



Performance Based Services Acquisition & Performance Based Services Contracts Seminar

Seminar Presenter:

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PBSA / PBSC Seminar Outline

Overview of PBSA / PBSC (Intent, Authorities, Expected Outcomes, & Authorities For Use – How Big is This?)

- PBSA and a resulting PBSC is designed to incentivize performance measures & motivate contractor best practices for improved performance & cost effectiveness

A Government Perspective of PBSA and PBSC

- The 7-Step Process

A More Detailed Look at PBSA/PBSC Considerations

- Common performance-based metrics typically included in PWS or C-PWS
- Pre-contract or pre-award considerations when proposing on an SOO / PWS / C-PWS – getting there
- Common incentive approaches
- Overview of a QASP
- Red flags/common pitfalls with QAPs/QASPs in the pre-award phase
- Relationship building through the QASP & Continuous regular monitoring/feedback

Summary & Discussions

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Overview of PBSA / PBSC(Intent, Authorities, Expected Outcomes, & Authorities For Use – How Big is This?)

- ***PBSA and a resulting PBSC is designed to incentivize performance measures & motivate contractor best practices for improved performance & cost effectiveness***
- We are going to start with an “inside look” at the Government’s execution of this type of acquisition, which provides industry the basis to consider how we approach PBSA/PBSC
 - Understanding the Government’s intent allows us time to “shape” our planned approach, as well enabling us to assist the Government in considering alternatives in the procurement (“shaping the procurement”)

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Summary & Discussions

PBSA/PBSC Intent & Authorities

Intent: Performance-based service contracting (PBSC) emphasizes the results of the work to be performed rather than the way it is performed (e.g., focus on intended results, not process)

Key Authorities

- FAR Part 37:
 - Acquisition and management of services...applies to all contracts and orders for services regardless of the contract type or kind of service being acquired
 - Subpart 37.6....requires use of performance-based acquisitions for services to the maximum extent practicable and prescribes policies and procedures for PBA methods
 - 37.602: PWS, SOO & C-PWS
 - 37.603: Performance Standards
 - 37.604 (and 46.4): QASP & QA
- Additional guidance: R&D [part 35](#); A&E [part 36](#); IT [part 39](#); transportation [part 47](#), and others
- Sub Part 22.10: Service Contract Labor Standards

PBSA/PBSC Expected Outcomes & How Big is This?

Expected Outcomes:

- **Pre-award**
 - Better competition (both contractors and solutions)
 - Contractor flexibility in proposing solutions
 - Improved objectives enhance source selection evaluations
- **Post-award**
 - Achieve better value and enhanced performance
 - Shared incentives allow innovation and cost effectiveness
 - Less performance risk (contractor buy-in, shared interests, relationship focus)
 - Surveillance is less frequent, more meaningful
 - Increased likelihood of meeting mission needs
 - Results documented also meet the Government Performance and Results Act (1993)

How Big is This?

- Government agenda – drive nearly all services to PBSC (as practicable)
 - Legacy back to 1993 Government Performance and Results Act
- Note that ~50% of DoD Contract budget is services contracts
 - In FY 2018 49% of DoD Contract Accessible \$s = \$123.9 billion of services – by FY 2022, services grew to \$144B+

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Summary & Discussions

Government Homework...Leading to Industry Due Diligence

*PBSC - focus on intended results, not process – **but** starts with process defining need*

The Government Acquisition Process

Acquisition Strategy

DoD Acquisition of Services

PLAN			DEVELOP		EXECUTE	
1 Form the Team	2 Review Current Strategy	3 Perform Market Research	4 Define Requirements	5 Develop Acquisition Strategy	6 Execute Strategy	7 Manage Performance

PBSC Across the Agencies**

#1 Establish the Team	#2 What problem needs solving?	#3 Examine Private & Public Solutions	#4 Develop PWS or SOO	#5 How do we measure & manage	#6 Select the right contractor	#7 Manage performance
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The two approaches are not 100% in alignment, but differences are very minor (e.g., ...is it the end of Step 4 or beginning of Step 5?)

Understanding Government Due Diligence...Defines Industry's Due Diligence...Steps 1-3

Seminar scope focus applied

PBCS Acq. Step	Intent	Key Features	Opportunity for Industry Due Diligence
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Understanding Government Due Diligence...Defines Industry's Due Diligence...Steps 1-3

Seminar scope focus applied

PBCS Acq. Step	Intent	Key Features	Opportunity for Industry Due Diligence
1. Establish the Acquisition Team “Integrated Solutions Team”	The acquisition team should be customer-focused and plans and manages the service requirement <u>throughout</u> its life cycle (A.K.A. Cross-Matrix Team)	<ul style="list-style-type: none"> • One goal: Supported (Serviced) Organization Mission Accomplishment • Multi-disciplinary team (AKA Integrated Solutions Team) begins with the customer and end with the contractor (PM, Tech, CO, QA, SB, Cost/Price, Budget, Legal, etc.) <ul style="list-style-type: none"> • NOT a training ground - experts to answer: What do I need? When? How do I know when it is good? Understand supported Org. CONOPs • Ensure senior management involvement & support • Develop & maintain knowledgebase across program life 	<ul style="list-style-type: none"> • If new requirement, likely significantly pre-dates the RFIs (and SSs), Industry Days, and DRFPs; if a recompete, Gov’t will process faster (closer to DRFP/RFP), with existing program team supplemented with new skills needed • New: If this is a critical market area for Industry, “new” should be no surprise – accomplish “BD to the client” early validate and initiate formal capture • Recompete: You should have already validated, and be in capture • Capture: Develop Strategy-to-Win (STW) & drive to full baseline solution: <ul style="list-style-type: none"> • Tech, Mgt, Pricing, Past Perf, Staffing, Corporate Risk, Contracts (inc. Clause “watch list”, etc.), Orals, etc. • Develop plan/prep Pre & Post Protest, & to “counter protest” (inclusion in proposal)
2. What problem needs solving?	<ul style="list-style-type: none"> • Link to supported mission and performance objectives • Define desired results (high level) • What does success look like? (high level) • Current level of performance 	<ul style="list-style-type: none"> • NEW: What is the problem the agency (supported) needs to solve? What results are needed? Will it meet Org./mission objectives? (must relate to Org’s Govt Perf and Results Act goals & objectives, and President’s Mgt Agenda) • Current: How well does the current contract meet the need? Changing needs? Improvements possible? Challenges? (Expect change in needs, metrics, improvements) 	<ul style="list-style-type: none"> • Become “known” to the program office as “one I should call...” (advantage is time to RFP, not unfair competition) – very structured BD, or Capture • Active participation in SSs, RFIs, Industry Days, Pre-Solicitation Conference – and have a response team approach to when they “pick up the phone” • Continue and update Capture (see above, plans, baseline, STW, pre & post protest, and counter protest) <ul style="list-style-type: none"> • Include contracts shop and legal due diligence of data from the Government (e.g., SS, RFIs, Industry Days, Calls)
3. Examine Private & Public Solutions	<ul style="list-style-type: none"> • DO NOT develop requirements documents (SOO or PWS) yet • Effort comparative to size of acquisition • What is “the art of the possible” by supported org. mission, objectives and goals • How should “we” shape requirements and negotiations to leverage market • What are new/emerging capabilities that may affect above (e.g., AI?) 	<ul style="list-style-type: none"> • Full team Market Research to leverage lessons from public sector & leverage commercial (scale) capabilities, technologies, and competitive forces to meet the need <ul style="list-style-type: none"> • SSs, RFIs, Industry Days, Pre-Solicitation Conference, or PICK UP THE PHONE • Consider one-on-one meetings (more effective than pre-solicitation conferences) with industry (Requirements have not been developed, so disclosure is not an issue) • Focus on offerings, capabilities, and practices • Examine if there are current contracts in place 	<ul style="list-style-type: none"> • Become “known” to the program office as “one I should call...” (advantage is time to RFP, not unfair competition) – very structured BD, or Capture • Active participation in SSs, RFIs, Industry Days, Pre-Solicitation Conference – and have a response team approach to when they “pick up the phone” • Continue and update Capture (see above, plans, baseline, STW, pre & post protest, and counter protest) <ul style="list-style-type: none"> • Include contracts shop and legal due diligence of data from the Government (e.g., SS, RFIs, Industry Days, Calls)

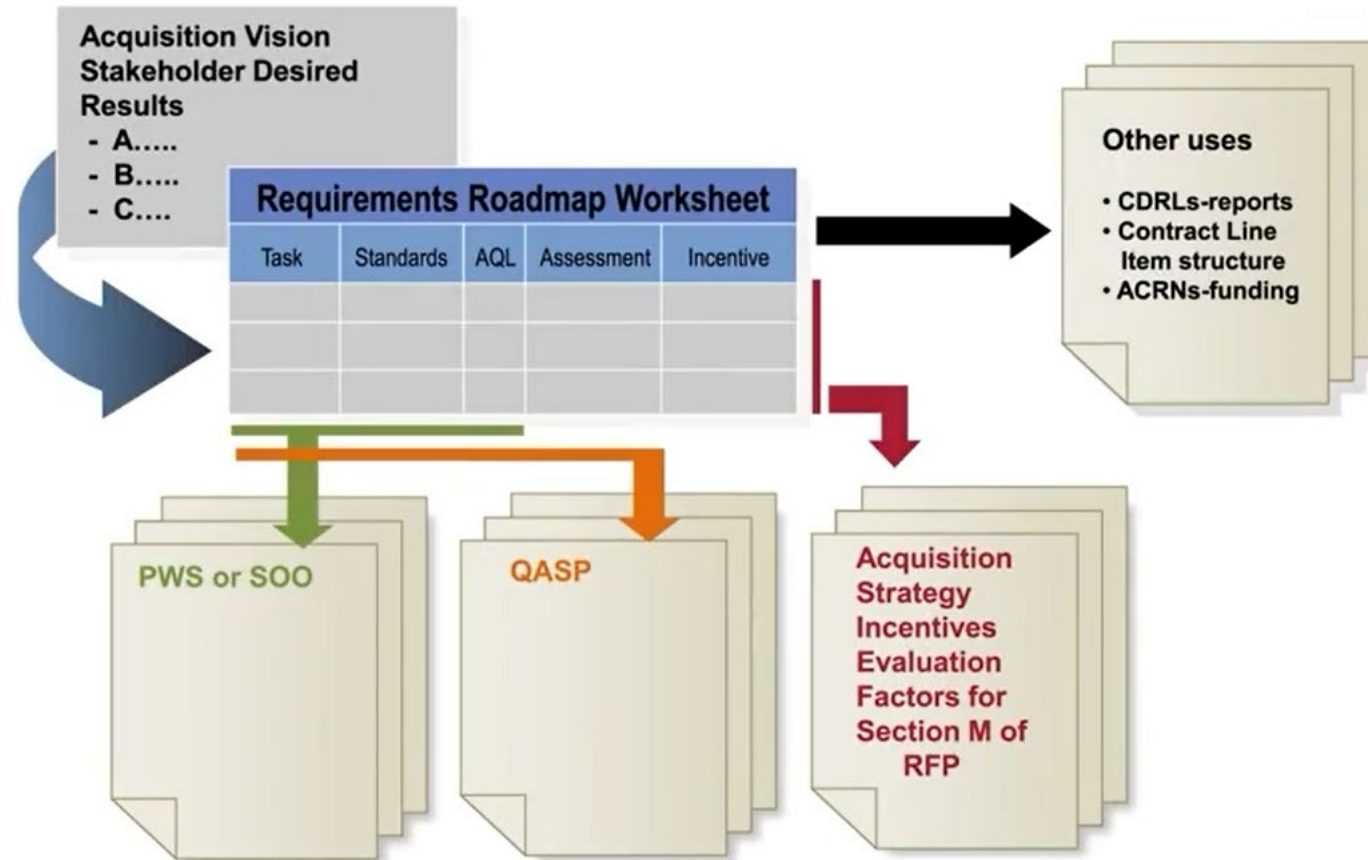
Understanding Government Due Diligence...Defines Industry's Due Diligence...Continued...Step 4

Step / Intent	PWS Key Features	<u>OR</u> SOO Key Features
<p>4. Develop PWS or SOO</p> <p>Define the <i>“what” the contractor must meet, and to what performance standard</i> (and potential margins), let the contractor produce the <i>“how”</i> (and labor mix)</p>		

Understanding Government Due Diligence...Defines Industry's Due Diligence...Continued...Step 4 (PWS)

Step / Intent	PWS Key Features	<u>OR</u> SOO Key Features
<p>4. Develop PWS or SOO</p> <p>Define the “what” the contractor must meet, and to what performance standard (and potential margins), let the contractor produce the “how” (and labor mix)</p>	<ul style="list-style-type: none"> • Conduct a risk analysis: Business, Technical, Funding, Process, Organizational (also environmental, security, safety, Occupational Health) • Conduct a job analysis (inclusive of re-engineering potential) <ul style="list-style-type: none"> • 1) Desired Outcome - What must be done to satisfy the requirement? • 2) Outcome analysis - What tasks must be accomplished to create the outcome? • 3) Performance Analysis – When/how will I know the outcome is acceptably achieved (performance standard)? How much deviation from the performance standard can I accept from the contractor (if any)? • Derive the following from the analysis: 1) Requirement in terms of outcomes. 2) Measurable performance standards. 3) Acceptable Quality Levels (AQLs) • Apply the “so what” test - DO NOT include how (analysis is of “what”, not “how”) <ul style="list-style-type: none"> • Once all outputs are identified – ask “Is that output still required? “: Who needs it? Why is it needed? What is done with it? What result occurs? Is it worth the cost? • Capture the results of the analysis in a matrix <ul style="list-style-type: none"> • Desired Outcomes - at end of contract • Required service – What (not HOW) task must be accomplished for the result • Performance Standard – Completeness, reliability, accuracy, timeliness, customer satisfaction, quality, cost? • Acquisition Quality Level – How much error will we accept? • Monitoring Method – How will we determine the performance is achieved? • Incentives/Disincentives – for meeting (or not) performance standards – best reward/penalty for good/poor performance • Plan to have the contractor solve the problem (AND labor mix) – do not “over spec” (get the same solution from all bidders) 	

Government PBSC Development



Government PBSC Requirement Roadmap Worksheet

Acquisition Vision
Desired Outcomes

- A...
- B...
- C...

Vision:								
High Level Objective	Performance			Inspection				Incentive
	Performance Tasks	Standard	AQL	What	How	Who	Metric	Type
1....	1-1							
	1-2							
	1-3	1-3a						
		1-3b						
2....	2-1							
	2-2							

Government PBSC ARR Worksheet Tool – Insight

ACQUISITION REQUIREMENTS ROADMAP WORKSHEET							
Project: _____		Acquisition Requirements Roadmap Tool (ARRT): Steps A - H & Deliverable				Date: _____	
REQUIREMENTS WORK STATEMENT (A-B-C-D)			INSPECTION (E-F-G-H)				DELIVERABLE
PERFORMANCE TASK STATEMENT (A-B-C)	STANDARD (D ₁)	AQL (D ₂) (Acceptable Quality Level)	E (What)	F (How/When)	G (Who)	H (Incentives or Remedies)	CDRLs
<p>High Level Objective (HLO): (No: Result, Context, or Action) From a top-level perspective, what must be accomplished to satisfy the requirement? HLOs are similar to level two in Work Breakdown Structure.</p> <p>Task Statement: ARRT Tool: (A-B-C), or Reading (Left to Right: C-A-B) A - RESULT or TASK - Noun, what desired output, outcome, or deliverable of the service contractor is to provide? B - CONTEXT - Program/Project. Service to be performed on? To what does this Task pertain? C - ACTION - Verb, what you want contractor to do (execute) to accomplish the Result/Task?</p>	<p>What level of performance (standard) is needed to achieve the requirement? (Adj. or Adv.)</p> <p>Is it Measurable? In terms of Cost, Quality, or Timeliness</p>	<p>What is your tolerance for less than 100% performance? (If 100% required leave blank)</p>	<p>What will you inspect to verify the Standard has been met for this Task?</p>	<p>How/When will you inspect? What methods will you use to verify Standard is met? How are you going to inspect?</p> <p>.....</p> <p>Frequency? How often? (Annually, Monthly, Daily, Qtr, Random, as required)</p>	<p>Who will inspect? (Position, title, office symbol, CDR, etc.)</p>	<p>Other than Past Performance documentation, what action if contractor failed to meet performance standard for this Task? (If none, leave blank)</p>	<p>Contract CDRLs & Report Title (if none, leave blank)</p>

Understanding Government Due Diligence...Defines Industry's Due Diligence...Continued...Step 4 (SOO)

Step / Intent	PWS Key Features	<u>OR</u> SOO Key Features
<p>4. Develop PWS or SOO</p> <p>Define the <i>“what” the contractor must meet, and to what performance standard</i> (and potential margins), let the contractor produce the <i>“how”</i> (and labor mix)</p>		

Understanding Government Due Diligence...Defines Industry's Due Diligence...Continued...Step 4

Step / Intent	PWS Key Features	OR SOO Key Features
<p>4. Develop PWS or SOO</p> <p>Define the “what” the contractor must meet, and to what performance standard (and potential margins), let the contractor come up with the “how” (and labor mix)</p>	<ul style="list-style-type: none"> • Conduct a risk analysis: Business, Technical, Funding, Process, Organizational (also environmental, security, safety, Occupational Health) • Conduct a job analysis (inclusive of re-engineering potential) <ul style="list-style-type: none"> • 1) Desired Outcome - What must be done to satisfy the requirement? • 2) Outcome analysis - What tasks must be accomplished to create the outcome? • 3) Performance Analysis – When/how will I know the outcome is acceptably achieved (performance standard)? How much deviation from the performance standard can I accept from the contractor (if any)? • Derive the following from the analysis: 1) Requirement in terms of outcomes. 2) Measurable performance standards. 3) Acceptable Quality Levels (AQLs) • Apply the “so what” test - DO NOT include how (analysis is of “what”, not “how”) <ul style="list-style-type: none"> • Once all outputs are identified – ask “Is that output still required? “: Who needs it? Why is it needed? What is done with it? What result occurs? Is it worth the cost? • Capture the results of the analysis in a matrix <ul style="list-style-type: none"> • Desired Outcomes - at end of contract • Required service – What (not HOW) task must be accomplished for the result • Performance Standard – Completeness, reliability, accuracy, timeliness, customer satisfaction, quality, cost? • Acquisition Quality Level – How much error will we accept? • Monitoring Method – How will we determine the performance is achieved? • Incentives/Disincentives – for meeting (or not) performance standards – best reward/penalty for good/poor performance • Plan to have the contractor solve the problem (AND labor mix) – do not “over spec” (get the same solution from all bidders) 	<ul style="list-style-type: none"> • Note 1: If used instead of a PWS, vendor creates the C-PWS and that PWS replaces the SOO in the contract (in Section C of the RFP) • Conduct a risk analysis (see PWS) • Steps: <ul style="list-style-type: none"> • Develop the Acquisition “Elevator Message” <ul style="list-style-type: none"> • An explanation of how this acquisition relates to the agency’s program or mission need and what problem is it solving (identified on Step 2) • Describe the scope <ul style="list-style-type: none"> • A simple statement (~paragraph) helping competitors understand the size and range of the services needed • Note: bidders must be able to derive some indication of budget authority (\$\$\$), so the solution can be sized as realistic and competitive • Provide performance objectives of the SOO (overall) <ul style="list-style-type: none"> • Back to Step 2 – written in terms of mission related and measurable objectives • Make sure Government and contractor share objectives <ul style="list-style-type: none"> • Leverage that acquisition objectives are derived from agency strategic performance plans, program authorization docs, budget & investment docs which are all available to the bidding contractors • Identify constraints <ul style="list-style-type: none"> • Identify any regulatory constraints that set requirements & constraints • Develop the background <ul style="list-style-type: none"> • Brief overview of the program – with web links as available; list GFE, GFI, etc. as needed for Contractor due diligence

Industry Due Diligence: VERY active participation in SSs, RFIs, Industry Days, Pre-Solicitation Conference; Continue and update Capture (see Step 1 & 2, plans, baseline, STW, pre & post protest, and counter protest); Include contracts shop and legal due diligence of data from the Government (e.g., SS, RFIs, Industry Days, Calls) **No surprises later to data we had “yesterday”**

Understanding Government Due Diligence...Defines Industry's Due Diligence...Continued...Step 5

Step / Intent	Measuring & Managing Performance Key Features (QA & Metrics)	Measuring & Managing Performance Key Features, (QA & Metrics)
<p>5. How do we measure & manage</p> <p>Back in Step 2, we asked <i>“Where do I want to go, and how will I know when I get there? – This activity provides the overall performance measurement and management approach required to be ready to move into Execution (Step 6)</i></p>		

Understanding Government Due Diligence...Defines Industry's Due Diligence...Continued...

Step / Intent	Measuring & Managing Performance Key Features (QA & Metrics)	Measuring & Managing Performance Key Features, (QA & Metrics)
<p>5. How do we measure & manage</p> <p>Back in Step 2, we asked “Where do I want to go, and how will I know when I get there? – This activity provides the overall performance measurement and management approach required to be ready to move into Execution (Step 6)</p>	<ul style="list-style-type: none"> • Draft QASP – Quality Assurance <u>Surveillance</u> Plan - Documents <u>Government Quality Oversight Process, AQLs, etc.</u> - Defense and non-Defense may differ here on order of development – in Defense it is part of Step 4, in Non-Defense is Step 5 • [QASP is a Government document guiding their QA oversight of contract, the QAP is a contractor document laying out how the contractor plans to conduct QA to the performance objective standards] • QASP is a “living document” modified over time as performance warrants – link each performance objective to method of inspecting in QASP • Methods of Surveillance: metrics, random sampling, periodic inspection, 100% inspection, customer feedback, 3rd party audits • Sampling Guide: a written procedure of what will be checked. How?, the AQL <ul style="list-style-type: none"> • Checklists: Used to record what has been checked by a sampling guide and to record information on contract items not covered by sampling • Decision Tables: contains different examples of unsatisfactory performance, probable cause factors, and the resulting consequences • Questions to answer during Draft QASP review: <ul style="list-style-type: none"> • Is the value of evaluating the contractor’s performance on a certain task worth the cost of surveillance? • Has customer feedback been incorporated into the QASP? • Have assessment tools, i.e., methods of surveillance, sampling guide, etc., been provided in the QASP? • When practicable, rely on commercial quality standards <ul style="list-style-type: none"> • Contractor specific proposed metrics and the specifics of the QA Plan can provide a clear basis for Source Selection evaluators by defining differentiators for scoring 	<ul style="list-style-type: none"> • When practicable, rely on commercial quality standards, continued • Consider having the contractor develop a draft QASP as part of their proposal (especially is the Government chooses to use a SOO rather than an SOW) –enabling the contractor to develop their own solution (not over specified by the Government) this provides <i>Contractor flexibility in proposing solutions</i> (discussed in Introduction Expected Outcomes) <ul style="list-style-type: none"> • FAR 46.102 pushes toward using commercial QA systems – significantly reducing burden and cost for the Government • Back in Step 3, Examine Private & Public Solutions (Market Research and Analysis) we would identify both Government and Commercial Best Practice Standards used for similar services contracts (e.g., ISO 9000, Carnegie Mellon SEI models for maturing delivery approaches for people, process, and technology improving business performance • Limit measurement to few, truly important metrics, directly tied to specific performance objectives of the acquisition <ul style="list-style-type: none"> • Cost of measurement does not exceed value of performance, and somewhat corollary: Most expensive cost of measurement, saved for most risky, and mission-critical requirements • Performance metrics are negotiable (performance objectives are generally not) – intended to address quality concerns by exception, not inspection • Reserve the right for Government changes in metrics and measures <ul style="list-style-type: none"> • When meeting (regularly) with the contractor, ask: “Are we measuring the right thing?”

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Understanding Government Due Diligence...Defines Industry's Due Diligence...Continued...

Step / Intent	Measuring & Managing Performance Key Features (Contract Type & Incentives)	Measuring & Managing Performance Key Features (Contract Type & Incentives)
<p>5. How do we measure & manage</p> <p>Back in Step 2, we asked <i>“Where do I want to go, and how will I know when I get there? – This activity provides the overall performance measurement and management approach required to be ready to move into Execution (Step 6)</i></p>		

Understanding Government Due Diligence...Defines Industry's Due Diligence...Continued...

Step / Intent	Measuring & Managing Performance Key Features (Contract Type & Incentives)	Measuring & Managing Performance Key Features (Contract Type & Incentives)
<p>5. How do we measure & manage</p> <p>Back in Step 2, we asked <i>“Where do I want to go, and how will I know when I get there? – This activity provides the overall performance measurement and management approach required to be ready to move into Execution (Step 6)</i></p>	<ul style="list-style-type: none"> • Contract Type & Incentives – should be positive, but include remedies • Contract-type order of precedence (1st type of incentive considered) <ul style="list-style-type: none"> • FFP performance-based contract • Performance-based contract not FFP <ul style="list-style-type: none"> • FFP is NOT a “one size fits all” – force fitting can result in higher prices (FFP is when “risk is minimal” or can be predicted accurately • Use negotiations in picking a contract type tying profit to performance • A contract not performance-based • Contract type can also be hybrid (Fixed price and cost-type) • Incentive type contracts <ul style="list-style-type: none"> • Contract types vary in degree and timing of the risk (and responsibility) assumed by the contractor for their costs of performance; and the amount of profit incentive offered for achieving or exceeding standards/goals • As the Government assesses the requirements and uncertainty in contract performance – select the contract type that places the appropriate degree of risk, responsibility, and incentives on the contractor for their performance <ul style="list-style-type: none"> • FFP – fully responsible for performance costs (enjoys or suffers the profit) • FPI – final negotiated price based on a formula relating cost to target cost • FPAF – when contractor performance can not be measure objectively • CPIF & CPAF – when FP is not appropriate because of uncertainty of costs • CPFF – Allowable/allocatable costs + negotiated Fee • Other incentives can be negotiated (e.g., when incentive funding is limited) 	<ul style="list-style-type: none"> • Award term <ul style="list-style-type: none"> • Contract PoP can be lengthened for good performance, or shortened for poor performance (like CPAF, 3 years minimum 10 years max) • Best applied when an SOO us used (Contractor develops the PWS, more freedom in solution and management) • No one size fits all incentive...geared toward acquisition, marketplace, performance objective – incentives like metrics are negotiable <ul style="list-style-type: none"> • Can include a multitude of other incentive tools (payments, schedule, past performance evals, value engineering, share-in-savings) • Management by relationship rather than just management by contract <ul style="list-style-type: none"> • What is valued: <ul style="list-style-type: none"> • Trust and open communication & Strong leadership on both sides • Ongoing and honest self-assessment (both sides) & Ongoing interaction • Mutual benefit / value throughout the term • E.g., a common forum for this to take place (in addition to being woven into all interaction) – such as a “Board of Directors” (top officials both sides) • Survey of Government Evaluators: What are the top things Government Program Offices/Managers want from Contractor Program Management? <ul style="list-style-type: none"> • Effective program leadership • Clear organizational structure • Ability to stay on schedule • Responsiveness to the needs of the Government • Atmosphere of cooperation re: Government participation and oversight

Industry Due Diligence: Active participation in SSs, RFIs, Industry Days, Pre-Solicitation Conference, DRFP releases; Continue and update Capture (see Step 1 & 2, plans, baseline, STW, pre & post protest, and counter protest); Include contracts shop and legal due diligence of data from the Government (e.g., SS, RFIs, Industry Days, Calls) **No surprises later to data we had “yesterday”**

Understanding Government Due Diligence...Defines Industry's Opportunity

Step / Intent	SCOPE LIMITED - Select The Right Contractor Key Features	SCOPE LIMITED - Manage Performance Key Features
<p>6. Select The right contractor</p> <p><i>From considering GWACs, MACs to Pre-Posting, Posting, Source Selection, Award, Debriefs, Finalize QASP, Post Award Transition</i></p>		
<p>7. Manage performance</p> <p><i>Team, Kick-off, and Relationship</i></p>		

Understanding Government Due Diligence...Defines Industry's Opportunity

Step / Intent	SCOPE LIMITED - Select The Right Contractor Key Features	SCOPE LIMITED - Manage Performance Key Features
<p>6. Select The right contractor</p> <p><i>From considering GWACs, MACs to Pre-Posting, Posting, Source Selection, Award, Debriefs, Finalize QASP, Post Award Transition</i></p> <p>7. Manage performance</p> <p><i>Team, Kick-off, and Relationship</i></p>	<ul style="list-style-type: none"> • Completing the acquisition solution <ul style="list-style-type: none"> • <i>Prior to Posting (depending on method above) -</i> <ul style="list-style-type: none"> • <i>Select method for acquisition: RFP or RFQ or IFB via FAR Part 8.4 (FSS), FAR Part 12 (Commercial), FAR Part 13 (Simplified), FAR Part 14 (Sealed), FAR Part 15 (Negotiated), FAR Part 16.5 (ID/IQ, MACs, GWAC), FAR Part 19 (SBs)</i> • <i>CO complete other documentation (multiple here)</i> • <i>FSM and CO determine source selection evaluation team & conduct training (committed though entire process of source selection)</i> • <i>Significant Best Practice: Consider issuing a “DRFP” (Can be in Step 5, e.g., Defense, or 6, other agencies)</i> <ul style="list-style-type: none"> • Use of a DRFP (draft SOO, or DRAFT PWS; Draft Section L (Proposal Instructions, conditions, and notices to offerors) & M (Evaluation Factors for Award), potentially QASP), and other draft RFP documents to gain Industry Feedback • Gives contractors a “head start” on planning for and developing their proposal response • Disadvantage is time it takes to deal with industry feedback • <i>Issue Final RFP (and assure documentation is made available to the public)</i> • <i>Conduct source selection of the offeror who represents the best value IAW the evaluation criteria in the RFP (that also followed Section I, Instructions)</i> • <i>Pre-award documents (pre-award surveys, pre-negotiation responsibility clearance, Congressional 72-hour notification for awards over \$1M)</i> • <i>Upon receipt of above approvals, execute the contract</i> • <i>Debriefs, finalize QASP</i> 	<ul style="list-style-type: none"> • Administrative Team: Functional Services Manager, Contracting Officer’s Representative, Contracting Officer, QA Specialist, Contractor, Legal • Kick-Off meeting <ul style="list-style-type: none"> • Review the FSM performance management process • Review each individual requirement stated in the PWS, SOW, and any attachments, update the QASP • Ensure the incentive plan is introduced and understood by everyone • Provide COR introductions (and responsibilities and authority, e.g. can not direct a change in contract terms or conditions, only the CO can) • Explain the Contractor Performance Assessment Reporting System (CPARS) and how it will be used to document the contractor’s performance • Relationship Maintenance <ul style="list-style-type: none"> • To complete the transition from acquisition to performance, the contractor is incorporated into the performance management team • An essential element of performance management is open and frequent communication between the government and the contractor • Ensure the contractor clearly understands how performance is being measured to ensure there are no surprises • Characteristics of strong relationships include the following: <ul style="list-style-type: none"> • Trust and open communication • Strong leadership on both sides • Ongoing, honest self-assessment • Ongoing interaction via daily engagement, meetings, reports, or CPARS • Ensuring mutual benefit or value throughout the relationship

Industry Due Diligence: Active response to Q&A (Draft and final RFPs), Continue and update baseline, STW, pre & post protest, and counter protest) and now proposal – Continue to include contracts shop and legal due diligence of data from the Government – answer specifically what they ask, make sure you are ready for a Pre-submission Protest if needed – submission, ENs, negotiation – Post Award, follow relationship guidelines – and communicate, expect change in execution

PBSA / PBSC Seminar Outline

Overview of PBSA / PBSC (Intent, Authorities, Expected Outcomes, & Authorities For Use – How Big is This?)

- PBSA and a resulting PBSC is designed to incentivize performance measures & motivate contractor best practices for improved performance & cost effectiveness

A Government Perspective of PBSA and PBSC

- The “7-Step Process...”
- *Again, the intent of the seminar (to this point) was to bring to the forefront what the Government acquirers are tasked to do in order to set up and manage a PBSC, our intent is to gain better insight as to why the Government has certain expectations of us in our delivery*

A More Detailed Look at PBSA/PBSC Considerations

- Common performance-based metrics typically included in PWS or C-PWS
- Pre-contract or pre-award considerations when proposing on an SOO / PWS / C-PWS – getting there
- Common incentive approaches
- Overview of a QASP
- Red flags/common pitfalls with QAPs/QASPs in the pre-award phase
- Relationship building through the QASP & Continuous regular monitoring/feedback

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Somewhat of a review of
the previous material –
as intended!

Summary & Discussions

Common Performance-Based Metrics Typically Included In PWS or C-PWS

Metrics: Parameters or measures of quantitative assessment used for measurement, comparison or to track performance or production

Methods of surveillance: Metrics, random sampling, periodic inspection, 100% inspection, customer feedback, 3rd party audit

- Limit to few important metrics, directly tied to performance objectives

What the PWS should accomplish in order to satisfy the overall requirement (Job & Risk Analysis, Steps 2, 3, and 4) For example:

- What outcome is needed?
- When is the outcome needed?
- Where is the outcome needed?
- Who needs the outcome?
- Why is the outcome needed?
- What will be done with the outcome?
- What will occur as a result of the outcome?
- Is the outcome worth the effort and cost?
- Would a different outcome be preferable?

WBS Identifies the service or output required from the contractor - divide the job into all its parts and subparts, and clarifying the relationships among all the parts

- The scope statement is complete / accurate
- Each activity is broken down into all tasks necessary for that activity to be completed
- All tasks are identified and defined in “do what” terms not “how to” terms
- Completion criteria are defined for each task

WBS cont'd

- Data requirements (reports, software, or other deliverables) have been identified and associated with tasks
 - All required government-furnished property has been identified
- Measuring:**
- **Performance standard** (to Completion Criteria) Attribute of the service **object** that you want the contractor to change + A specific attribute description or measurement - Example:
 - **Object:** Floors - attribute and measurement; Floors must be free of all visible dirt and refuse (100% + quality)
 - **Object:** Help Desk Calls – attribute and measurement; All Help desk calls must be answered (100% + answered attribute, measurement 100%/all)

Test standards (Are these performance measures: **Specific?, Measurable?, Attainable?, Relevant?, Timely?**)

Measure Standards to AQLs (Acceptable Quality Level) - Tolerance for less than 100% in terms of cost, quality, or timeliness (yield data for metrics)

- E.g., Calls...95% within 5 rings

Inspection:

- What will be inspected
- How / When
- Who
- Incentives / Remedies

Pre-contract or Pre-award Considerations When Proposing on an SOO / PWS / C-PWS – Getting There

Setting a *timeline for action*:

- **Start Early** - We do NOT want to wait until the Government releases an RFP – in parallel with their preparation of acquisition details
 - **New:** If this is a critical market for Industry, “new” opportunities (in general, \$10M to \$200M) should be
 - Accomplish “BD” early validate opportunity for formal capture, BD validation complete by 9 months to RFP is ideal (>4 months minimum)
 - If valid and “pursue decision is affirmative,” convert to active capture by 9 months (>4 months minimum)
 - Be especially cautious of Contract “Vehicle Approach”: E.g., Federal Supply (FAR Part 8), ID/IQ/GWAC/MAC, etc.
 - Push early with the Government
 - **Recompete:** You should have already validated the opportunity, and be in capture by 9 months prior to RFP – actions as above

Capture: Develop Strategy-to-Win (STW) & drive to full baseline solution

- While the Gov’t is 1) *establishing team*, 2) *assessing the problem*, and 3) *market research*
- Develop Technical, Management, Pricing, Past Performance, Staffing, Corporate Risk, Contracts (includes a “Clause watch list”, etc.), Orals, etc. – **ALL Pre-DRFP/RFP**
 - Get early contracts & legal involvement
 - This would enable you to “draft an SOO or PWS” you can provide the Government early in their Market Research process
 - **Become “known”** to the program office as “one I should call...” (advantage is time to RFP, not unfair competition) – because of your very structured BD, and Capture

Capture...Cont’d

- Includes the develop plan/prepare Pre & Post Submission Protest draft
 - Also include any OCI plan development for CO sign off pre-submission
 - Additionally develop your “counter protest strategy” enabling you to defend your selection (for inclusion in proposal)
 - E.g., making sure you do not include any “advantaged” information if you have “incumbent knowledge” not included in the RFP

Continue to update and complete capture artifacts during the Government *development of early SOO/PWS strategy* (and QASP)

- Usually indicated by SS, RFI, Industry Days running into RFP execution Phase
- Active participation in SSs, RFIs, Industry Days, Pre-Solicitation Conference – especially if they invite one-on-ones
 - Include contracts shop and legal due diligence of data from the Government (e.g., SS, RFIs, Industry Days, Calls) No surprises later to data we had “yesterday”
- Enables “No surprises later to data we had yesterday”

Once SOO or PWS comes out – propose consistent with previous work AND any updates received in final RFP

- SOO to C-PWS must be consistent to any change indications discovered in DRFP and FRFP, use Q&A to your advantage

Common Incentive Approaches

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Measuring Cont'd:

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 - E.g., Calls...95% within 5 rings
- **Inspection:**
 - What will be inspected [
 - How / When
 - Who
 - Incentives / Remedies
- **Incentive type contracts**
 - Contract types vary in degree and timing of the risk (and responsibility) assumed by the contractor for their costs of performance; and the amount of profit incentive offered for achieving or exceeding standards/goals
 - As the Government assesses the requirements and uncertainty in contract performance – select the contract type that places the appropriate degree of risk, responsibility, and incentives on the contractor for their performance
 - FFP – fully responsible for performance costs (enjoys or suffers the profit)
 - FPI – final negotiated price based on a formula relating cost to target cost
 - FPAF – when contractor performance can not be measure objectively
 - CPIF & CPAF – when FP is not appropriate because of uncertainty of costs
 - CPFF – Allowable/allocatable costs + negotiated Fee
 - Other incentives can be negotiated (e.g., when incentive funding is limited)
- **Award term**
 - Contract PoP can be lengthened for good performance, or shortened for poor performance (like CPAF, 3 years minimum 10 years max)
 - Best applied when an SOO is used (Contractor develops the PWS, more freedom in solution and management)
- **No one size fits all incentive**...geared toward acquisition, marketplace, performance objective – incentives like metrics are negotiable
 - Can include a multitude of other incentive tools (payments, schedule, past performance evals, value engineering, share-in-savings)

Overview of QASP

Back to the Core of the Government's Task to be Successful in the Acquisition: The PBSC PWS is a statement of the required services in terms of output; with measurable performance standards for the output; and an AQL or allowable error rate

Quality Assurance Surveillance Plan (Documents Government Quality Oversight Process, AQLs, etc.)

- Document guiding Government QA oversight of contract
 - The QAP is a contractor plan to conduct QA to the performance objective standards
- ***QASP is a "living document"*** modified over time as performance warrants – link each performance objective to method of inspecting in QASP
 - ***Inspection: Each performance objective is linked to a method of inspecting*** (What will be inspected? How / When? Who? Incentives / Remedies?)
 - ***Methods of Surveillance:*** metrics, random sampling, periodic inspection, 100% inspection, customer feedback, 3rd party audits
 - ***Sampling Guide:*** Written procedure of what will be checked. How?, including the AQL
 - ***Checklists:*** Used to record what has been checked by a sampling guide and to record information on contract items not covered by sampling
 - ***Decision Tables:*** contains different examples of unsatisfactory performance, probable cause factors, and the resulting consequences

Overview of a QASP (Reference Previous Step 4/5) – Guidance for Government

- **Draft QASP – Quality Assurance Surveillance Plan - Documents Government Quality Oversight Process, AQLs, etc. - Defense and non-Defense may differ here on order of development – in Defense it is part of Step 4, in Non-Defense is Step 5**
- [QASP is a Government document guiding their QA oversight of contract, the QAP is a contractor document laying out how the contractor plans to conduct QA to the performance objective standards]
- QASP is a “living document” modified over time as performance warrants – link each performance objective to method of inspecting in QASP
- **Methods of Surveillance:** metrics, random sampling, periodic inspection, 100% inspection, customer feedback, 3rd party audits
- **Sampling Guide:** a written procedure of what will be checked. How?, the AQL
 - **Checklists:** Used to record what has been checked by a sampling guide and to record information on contract items not covered by sampling
- **Decision Tables:** contains different examples of unsatisfactory performance, probable cause factors, and the resulting consequences
- **Questions to answer during Draft QASP review:**
 - Is the **value of evaluating the contractor’s performance** on a certain task **worth the cost of surveillance**?
 - Has **customer feedback been incorporated** into the QASP?
 - Have **assessment tools**, i.e., methods of surveillance, sampling guide, etc., **been provided in the QASP**?
- **When practicable, rely on commercial quality standards**
 - **Contractor specific proposed metrics and the specifics of the QA Plan can provide a clear basis for Source Selection evaluators** by defining differentiators for scoring
- **When practicable, rely on commercial quality standards, continued**
 - **Contractor specific proposed metrics and the specifics of the QA Plan can provide a clear basis for Source Selection evaluators** by defining differentiators for scoring
 - **Consider having the contractor develop a draft QASP as part of their proposal** (especially is the Government chooses to use a SOO rather than an SOW) –enabling the contractor to develop their own solution (not over specified by the Government) this provides *Contractor flexibility in proposing solutions* (discussed in Introduction Expected Outcomes)
 - FAR 46.102 pushes toward using commercial QA systems – significantly reducing burden and cost for the Government
 - **Back in Step 3, Examine Private & Public Solutions** (Market Research and Analysis) we would identify both Government and Commercial Best Practice Standards used for similar services contracts (e.g., ISO 9000, Carnegie Mellon SEI models for maturing delivery approaches for people, process, and technology improving business performance
- **Limit measurement to few, truly important metrics, directly tied to specific performance objectives of the acquisition**
 - Cost of measurement does not exceed value of performance, and somewhat corollary: Most expensive cost of measurement, saved for most risky, and mission-critical requirements
- **Performance metrics are negotiable** (performance objectives are generally not) – **intended to address quality concerns by exception, not inspection**
- **Reserve the right for Government changes in metrics and measures**
 - When meeting (regularly) with the contractor, ask: “Are we measuring the right thing?”

Red Flags/Common Pitfalls With QAPs/QASPs in the Pre-award Phase

Predominantly Contractor “Created”

- Not conducting Business Development (opportunity validation) and Capture (shaping ourselves to win) in time to impact our P_{WIN}
- Not tracking/analyzing public and best practice private solutions in our market space. (1 of 7 Government steps is dedicated to this)
- Lack of cost estimating methods appropriate to the performance standards, but flexible with tradeoffs. (e.g., AQLs)
- Quality requirements and management unable to adapt to new needs, technology, innovation (cost of change in company).
 - Also, unable to deal Past performance “proof” requirements.
- Not open to changing needs (performance standard adjustments, AQL adjustments, etc.) – however not supported by the ability to adjust pricing (covering added cost and risk)

Predominantly Government “Created”

- Performance standards and Government stakeholder expectations not matching
- Metrics, etc. not tied to agency (and stakeholder) business outcome
- Performance standards which significantly adjust cost basis
- AQL (performance) disincentives not in alignment with cost to Government mission
 - Incentives and disincentives not proportional to both the impact on the Government mission, as well as to contractor price and cost baselines
- Government QASP Methods of surveillance (metrics, random sampling, periodic inspection, 100% inspection, customer feedback, 3rd party audits) costs not accounted for in estimates
- Too many measurements (rather than a few, truly important ones, directly tied to specific performance objectives)
- Lack of precise language for scope, metrics, targets/objectives
 - Unrealistic or unclear service levels or performance standards
 - Clear, achievable, and measurable service levels
 - Acronym “reading in” (versus clear acronym list meanings)
- Is the Government open to negotiating metrics (not performance objectives)?
 - Is there a process outlined by the Government to introduce these?
 - Lack of a path to add in innovative delivery methods

Relationship Building Through the QASP & Continuous & Regular Monitoring/Feedback

In addition to the previous slide (Pre-contract / Pre-award Considerations)...as applied to the QASP Pre-Award/Pre-contract

Management by relationship rather than just management by contract, What is valued:

- Trust and open communication & Strong leadership on both sides
- Ongoing and honest self-assessment (both sides) & Ongoing interaction
- Mutual benefit / value throughout the term
- E.g., a common forum for this to take place (in addition to being woven into all interaction) – such as a “Board of Directors” (top officials both sides)

Each regular performance meeting / review ask these questions Post-award (Contract Management performance reviews – to keep the project on course)

- There are not just the annual Past Performance reviews...these must be honest and direct discussions
- Is the acquisition achieving its cost, schedule, and performance goals?
- Are we (contractor) meeting or exceeding the performance-based requirements?
- How effective are we (as a contractor) in meeting or contributing to the agency's program performance goals?
- Are there problems or issues we can address to mitigate risk?
- The Government should ask (of the contractor): Is there anything we are requiring that is “holding you back” in terms of quality, cost, schedule, or solution delivery?

Survey of Government Evaluators: What are the top things Government Program Offices/Managers want from Contractor Program Management?

- Effective program leadership
- Clear organizational structure
- Ability to stay on schedule
- Responsiveness to the needs of the Government
- Atmosphere of cooperation re: Government participation and oversight

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Summary & Discussions

As Industry – How Do You Succeed?

Know what the Government must do, and be a knowledgeable and active partner

(Government's) Step 2-What problem needs solving? Know your customer (and market) with constructive BD qualification, move to Capture soonest

(Government's) Step 3-Public & Private Solutions (Market Research) – Become known and “answer the phone”

(Government's) Step 4-draft PWS & SOO (draft reviews, industry days) – Be very responsive, take it as seriously as you would the final, respond in detail (consider the Government POV) - capture

(Government's) Step 5-How to measure and manage – Again be very responsive, take a draft SOO or PWS as seriously as you would the final, respond in detail (consider the Government POV) - capture

(Government's) Step 6-Select the Right Contractor – Respond to the RFP (and remember you are not the only one to do the above steps, others will have “shaped” it as well), active Q&A, and founded protest if required

(Government's) Step 7-Manage Performance – Relationship building through the QASP

General Discussion and Q&A



Performance Based Services Acquisition & Performance Based Services Contracts Seminar

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“Rick A to Z” leads CorVantage Program Execution of client strategies and programs to achieve their Business Objectives through Market Analysis, Pipeline and Business Development, Capture, Negotiations, and Public Sector Program Start-up and Execution.

Professional Experience:

“A to Z” has over 45 years of Government and Industry experience in operations and government acquisition across R&D and operational programs, complex program management, systems development engineering, Information Assurance, Information Operations/Cyber Development & Special Technical Operations, and business capture.

During his preceding 30-year career with the U.S. Air Force, he held positions from B-52 operational squadron level up to that of Director at the Air Force Information Warfare Center. He has spent 20+ years as an industry senior executive working with over 50 clients winning and executing programs. This includes leading over 170 campaigns across 42 Federal Agencies and 17 State & Local Governments as well as commercial business-to-business. He has worked in defense, homeland security, intelligence, Special Operations, energy, health and human services, biotechnology & life sciences, IT/telecommunications, and transportation.

“A to Z” is actively involved in the Professional Services Council, Washington Homeland Security Roundtable, Coast Guard Industry Academy Alumni Association, University advisory boards, and Technology Incubators & Accelerators. He is a guest lecturer at Defense Acquisition University DAWIA Senior Program Management and Contracting Officer courses. He also is a professional educator in Accessing Government non-dilutive R&D Funding, Source Selection Evaluation, Innovative Contracting, DoD Adaptive Acquisition Framework, and Best Practices in Business & Capture Leadership with George Mason University, Public Contracting Institute, and Federal Publications Seminars as well as directly with CorVantage Clients.

Richard “A to Z” Agopsowicz

Selected Previous Experience

Executive Vice President, Business Capture & Program Sector Execution, CORTAC Group, Inc.

- Business unit acquired by CorVantage, Dec 2022

Managing Director, Strategy & Business Development, Robbins-Gioia, LLC.

Senior Vice President, Capture Practice, Steven Myers & Associates (SM&A)

Director, U.S. Air Force Information Warfare Center (AFIWC/RM), and Technical Director, Advanced Programs “Skunk Works”

Planner and operational lead conducting Special Technical Operations in support of SOCOM, EUCOM, CENTCOM, LANTCOM, Intelligence Community, and UK MOD

Conceptualized, organized, and led the development & employment of National level capabilities during Desert Storm Joint Force Component/Task Force Activities

Chief, Special Programs and Activities Intelligence Division (AFIWC/INJ); Chief, USAF Computer Threat Division (AFIWC/INC), National Threat and Vulnerability Analysis Sub-Committee (DCI)

Program Manager, Air Force Information Systems Security Research & Development

B-52 Squadron and Wing Combat Crew Flight Instructor (Defensive Air tactics, techniques, and procedures) and Combat Crew Training School Flight Instructor

Strategic Air Command, 1st Combat Evaluation Group, COMBAT SKYSPOT instructor, as well as assigned to multiple 1st CEVG Sites

Back-up Materials

Non-conforming Supplies & Services

FAR 46.102 – CO should reject...except as noted below

- Ordinarily contractor is given an opportunity to correct or replace when it can be done within the original schedule
 - Unless contract specified otherwise
 - Without added cost to Government
 - Rejection when nonconformance is critical or major, or product/service is incomplete
- FAR 46.407 Deviation authorized (may be accepted) if in the Government's best interest – CO must make the decision based on
 - CO must furnish documentation of non-conformance promptly to contractors
 - Technical activity advice item is safe; information regarding nature and extent of nonconformance; request from contractor requesting acceptance, a recommendation for acceptance, conditional acceptance or rejection; contract adjustment considered appropriate (CO must gain technical activity concurrence)
 - CO must modify contract for equitable price reduction or other consideration (PBSC AQLs and incentive/disincentive formulas should resolve most)
 - Other remedies (for discussion only, not likely and soon gets into law practice): Awarding damages, specific performance, rescission (cancel contract), restitution (N/A?), reformation (modify the contract)

How Involved the Government Needs to be at Lower Tier (subcontract)

How involved the Government needs to be at lower tier (subcontract)

- Prime contractor is responsible to control the quality of products and services delivered to the Government – however, the Government may inspect/test products/services to requirements and specifications – is this involvement at a sub? Not really.
- Primary solution: 1) Subcontract inspection system (integrate a “Prime to Sub QASP” for lower levels) – effectively rolling down PBSC QA standards and remedies to subcontractors
 - Government QA involvement at a lower level does not relieve the Prime responsibility to the Government – manage the subs yourself to avoid surprises (make sure you consider this as you select teammates, and then pricing your own oversight)
- Special cases (moving to the edge of a legal discussion here...):
 - Contract clauses that flow down to subcontractors:
 - 52.246: -2 (Inspection of Supplies-FP), -4 (Inspection of Services-FP), -6 (Inspection of T&M & LH), -8 (Inspection of R&D-FP), -9 (Inspection of R&D-T&M and LH), -10 (Inspection of Facilities), -11 (Higher –Level of Quality Requirement)),
 - *Estes Express Lines v. US* (COFC 2014, to CAFC) – limited privity of subcontract – VERY narrow precedence, not applicable to this topic