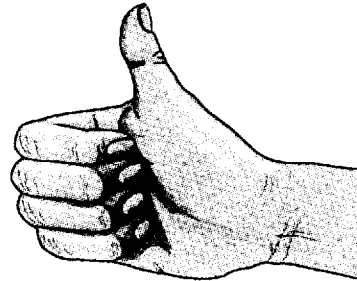


## ***Performance-Based Incentives and Related Approvals***



*[Parts of this guidance were previously included in Acquisition Letters 95-04, 97-06 and 97-08]*

### **□ Overview**

This section provides guidance on review and approval of Performance-based contracting actions, and identifies the associated responsibilities of Headquarters and Field elements.

#### **National Nuclear Security Administration Guidance**

For purposes of the guidance contained herein, with respect to National Nuclear Security Administration (NNSA) Contracting Offices:

- “Head of Contracting Activity (HCA)” means the HCA or designee. For NNSA the HCA is the Deputy Director, Office of Procurement and Assistance Management (OPAM), NNSA,
- “Procurement Executive” means the Senior Procurement Executive who is the Director, OPAM, NNSA, and
- Substitute “OPAM, NNSA” for Office of Contract Management (OCM).

### **The Office of Contract Management (OCM) (ME-62)**

This office reviews and approves the following types of actions:

- Fee and incentive structures for Performance-Based Management Contracts (PBMCs), Management and Integration (M&I) contracts, and other major site and facility management contracts.
- Acquisition plans, solicitations, and contracts for Department of Energy privatization projects funded by the Office of Environmental Management (EM).
- Requirements pertaining to HCA waiver requests from Headquarters performance-based incentive approvals.

### **Requirements Organization**

- Identify contract requirements that may be suitable for performance-based contracting methods.
- Establish and maintain baseline information to be used to measure both contractor performance and contracting improvements resulting from the use of performance-based contracting methods.
- With regard to individual requirements:
  - ✓ Develop accurate and complete statements of work that, to the maximum extent practicable, define the Government's desired performance in terms of outcome, results or final work product.
  - ✓ Develop criteria and metrics that can be used to measure a contractor's performance in terms of quality, timeliness, and cost.
  - ✓ Ensure that requirements initiators and Contracting Officer Representatives receive appropriate training in developing performance-based statements of work and administering performance-based contracts.

### **Contracting Organizations**

- Coordinate the submission of acquisition plans, solicitations, contracts, performance objectives and fee structures, and other appropriate documentation relevant to the analysis review and or approval requirements identified herein with the assigned points of contact within OCM at the earliest possible time.

- Act as advocates for, and assist in the development of, performance-based, results-oriented statements of work.
- Determine the acquisition method (i.e., sealed bids, competitive proposals) and develop the Invitation for Bids or the Request for Proposals.
- Review statements of work to ensure adequacy, including:
  - ➔ definition of the requirement in terms of outcome, results, or final work product
  - ➔ representative of the Government's minimum needs
  - ➔ sufficiently detailed to permit contract enforcement.
- Determine the appropriate contract type and ensure that solicitation provisions and contract clauses are compatible with the requirements and do not inhibit full and open competition.
- Provide technical guidance and support to requirements staff in such areas as the development of performance-based, results oriented work statements, acquisition approach, and development of evaluation and selection criteria.

## ☐ **Background**

The October 1997 Report to the Secretary of Energy entitled "Assessment Of The Use of Performance-Based Incentives In Performance Based Management and Management and Integration Contracts" identified areas where improvements were needed in the Department of Energy's processes and practices relating to the development and administration of performance-based objectives and associated incentives in PBMCs and M&I contracts.

The report concluded that:

- ✓ performance objectives and associated incentives were, in some cases, excessive in number, did not directly relate to the critical strategic or tactical objectives of the program or site, or represented areas not suited for the application of incentives
- ✓ the amount of fee allocated to a specific objective was not always reflective of the actual value or importance of the work; and,
- ✓ performance objectives were sometimes focused on process milestones or the development of internal systems rather than outcomes.

The report made a number of recommendations with the objective of strengthening the Department's activities in these areas, including:

- (1) instituting a more structured management approach to the development of performance-based objectives, measures, and incentives; and
- (2) strengthening the Department's framework of directives and instructional information on the use of PBIs. In this regard, the report recommended a strengthening of policies and guidance to be used in developing performance objectives and incentives.

Regarding administration of PBIs, the report recommended that each field office institute a structured process for the development of performance objectives and incentives, including the establishment a single authority to coordinate the development of performance objectives and related incentives.

The report also recommended that HCAs identify mechanisms, responsibilities, and authorities for ensuring that contractor performance against objectives is appropriately monitored and verified.

Additionally, the Secretary of Energy has directed that the Director, OPAM review and approve contract-specific performance measures and associated incentives under PBMCs and M&I contracts to ensure that they are appropriately structured and administered.

The Secretary also has directed that the Director, OPAM establish a process for the review and approval of solicitations and contracts for privatization projects funded by the EM.

## ☐ **Guidance**

### **A. Review and approval of PBMC and M&I contract performance objectives and fee structures.**

- (1) All performance objectives and associated fee mechanisms (to include performance-based incentives, award fee plans, and cost reduction/cost saving incentive programs) are submitted to OCM (ME-62), within OPAM for review and approval prior to commencement of negotiations with an offeror or, in the case of an existing contract, the incumbent contractor.

To the extent that an approved fee structure is substantially changed as a result of negotiations, funding, or program changes prior to its incorporation into the contract, it is resubmitted to OCM for final approval.

- (2) HCAs are responsible for establishing a process internal to their organization to (a) assess all performance objectives, award fees, and specific incentives tied to discrete performance objectives to ensure that they are well-defined, rational, appropriately integrated prior to their negotiation and inclusion in the contract, and (b) ensure that mechanisms exist as part of contract administration for the validation of contractor performance against objectives.
- (3) The Procurement Executive may waive these review and approval requirements upon an affirmative demonstration by the HCA that internal processes are adequate to ensure that the performance measures and associated fee structures are properly developed and administered.

**B. Review and approval of solicitations and contracts for EM-funded privatization projects.**

Acquisition plans, solicitations, and contracts for EM-funded privatization projects are submitted to OCM for review and approval. OCM will provide for the coordination of the review and approval process with other cognizant Headquarters organizations.

**C. Development and administration of performance-based incentives**

HCAs are to establish formal processes for the development and administration of performance-based requirements, objectives, measures and incentives used in performance-based award fee contracts.

At a minimum, such processes:

- ✓ ensure appropriate, timely, and integrated participation by key operations/field office program, technical, functional and procurement personnel in the identification of applicable DOE strategic, program, and site plan goals and objectives that should drive contract performance requirements;
- ✓ in accordance with procedures of the applicable Headquarters Program office or NNSA, ensure Headquarters Program office review, coordination and approval, as appropriate, of performance-based incentives and

Performance Evaluation and Measurement Plans or similar document;

- ✓ ensure, to the extent appropriate, that incentives are structured in a manner that will improve contractor performance;
- ✓ ensure that the impact of year-to-year changes to operating conditions and/or performance metrics, to the extent appropriate, are evaluated, considered, and adequately supported through documentation in the negotiation of available fee;
- ✓ identify key operations/field office organizational and individual roles and responsibilities pertaining to the identification and development of performance-based requirements, objectives, measures and incentives;
- ✓ ensure that a specific individual(s) or organizational components accountable for final selection and approval of contract-specific performance-based requirements, objectives, measures and incentives are designated;
- ✓ establish documentation requirements sufficient to support the selection, evaluation, and negotiation of, and to the extent applicable, changes to performance-based requirements, objectives, measures and incentives; and,
- ✓ identify, through a quality assurance surveillance plan for the contract, the critical contract administration functions, and the specific roles, responsibilities and authorities, needed to ensure that contractor performance against objectives is appropriately monitored and that performance accomplishments are adequately documented and verified.

**D. Administrative requirements for PBI waiver requests**

Performance objectives and associated incentives used in performance-based management contracts, management and integration contracts, and other major site and facility management contracts are to be submitted to the OCM for review and approval prior to commencement of negotiations with an offeror or incumbent contractor.

For NNSA contracts, performance objectives and associated incentives will be submitted to the Office of the Associate Administrator for Facilities and Operations, NNSA.

The Procurement Executive may waive the review and approval requirements upon demonstration by the HCA that internal processes are adequate to ensure that performance measures and associated incentives are properly developed and administered.