



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

ACQUISITION  
TECHNOLOGY  
AND LOGISTICS

SEP 06 2006

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Performance Based Acquisition (PBA)

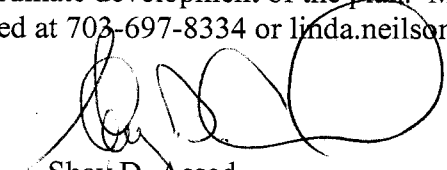
This memorandum updates DoD requirements relating to PBA and implements the Office of Management and Budget, Office of Federal Procurement Policy (OFPP) memorandum "Use of Performance-Based Acquisitions" dated July 21, 2006 (Attachment 1). The Department continues to make significant progress in the use of PBA. In Fiscal Year 2005, approximately 55 percent of DoD's eligible service actions over \$25,000 (measured in dollars awarded) were reported as using PBA. Therefore, DoD will retain the goal of 50 percent of eligible service actions over \$25,000 (measured in dollars awarded).

Accurate reporting of PBA is key to tracking DoD's PBA performance. As we transition to the FPDS-NG contract data reporting system, continue to code actions as performance-based if more than 50 percent of the requirement, measured in dollars, is performance-based. Attachment 2 contains coding instructions for reporting PBA contract actions.

Attachment 3 provides the current list of services excluded from the requirement to use PBA. In addition, Attachment 3 contains a list of service areas excluded from the annual OFPP assessment of PBA goal achievement.

In implementing requirements for the use of PBA, activities should focus on appropriate application of performance-based approaches, proper acquisition planning, clear definition of requirements, and effective management of performance-based contracts. Appropriate metrics and a quality assurance or written surveillance plan should be integral parts of performance-based contracts, and properly trained Contracting Officer Representatives should be designated prior to contract award. Personnel involved in preparation of performance-based statements of work are required to complete PBA training. The Defense Acquisition University continuous learning module, CLC 013, Performance-Based Services Acquisition, is available at <https://learn.dau.mil/html/clc/Register.jsp> for this purpose.

The DoD PBA Management Plan is due to OFPP by October 1, 2006. My staff is working with your representatives to coordinate development of the plan. My point of contact is Ms. Linda W. Neilson, who can be reached at 703-697-8334 or [linda.neilson@osd.mil](mailto:linda.neilson@osd.mil).



Shay D. Assad  
Director, Defense Procurement  
and Acquisition Policy

Attachments:  
As stated.



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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.<sup>1</sup> 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.

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<sup>1</sup> 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.

ATTACHMENT 1 (August 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](http://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](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](mailto:jwise@omb.eop.gov).

Attachments

OFFICE OF FEDERAL  
PROCUREMENT POLICY

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

September 7, 2004

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS  
SENIOR PROCUREMENT EXECUTIVES

FROM:

Robert A. Burton *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](http://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](http://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](http://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](mailto: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.



## ATTACHMENT 3

### 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](mailto:jwise@omb.eop.gov).

## **Reporting Performance-Based Acquisition (PBA) Contract Actions Coding Instructions**

### **Federal Procurement Data System – Next Generation**

#### **PERFORMANCE BASED SERVICE ACQUISITION:**

FY 2004 and prior: 80% or more (as measured in dollars) specified as performance requirement

FY 2005 and later: 50% or more (as measured in dollars) specified as performance requirement

### **DD 350 Contract Data Reporting System**

#### **LINE B1E, PERFORMANCE-BASED SERVICE CONTRACT (see FAR Subpart 37.6).**

Enter one of the following codes:

(A) Code Y - Yes. Enter code Y when at least 50 percent of the contract value is for work that is performance based.

(B) Code N - No. Enter code N when code Y does not apply.

## Performance-Based Acquisition (PBA) Exclusions

### 1. Services Excluded from the Requirement to Use PBA

The services listed in Table 1 are excluded from the requirement to use PBA (See Federal Acquisition Regulation (FAR) 37.102, Policy).

**Table 1**

Services Excluded from the Requirement to Use PBA	Product Service Code (PSC)
Architect-Engineer services acquired in accordance with 40 USC 541-544 (see FAR Part 36)	C***
Construction (see FAR Part 36)	Y***
Utility Services (see FAR Part 41)	S1**
Services that are incidental to supply purchases	

### 2. Services Excluded from the List of Eligible Services For Agency PBA Activity Assessment

a. Additional types of services may not be appropriate for PBA. In accordance with Office of Federal Procurement Policy memorandum "Use of Performance-Based Acquisitions" dated July 21, 2006, the service areas listed in Table 2 are excluded from the assessment of agency PBA activity.

b. Please note, however, that agencies are not precluded from using PBA procedures for services in these areas. Military Departments and Defense Agencies with PBA activity in these service areas may provide pertinent FPDS data to the Director, Defense Procurement and Acquisition Policy, for consideration in the assessment of PBA activity.

**Table 2**

Service areas excluded from assessment of PBA activity	Product Service Code (PSC)
<ul style="list-style-type: none"> <li>• Research and development (R&amp;D)                             <ul style="list-style-type: none"> <li>○ Basic Research,</li> <li>○ Exploratory Development,</li> <li>○ Advanced Development,</li> <li>○ Demonstration/Validation,</li> <li>○ Engineering and Manufacturing Development, and</li> <li>○ Operational System Development</li> </ul> </li> <li>▪ Professional Medical Services (not facility-related)</li> <li>▪ Tuition, Registration &amp; Membership Fees</li> <li>▪ Leaseholds for buildings</li> </ul>	A**1 through A**5 and A**7  Q501 through Q527 U005 X111 through X300
Entitlement Payments <i>(Note: For DoD, this exclusion applies only to Tricare Support Contracting Office, DODAAC H94002, when using NAICS Codes 446110, 454113, 524114, 524292, 541611, 541710 and 813920)</i>	