

Performance-Based Acquisition: What is the Problem?

By Allan V. Burman, Adjunct Professor, George Mason University

Since the early 1990's the federal government has been moving toward a more results oriented, performance-based management environment.

The Government Performance and Results Act of 1993 (GPRA) set the tone by pointing out that "Congressional policymaking, spending decisions and program oversight are seriously handicapped by insufficient attention to program performance and results." GPRA's purpose was to improve Federal management by holding Federal agencies more accountable for program results. The Bush Administration maintains the same focus with the President's Management Agenda (PMA) and the Office of Management and Budget's Program Assessment Rating Tool (PART), and Green/Yellow/Red management score cards. These are used to assess how well agencies carry out PMA tasks and accomplish program objectives.

The field of acquisition has similarly moved in this direction, particularly with regard to contracting for services. A good example of this trend is the use of Performance-Based Contracting. A 1991 policy document from the Office of Management and Budget's Office of Federal Procurement Policy charged agencies across the government to "use performance-based contracting methods to the maximum extent practicable when acquiring services." It also encouraged them to select contract administration and acquisition strategies that best meet these requirements. This policy has been supported and expanded on by each Administration since that time.

Under performance-based acquisition (PBA), agencies tell the contractor the results they want, not how to do the work and then measure whether or not the results are achieved.

The motivation behind this acquisition technique has been to encourage private sector firms to bring their ingenuity to bear on Federal government problems. Under PBA, these firms are not bound by a rigid set of requirements that dictates how a task will be accomplished. Rather they can come up with their own unique approach to meet a government need. However, while this contracting approach invites creative solutions to problems, it also requires the government to be more sophisticated. Agencies can no longer dictate terms and procedures for contractors uniformly to follow and then make an award based on low price or a simplified assessment of value. Government evaluation teams must compare and contrast contractor technical proposals that may provide very divergent methods for meeting agency objectives.

Some might argue that such a performance-based approach should be no different from how the government would handle any contracting issue. Often the agency does not have the technical expertise to tell the vendor exactly what to do. Moreover, isn't any program office responsible for assessing whether desired business outcomes have in fact been accomplished? Nevertheless, a host of recent studies, from Government Accountability Office (GAO) and Inspector General reviews to the January 2007 Report of the Acquisition Advisory Panel (AAP), have raised questions about PBA's effectiveness. The AAP interviewed numerous staff from government agencies, the private sector and contracting associations in conducting its assessment of PBA effectiveness. It cited the following as factors that suggested that much more could be done here to reach its potential:

- Agencies remain unsure on when to use PBA.
- Solicitations and contracts continue to focus on activities, not results.
- PBA's potential to effect transformational change remains largely untapped.
- The emphasis on "getting to award" impairs effective contract monitoring.
- Incentives are not used effectively to maximize performance.
- Poor data make it difficult to get a good picture of PBA use.

Uneven adoption of PBA techniques appears to be partly due to holding contracting accountable for a program responsibility, as well as a lack of staff expertise.

While the name for the technique has recently been changed from Performance-Based Contracting to Performance-Based Acquisition to emphasize the need for collaboration between program officials and contracting officials, that linkage is still weak. Perhaps because the word "contracting" has been in the title, program officials have seen this as something outside of their responsibility. However, it falls on them and not on contracting officers to identify the desired business outcomes to be achieved from contract support. In addition, it is these program offices that have the knowledge and expertise to identify the performance measures that will determine a contract's success. Moreover, in the end, when the contract is awarded, it is again generally not the Contracting Officer but the Contracting Officer's Technical Representative that is charged with contract management responsibilities and assessing contractor performance.

A May 2008 GAO study relating to the Department of Homeland Security (DHS) seems to confirm the important role that program staff play. The report noted that for the performance-based contracts that the GAO reviewed, when solid requirements and performance metrics were established early on, these contracts were much more likely to be successful. Having sufficiently trained staff both to do the planning and to see that the contracts were in fact being executed properly was also critical to success.

Better marketing the benefits of performance-based acquisition to program offices and greater collaboration between program and contracting staff would increase effective usage.

The following offer some approaches for agency senior leadership to use to strengthen the effort and achieve more of the promise that PBA should offer:

- Develop a cadre of highly professional managers experienced in PBA or a knowledgeable "tiger team" that can share its expertise across the agency.
- Identify successful PBA efforts and use these to demonstrate its benefits to senior program officials.
- Include "the ability to execute successful PBA contracts" as part of a program manager's personnel evaluation.
- Provide guidelines for how program and contracting staff should work together on PBA efforts, pointing out the need for the development of solid baselines from which to measure contractor performance.
- Recognize that performance metrics in contracts will sometimes need to be renegotiated as part of the contract administration function. Not all must be perfect up front.

George Mason University and the IBM Center for The Business of Government have convened a series of discussions by thought leaders on issues for public managers. These sessions generate practical advice for critical management problems. The participants are recognized leaders in their fields and include senior government and private sector managers, academics and representatives of non-profit organizations. For more information on the IBM center, visit the web site at businessofgovernment.org