Acquisition

1. This Information Letter (IL) provides guidance on utilizing Performance-Based Acquisition (PBA) methods as the preferred manner to acquire eligible service contracts, as outlined in Public Law 106-398, section 821 and Federal Acquisition Regulation (FAR) Subpart 37.102(a). On January 3, 2006, Federal Acquisition Circular (FAC) 2005-07 changed the terms "Performance-Based Contracting" and "Performance-Based Service Contracting (PBSA)" as used in the FAR to PBA. Although the terminology has changed, the concept remains the same. As set forth in FAR subpart 2.101, PBA means an acquisition structured around the results to be achieved as opposed to the manner by which the work is to be performed. Simply put, PBA is a method for acquiring *what is required* and placing the responsibility for *how it is accomplished* on the contractor.

2. While not all acquisitions for services can be conducted in a performance-based manner, the vast majority can. As specified in Attachment 1, the Office of Management and Budget's (OMB) Office of Federal Procurement Policy (OFPP) requires that 40 percent of eligible service dollars for actions over $25,000 be performance-based. Accordingly, VA shall use PBA strategies to the maximum extent practicable, except for the exclusion of architect-engineer services acquired under 40 U.S.C. 541-544, construction, utility services, and services that are incidental to supply purchases. Research and development, professional medical services, tuition, registration, and membership fees have also been excluded by OFPP from the list of eligible contracts used to determine how many PBA actions agencies are awarding. If more than 50 percent of the requirement in a hybrid procurement action is performance-based, as measured in dollars, the service action may be coded as a PBA in the Federal Procurement Data System (FPDS).

Accurate coding in FPDS is important since VA has not achieved the 40 percent annual goal. Furthermore, as specified in Attachment 1, OFPP has requested a department-wide PBA management plan for FY 2007 – 2011. This plan is due to OFPP on October 1, 2006. Please make every effort to report PBA acquisitions in FPDS.

3. PBA includes the following basic elements:

a. Performance requirements that define the work in measurable mission-related terms;

b. Performance standards that are measurable and tied to the performance requirement;

c. A government quality assurance plan, also referred to as a quality assurance surveillance plan (QASP), that describes how the contractor's performance will be measured against the performance standard.

d. Procedures for applying contract price or fee decrements when performance does not meet the stated standards; and

e. When appropriate, performance incentives to further encourage innovation and exceptional results.

4. OFPP's "Seven Steps to Performance-Based Service Acquisition Guide" is available at the following web site: http://acquisition.gov/ This guide includes sample documents for each of the seven steps. A brief synopsis of the Seven Steps is provided below.

STEP 1: Establish the Team. Tap the necessary expertise in a multi-disciplinary team from contracting, program, quality assurance, financial, customer/user, and legal offices. Contracting officers should take the lead in encouraging business process innovations and ensuring that business decisions are sound.

STEP 2: Describe the Problem. What is the specific problem that needs to be solved? What are the results needed? State desired outcomes and constraints.

STEP 3: Examine Private-Sector & Public-Sector Solutions. Conduct meaningful market research to understand the best commercial solutions available.

STEP 4: Develop Performance Work Statement (PWS) or Statement of Objectives (SOO) Please refer to Attachment 2 for more information about this step.

STEP 5: Decide How to Measure & Manage Performance. Define the level of service required to meet mission objectives and the commercial quality standards that will be utilized to assess contractor performance. Consider the inclusion of incentives and remedies to motivate contractors to achieve optimal levels of performance.

STEP 6: Select the Right Contractor. Evaluate offerors' proposed solution and performance measurements. Emphasize past performance in evaluation.

STEP 7: Manage Performance. Monitor and measure the contractor's performance through a QASP to ensure desired objectives are met. Refer to Attachment 3 for more information on the QASP.

In addition to the OFPP guide, there is a PBA acquisition community connection (ACC) web site at the following address: https://acc.dau.mil/pba It is anticipated that more sample documents will be posted to the PBA ACC web site soon.

5. Giving contractors the flexibility to use innovative methods to achieve specified performance outcomes can lead to significant gains in contract quality, contractor responsiveness, and customer satisfaction. In addition, utilizing PBA methods allows VA to gain greater access to technological innovations, maximize competition from commercial suppliers, and obtain the best value to achieve greater cost savings and operational efficiencies.

6. Please direct any questions concerning this IL to Barbara Latvanas, Acquisition Policy Division, at (202) 273-7808.

C. Ford Heard
Director
Acquisition Resources Service

Attachments: 3

Distribution: RPC 7029

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ATTACHMENT 1

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL PROCUREMENT POLICY

July 21, 2006

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES

FROM: Robert A. Burton
Associate Administrator

SUBJECT: Use of Performance-Based Acquisitions

The purpose of this memorandum is to provide an update to our September 7, 2004 memorandum, *Increasing the Use of Performance-Based Service Acquisition,* which is attached for your convenience (Attachment 1), and to request that agencies submit a performance-based acquisition (PBA) management plan by October 1, 2006. The management plan should describe the agency's current and future PBA activities that will result in an annual increase in the number of PBAs. Attachment 2 provides details on the information that should be included in your PBA management plan.

Target Achievement Level

The target achievement level is a performance goal, not a quota, designed to encourage acquisition professionals to use PBA methods to achieve results. In fiscal year (FY) 2005, numerous flexibilities were provided to assist agencies in achieving their PBA targets. As a result, many agencies used PBA methods on over 40 percent of their eligible service contract actions in FY 2005.[1] Accordingly, for the remainder of FY 2006, these agencies should continue to apply PBA methods on 40 percent or more of their eligible service actions over $25,000, including contracts, task orders, modifications, and options awarded, as measured in dollars. As agencies work to achieve their targets, the focus should be on proper acquisition planning, clear definition of requirements, and effective management of PBAs to achieve results.

[1] Source: Federal Procurement Data System, All Departments Report - generated on July 20, 2006. This is an average percentage for all departments. All agencies validated and confirmed that their FY 2005 data was accurate in February 2006.

PBA Exclusions and Reporting Requirements

PBA exclusions are identified in Federal Acquisition Regulation (FAR) 37.102 and the attached September 7, 2004 memorandum. Additionally, acquisitions of leaseholds for buildings and entitlement payments are also excluded from the list of eligible services. However, agencies are not precluded from using PBA methods, if appropriate.

PBA reports will be reviewed every fiscal year to evaluate government-wide and agency-wide PBA performance levels. Attachment 3 provides additional details on the data elements collected for this report. Agencies should continue to report PBA data into the Federal Procurement Data System (FPDS) at www.fpds.gov, and carefully examine FPDS data to ensure PBAs are properly coded in the system.

Guidance

FAR Part 37, Service Contracting, was recently revised to provide flexibilities to increase the appropriate use of PBA methods. In FY 2005, the Seven Steps to Performance-Based Service Acquisition (PBSA) Guide was updated to include vetted PBA examples and is available at http://www.acquisition.gov/comp/seven_steps/index.html. Agencies are also encouraged to participate in the PBA community of practice on the Acquisition Community Connection website, https://acc.dau.mil/pba. This website facilitates collaboration and knowledge sharing across the federal acquisition workforce and includes PBA policy and guidance, training opportunities, tools and resources, related links, and learning assets.

If you have any questions regarding this memorandum, please contact Julia Wise on (202) 395-7561, or jwise@omb.eop.gov.

Attachments

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL PROCUREMENT POLICY

September 7, 2004

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES

FROM: Robert A. Burton
Associate Administrator

SUBJECT: Increasing the Use of Performance-Based Service Acquisition

In July 2003, the Office of Federal Procurement Policy (OFPP) issued a report, "Performance-Based Service Acquisition: Contracting for the Future," outlining recommendations to improve the quality and increase the use of performance-based service acquisition (PBSA). An interagency task force representing agencies that award a significant dollar amount of service contracts and task orders developed these recommendations. The purpose of this memorandum is to implement several of the task force's suggestions, including new instructions for reporting and querying the Federal Procurement Data System (FPDS). Unless otherwise stated in this memorandum, these changes are effective October 1, 2004.

Target Achievement Levels

Agencies should apply PBSA methods on 40 percent of eligible service actions over $25,000, to include contracts, task orders, modifications, and options, awarded in fiscal year (FY) 2005, as measured in dollars. OFPP, in consultation with the Chief Acquisition Officers Council, will re-evaluate the target achievement levels for future years based on agencies' FY 2005 performance.

Reporting Requirements

Eligible services: The Federal Acquisition Regulation (FAR) encourages use of PBSA to the maximum extent practicable except for the exclusions identified in FAR 37.102 (the product service codes are included for your convenience):

(i) Architect-engineer services acquired in accordance with 40 U.S.C. 541-544 (see Part 36) - C***;
(ii) Construction (see Part 36) - Y***;
(iii) Utility services (see Part 41) - S1**; or
(iv) Services that are incidental to supply purchases.

Additionally, other types of services may not lend themselves to outcome-oriented requirements. For reporting purposes only, the following service areas will be excluded from the list of eligible service contracts used to determine how many PBSA actions agencies are awarding. However, agencies are not precluded from using PBSA when contracting for these types of services if a performance-based approach best meets the government's needs.

- Research and development (R&D) to include Basic Research, Applied Research, Advanced Technology Development, Demonstration and Validation, and Engineering and Manufacturing Development - A**1 through A**5
- Professional Medical Services (not facility-related) - Q501 through Q527
- Tuition, Registration & Membership Fees - U005

This change should not require a modification to agency reporting systems, but will be used to query FPDS to assess agency use of PBSA. The FPDS instructions will be revised to incorporate these exclusions.

Percentage of the requirement: If more than 50 percent of the requirement is performance-based, as measured in dollars, the service action may be coded as a PBSA. With the increase in multi-purpose and hybrid service actions, agencies are encouraged to apply PBSA methods to more of their eligible service actions and should be recognized for these efforts. The FPDS instructions will be changed accordingly. As PBSA use increases and performance goals improve, this percentage may change.

Additional reporting guidance: OFPP uses the FPDS to assess agency PBSA performance. However, some agencies are not required to submit all contract data to FPDS and some PBSA efforts may go unreported. Agencies interested in supplementing their FPDS information may report additional PBSA data directly to OFPP. These supplemental reports will assist OFPP in accurately assessing all agency efforts to achieve PBSA performance goals. The first report, which will reflect FY 2005 activity and is due January 31, 2006, shall include the total dollars obligated in the following categories:

1) PBSAs funded by the agency but awarded by another agency;
2) PBSAs awarded by the agency but funded by another agency;
3) PBSAs awarded by and funded by the agency; and
4) all eligible service acquisitions awarded by the agency.

Agencies are encouraged to consider using FPDS as a supplemental reporting tool for contracts that are not required to be reported. Please visit https://www.fpds.gov for more information.

Recognizing the Use of PBSA

Agencies are encouraged to recognize employees and teams that successfully develop and implement PBSAs. To promote the use of PBSA techniques on eligible service actions, the General Services Administration (GSA) established two awards to acknowledge the PBSA efforts of acquisition professionals: 1) the GSA Excellence in Performance-Based Service

Acquisition Award, and 2) the Government-wide Award for Excellence in Performance-Based Service Acquisition. The awards recognize the PBSA efforts of acquisition professionals, and other agencies may consider using these awards as a model. More information on the awards can be found at www.acqnet.gov.

Guidance

OFPP rescinds its 1998 Guide to Best Practices for Performance-Based Service Contracting. Agencies are encouraged to use the Seven Steps to Performance-Based Service Acquisition Guide, available at www.acqnet.gov, in their development of PBSAs. The guide is updated regularly, by an interagency team led by GSA, to reflect new policies and best practices, and includes samples of PBSAs that have been reviewed and selected by the team.

Additionally, a FAR case was published in the *Federal Register* for public comment on July 21, 2004, to implement the general recommendations of the PBSA interagency task force. A copy of the task force's report can be found at www.whitehouse.gov/omb/procurement/0703pbsat.pdf.

Agency Point of Contact

Agencies are gaining a wealth of PBSA experience and knowledge and OFPP encourages the sharing of this information throughout the acquisition community. To build a strong PBSA subject matter expert network and database of successful PBSA examples, and to facilitate communication regarding PBSA, OFPP requests that agencies identify a knowledgeable and experienced individual as their PBSA point of contact. These individuals may be asked to contribute PBSA examples and best practices to interagency working groups established to promote PBSA or to assist in outreach and awareness efforts. Please submit the person's name, title, telephone number, and e-mail address to Lesley Field in OFPP by November 1, 2004.

Management Plan

OMB is considering asking agencies to submit PBSA management plans outlining the agency's approach to increasing the use of PBSA techniques on eligible service contracts and developing core PBSA skills and experience within the acquisition workforce. Later this fiscal year, OFPP may convene a working group that includes the agency PBSA points of contact to further define the scope and content of this plan.

For further information, please contact Lesley Field at (202) 395-4761 or lfield@omb.eop.gov.

PBA FPDS REPORTING INFORMATION

Agencies should accurately report PBA data into FPDS and only check the PBA field in FPDS if the service action meets the PBA FAR requirements in FAR 37.6. Some of the data elements for the PBA reports are stated below:

1) PBA data is available on a government-wide basis, by department, region, and contracting office.
2) PBA dollars are reported by the contracting office and that office gets the credit for the PBA action.
3) PBA data will be available by
    a) eligible services where PBA is used;
    b) eligible services where PBA is not used;
    c) non-eligible services where PBA is not required but used; and
    d) commercial services where FAR Part 12, Acquisition of Commercial Items, and PBA methods are used.*

    *Non-commercial services treated as commercial items when the conditions in FAR Part 12.102(g)(1) are met and PBA is used are included in (d) above. In accordance with section 1431 of the Service Acquisition Reform Act, agencies are required to collect and maintain reliable data sufficient to identify contracts or tasks orders treated as contracts for commercial items using this authority. FPDS does not currently capture this data separate from the data in (d) above. Until the system is changed, agencies will have to manually identify service actions that use this authority to accurately report on these actions.

4) The PBA report will include an appendix that explains the content.

Questions or issues concerning agency PBA data or reports should be directed to your agency FPDS coordinator.

PBA AGENCY-WIDE MANAGEMENT PLAN OUTLINE (FY 2007 – 2011)

The PBA Agency-wide Management Plan should describe the steps your agency is taking to achieve acquisition results through PBA methods. The outline for the plan was reviewed and agreed upon by the OFPP PBA working group.

The initial plan should be prepared and provided to OFPP by October 1, 2006, and updated every five years, unless an annual update is requested. One of the following individuals must sign the plan: Chief Acquisition Officer (CAO) or the Senior Procurement Executive (SPE).

At a minimum, this top level five-year PBA management plan should include the following elements:

1. Background – Describe agency mission and buying bureaus or units (e.g. the Department of Treasury should submit a Treasury-wide that includes IRS, Mint, etc.).

2. Management Support – Describe the strategy your agency uses to ensure PBA is applied to the maximum extent practicable (e.g. issued policy memorandum requiring a review of new acquisitions and existing non-PBAs to determine if these acquisitions are PBA candidates).

3. Policy and Guidance - Provide a summary of the policy, and guidance issued to encourage the use of PBA, if any. Please provide a website link or copy of the guide.

4. Acquisition Process - Discuss how PBAs are planned, awarded, selected and managed. Also, briefly explain how the roles and responsibilities of individuals involved in the contract administration process are communicated. (e.g. Contracting Officer Representative (COR) letters).

5. Service Categories – Identify service category (PSC and/or NAIC) where PBA methods are primarily used, and discuss the target achievement level for these services. State service category and PSC where PBA methods are not used in your agency. In accordance with section 1431 of the Service Acquisition Reform Act, agencies should report on contracts or tasks orders treated as contracts for commercial items using this authority.

6. FPDS-NG Reporting Requirement – Provide agency PBA results from 2001-2005. Include preliminary data for FY 2006 and state the date the data is retrieved. If the PBA goal was not achieved during any fiscal year, provide a rationale including issues and obstacles to achieving the target achievement level. Also, state projected PBA target achievement level increase over the next five years.

7. Training – Describe how the entire acquisition workforce is trained in the PBA area– include contracting officers, contract specialist, program managers, COR, etc. Also, discuss the type of training (e.g. on-line, classroom training, etc.) and training source (e.g. FAI, DAU, agency or commercial training, etc.).

8. Agency PBA Recognition Program - Describe the agency award program, if available. If your agency does not have an award program, explain how employees are recognized in this area.

9. Agency PBA POC – confirm agency PBA POC by including the name, title, e-mail, and telephone number of the individual.

10. Signature and date – plan should be signed by CAO or SPE, dated and submitted to jwise@omb.eop.gov.

Performance Work Statement (PWS) vs Statement of Objectives (SOO)

As defined in FAR 2.101, a PWS means a statement of work for performance-based acquisitions that describes the required results in clear, specific, and objective terms with measurable outcomes.

The PWS should include the following elements:

1. The purpose, scope, and objectives of the contract;
2. A "job analysis" to identify the tasks that must be performed to accomplish the purpose, scope, and objectives;
3. Specific task statements that describe what the contractor must do;
4. Description of the task environment in sufficient detail for the offeror to determine the levels of expertise, manpower, and other resources needed to accomplish the task;
5. Identification of tangible end results (deliverables) expected from each task and milestones for when each task is expected to begin/end; and
6. Establishment of task-by-task performance requirements so that each task is linked to a performance indicator and standard that is further linked to financial consequences.

As defined in FAR 2.101, a SOO means a government-prepared document incorporated into the solicitation that states the overall performance objectives. It is used in solicitations when the government intends to provide the maximum flexibility to each offeror to propose an innovative approach. The SOO turns the acquisition process around and requires competing contractors to develop the PWS, performance metrics and measurement plan, and quality assurance plan (all of which are evaluated before making award). Offerors use the SOO to develop the PWS; however, the SOO does not become part of the contract. The SOO shall, at a minimum, include the following:

1. Purpose, scope, or mission;
2. Period and place of performance;
3. Background;
4. Performance objectives (i.e., required results); and
5. Any operating constraints.

Quality Assurance Surveillance Plan (QASP)

As specified at FAR 37.604, requirements for quality assurance and quality assurance surveillance plans are in FAR 46.4. The government may either prepare the quality assurance surveillance plan or require the offerors to submit a proposed quality assurance surveillance plan for the government's consideration in development of the government's plan. The QASP specifies the surveillance schedule, methods, and performance measures. The level of surveillance should be commensurate with the complexity of the contract. Remember to inspect outputs, not the process. Applicable industry standards, such as ISO 9000, 9001, and 9002, can form the basis of a QASP.

The following may be used as a sample template for a QASP.

Introduction

Purpose

Describe the purpose of the QA plan and its relationship to the project plan.

Scope

Provide a general description of the areas to be addressed by the QA plan.

Note: the contractor is responsible for ensuring the quality of all work performed. The government's job is surveillance, which is a monitoring function.

Background

Provide a brief general description of the project to provide context for the QA plan.

Quality Checkpoints

Describe in detail the QA processes to be used and when they will be used. For each of the cited checkpoints, provide a high level overview of who will be involved, criteria to be used in evaluation, and who will review/approve the results.

References

Cite any reference material used in developing the plan, such as methodologies, tools, or best practice material.

Roles and Responsibilities

Identify the overall responsibilities of the quality assurance team and the project team as well as their individual responsibilities at the various quality checkpoints.

Required Skills

Identify the knowledge, skills, and experience necessary to perform QA activities.

Methodologies and Standards

Identify the methodologies to be used and standards to be applied to the project and product QA.

Quality Assessments & Reviews

Describe the review processes that will be used to verify quality of project work processes and project work products. Include details on assessments or reviews, when they will be conducted, who will conduct them, scope of review, success criteria, QA reporting formats, and review processes.

Quality Assurance Milestones

Identify the QA deliverables and the timelines associated with those deliverables. For each checkpoint, include information such as checkpoint name, lead QA resource, QA deliverable, and planned start and end dates.

Resource Estimates

Include an estimate of the resources required to perform QA activities, such as number of staff and hours of effort.

Contractor Controls

If using contracted QA resources, include a section that describes the controls and processes in place for monitoring contractors work product and deliverables against agreed to timelines and levels of quality.

Corrective Action

Provide a high level description of planned procedures to track and resolve problems or issues identified in project processes detected in QA reviews. Describe any processes or measures put in place to prevent detection of additional errors or problems in QA activities. Reviewing lessons learned from prior projects may provide a valuable starting point.