

Developing Performance Criteria For Professional Services

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Executive Summary—Many federal agencies are struggling to implement performance-based service acquisition strategies for procuring professional services. This paper defines the sources of this difficulty and provides a conceptual framework for defining performance criteria for professional services. This framework is based on understanding the impact of *repetition* and *context* on performance criteria. By defining desired outcomes in terms of knowing what problem you are trying to solve, and agreeing on how you will know when the delivered solution is acceptable, it is possible to define performance agreements for professional services that satisfy the criteria established for performance-based service acquisitions.

Introduction

Many, perhaps most, federal agencies are struggling in their efforts to comply with recent changes in policies and legislation requiring the use of Performance-Based Service Acquisition strategies when outsourcing for professional services. For over a decade, many agencies have used performance-based agreements to procure facilities services, maintenance, and other much-needed services. However, the recent changes in federal policies and legislation require the use of performance-based service acquisition (PBSA) strategies to procure nearly all outsourced services, to include professional services.

This is proving to be a big problem for federal agencies that rely on outsourced professional services in support of mission essential functions and activities. These agencies have acquired professional services using Best Effort strategies that most often revolved around Cost Reimbursable and Time and Materials type contracts that specify processes to be used and labor qualifications of staff that will be allowed to work on the program. Acquisition strategies and contracting processes that developed and matured around Best Effort practices are of little use to agencies that must acquire services on the basis of performance requirements and standards.

How big is the problem? Consider that, in 2003, the federal government spent \$31.2B, approximately 34 percent of all service procurements, on professional services. This figure still falls short of the federal goal of achieving a 40 percent utilization rate for PBSA in the current 2005 fiscal year. To government agencies, this implies that new procurement

strategies must be developed for at least 40¹ percent of their acquisition budgets. For industry, this means that at least 40 percent of new contract opportunities will require a different approach to bidding and proposing for that work.

This paper briefly examines several of the factors that many agencies find most difficult when implementing Performance-Based Service Acquisition, and then proposes a framework that makes it easier to define performance criteria for professional services.

PBSA—Why Does It Seem So Hard?

If performance-based service acquisition has been used for over a decade, why is it so hard to apply the concepts to professional services? Part of the reason is that professional services are fundamentally different from other types of services. How so? Many of the types of services commonly procured using performance criteria satisfy the acquisition criteria for “commercial items.” These are services that are common in the marketplace and have ready equivalents and adequate competition to effectively set market prices. Moreover, the application of the service is largely independent of context. The commodity services are, effectively, end items of supply in an acquisition strategy.

On the other hand, professional services are highly differentiated in the marketplace in terms

¹ *The current federal goal is for a minimum of 40 percent of service acquisitions to be performance based. The objective is for all service acquisition to be performance-based unless specifically waived by competent authority.*

of perceived quality, and may have few, if any, equivalents (in fact, the particular service may be copyrighted or patented). But this is not what makes them more difficult to define than services such as the more common installation and logistics services. What is different about professional services that make them so hard to define in terms of performance? The key differences can be defined in two words: *repetition* and *context*.

It is relatively easy to define performance standards for services that are delivered repetitively—those for which one instance of the service is not fundamentally very different from any other instance of the service. All one must do is observe the quality of service provided and assess the suitability of the results. If the results are satisfactory, then the quality of service is acceptable. Adjustments to the quality of service standards result in changes to the delivered results. Repetition allows frequent observation of cause and effect—of delivered quality and results—that leads to definitions of acceptable quality standards for services.

Key ingredients of repetitive delivery are a relatively short service interval and a high degree of independence from context. For example, consider the procurement of cleaning services to support a facilities maintenance function. These services, while important to the overall operation of the facility, are relatively insensitive to context. It doesn't matter much if the floor to be waxed and buffed is the floor of an administrative building or the floor of a public facility. Moreover, the service is provided on a daily or weekly basis, which allows for frequent observations (i.e., measurement) of the delivered quality and the opportunity to decide, with repetition, an appropriate level of quality for a given price.

Professional services stand in stark contrast to the example just cited in that they are specialized and usually highly sensitive to the context of their delivery. Take, for example, software engineering and assume two different contexts for the service: the first context is a need to develop a network utility that finds and cleans up unused files, and the second context is a need to develop an application that records the transfer of funds between large accounts.

In the first context, the quality of the software is probably not critical to the mission of the organization that operates the network. In the second context, however, it is vital to the

organization that the records of financial transactions are complete and error-free—an extremely high degree of delivered quality is absolutely critical and the organization is willing to pay more to get that level of service.

In each of the two contexts, the professional services are very similar—software design and development—and the required skills may be nearly identical. However, the required performance standards will likely be very different due to the differences in delivery context. And, since it is unlikely that these software applications will be developed or updated more than once every few years, there are very few repetitions of the service to help establish a “market price.”

Procuring organizations could overcome the lack of repetition by borrowing lessons from other organizations that have acquired similar services, assuming that the contexts were sufficiently similar. For example, an organization that wished to outsource the development of a network utility, as in our previous example, could solicit historical data from others who had successfully outsourced for similar services. Unfortunately, since acquisitions of years past were not driven by performance, there are few records of what quality of service was delivered and how that quality impacted the outcome of the project.

Objective To The Right, Subjective To The Left....

The first documents to describe performance-based acquisition strategies contained language that required objective measures of contractor performance. Wow! That requirement stopped many fledgling attempts at performance-based acquisition dead in their tracks. The general response was something along the lines of “How can I establish an objective standard for something I've never measured before?” and “I'm not sure that the performance I want is even measurable in objective terms!”

These concerns were well founded. Many, if not most, professional services are hard to quantify. What set of objective benchmarks would you apply to a technology trade study to effectively evaluate whether it provided valuable decision support to a planned acquisition?

The federal mandate for objective measures of performance had the unintended consequence of making it extremely difficult to create

performance-based acquisition strategies to procure professional services. The philosophy made sense—who wouldn't want to help make government more efficient and accountable—but the requirement to define objective measures of performance was simply too difficult.

“Our Needs Change From Day To Day!”

Many government organizations are service providers—they make government services available to the public or they provide a support service to their own or other government organizations. Project managers in these organizations must be agile and responsive to the needs of their customers, whose needs are often difficult to anticipate.

A frequent complaint by government project managers, when tasked to define performance criteria for their contracted support, is that their needs are too varied to pin down in a set of static requirements and standards. “I can't define performance criteria for my contractors! We have a number of customers who all want different things...I never know from one day to the next what we will be doing.”

The real concern with many of these managers is that the performance work statement will define too narrowly the services the contractors are allowed to provide, or will tie them to accepting a fixed quantity of service regardless of the actual amount of support required. It is far better, many think, to have the flexibility to define the contractor's roles and responsibilities on a daily basis, if necessary, to make sure the right effort is applied to the right tasks.

I Don't Know Art, But I Know What I Like!

“Our mission is unique and most of what we do is on the cutting edge. I can't define what performance I need from my contractors...but I'll know it when I see it.” This statement also has a kernel, and often a large one, of truth to it. Many government agencies are involved in cutting edge research and development, are developing new processes and methods, or are simply dealing with a rapidly changing operational environment.

It is hard to define performance standards when there are few, if any, precedents to guide you to acceptable levels of performance. And context does matter—the same services delivered in

different operational contexts are very unlikely to be equally suitable. And it's also true that the daily activities of many organizations are driven by the needs of their customers. These organizations must be agile and responsive. And, last but not least, many programs that address emerging needs have a difficult time stating, at least with any reasonable certainty, what quantifiable outcomes can be expected from many of their efforts.

It has long been considered easier to define the skills sets that are required to address the kinds of problems faced by the procuring organization and to simply direct the activities of the contractors according to the currently perceived needs.

Implementing PBSA--Changing Minds, Changing Habits

All of the concerns cited above are valid. Hmm...given the number and validity of the factors that can complicate any effort to use Performance-Based Service Acquisition strategies to procure professional services, what is the motivation to do so? Wouldn't it be better to applaud the Noble Experiment, fold our tents, and head back to the smoother terrain of Best Effort contracting?

Even if one were tempted to give in to the desire to avoid the apparent difficulties of PBSA, it's really not an option. The Government Performance Results Act of 1993 mandates that all federal agencies develop and maintain a strategic plan that identifies organizational goals and measures performance against those goals. Additionally, the Federal Acquisition Regulation (FAR), in Part 37.6, requires service acquisitions to be performance-based to the maximum extent practicable. Other regulations, for example the Defense Supplement to the FAR (see DFARS Section 237.107), provides unambiguous guidance for particular agencies to use PBSA unless specifically approved otherwise. Most recently, the Service Acquisition Reform Act has added rigor to the mandate to use performance-based acquisition strategies to acquire services.

So then, given that it seems difficult but there is no alternative, how can we develop performance-based definitions for professional services? One important lesson we have learned is that “*PBSA is not as hard as most people think it is!*” Why do people think it's hard? Part of the answer can be found in the language of the legislation and policy documents regarding PBSA. This language states that

performance standards must be objectively measurable—this is usually interpreted to mean that quantitative thresholds, or metrics, are required. What “metric” is appropriate to use for an engineering study, a cost benefit analysis, or a technology survey?

In many applications of professional services, it is difficult—or impossible—to use metrics to define acceptable levels of performance. This difficulty was recognized, and addressed, in the recent proposed changes to the FAR that allow both objective and subjective measures of performance. The real key is that performance be measurable.

A second major impediment to implementing PBSA is the fear of making mistakes. Many of our clients have expressed their concern over selecting an inappropriate performance standard and then being “stuck” with the consequences. This is a valid concern, for setting a performance standard too low is likely to result in work that fails to achieve the intended outcome. Conversely, setting the performance standard too high leads to higher costs without a corresponding increase in value.

A key enabler to procuring professional services using PBSA is first to decide that it can be done! This is a change in thinking for many, both in government and in industry. The conventional wisdom has held that professional services, because they are not easily measured in the same objective terms as facilities, logistics, and other services, were beyond the pale for definition on a performance basis. This thinking follows from a strict, literal interpretation of the language in the FAR and other foundational documents. Such a literal interpretation ignores the intent of the Government Performance Results Act, which requires every federal agency to develop and submit a strategic plan and to report performance against that plan. The strident message in the GPRA is one of accountability.

Accountability for results is a priority of the government. It seems awkward at best, and foolish otherwise, to require accountability in facilities maintenance, food, service, and transportation, and not require it for engineering, software development, and project management (to name but a few) services that are often at the heart of the agency’s mission. The upper levels of federal acquisition policy and planning have recognized the need to modify the language in key documents to explicitly allow subjective performance standards where necessary. Such

a change is necessary to ensure the spirit of PBSA—to enable some measure of accountability for the roughly 34 percent of acquisition dollars that are spent to procure professional services.

Okay, that all speaks to the need to change minds. What about the second hurdle...that of changing habits? Fortunately, we don’t need to completely eradicate old habits when transitioning from Best Effort contracts to contracts based on performance criteria. In fact, defining performance criteria for a project actually consists of answering two simple questions:

Simple Question #1...“What problem are you trying to solve?” The vast majority of government project managers know what they need. Every good project manager knows what outcomes must be produced to ensure success. The traditional approach is to transform this knowledge into a set of defined activities that, if enacted successfully, would produce the desired outcomes. This set of activities is defined in the Statement of Work that accompanies a Level of Effort contract.

In a performance-based acquisition, the key is to identify the specific results that will produce the desired solution or fill the need. Those outcomes are the performance requirements that are necessary for the project to succeed.

Simple Question #2...“How will you know when you’ve solved the problem?” The problem is solved, or the need filled, when the properties of the solution that make it acceptable have been satisfied. Sometimes these properties are constraints (e.g., timeliness or cost control) that must be satisfied. These properties, including constraints, are the performance standards.

So...How Do You Know If You’ve Got It Right?

A real key to implementing PBSA is to simplify, simplify, simplify. Occam’s Razor² is a rule that advises us that the simplest solution is usually

² *William of Occan (Ockham) was a 14th century (1285-1349) English philosopher and also a monk of the Franciscan Order. The actual quote is “Pluralitas non est ponenda sine necessitate” which translates approximately to “avoid needless complexity.”*

the best one. When it comes to defining performance criteria for professional services, I've found the simplest approach is to ask, "How do you expect to be better off as a result of this effort?"

This simple question often throws the person to whom it is addressed. It's not meant to be a trick question, but should be taken at face value. "How do you expect to be better off?" refers to where and how the value will be added to the government as a result of this acquisition.

Sometimes, in fact, quite often, the questions of benefit and value require a subjective answer (this is because of *context*...remember?).

Bounded versus Unbounded Subjectivity

Performance-based acquisitions of professional services are unlikely ever to be purely objective, for the reasons described earlier. So then, if an element of subjectivity will always be present in performance-based services acquisitions, why are they to be preferred over Best Effort agreements? One important reason is because the degree of subjectivity in a performance-based acquisition can be limited and managed.

This brings up a comparison of two conditions. One condition, the one that exists in Best Effort arrangements, is *unbounded subjectivity*. Unbounded subjectivity exists when the only agreement between the buyer and the seller concerns work methods and labor. There is little or no agreement on how the suitability and value of the delivered services will be measured or by what means satisfaction will be determined—hence the subjectivity is unbounded. Under these conditions, the contractor is left to guess what properties of the delivered work will make the client happy with the results. At the same time, the customer is left to speculate whether or not the contractor's efforts are likely to result in a useful outcome.

Under unbounded subjectivity, there is no mutual understanding of how the second

question, "How will you know when you've solved the problem?" will be answered.

Performance criteria for professional services, defined by answering the two simple questions, provide *bounded subjectivity* when objective measures are not possible or practical. When bounded subjectivity exists, the buyer and seller reach an agreement on the properties of the delivered work that are necessary to make the results acceptable and against which the work will be assessed. The contractor has a clear understanding of the outcomes that will satisfy the customer.

Conclusion

More and more legislation and acquisition policies are requiring the use of performance-based acquisition strategies to procure professional services. The nature of professional services has frequently confounded the efforts of many who try to define them in terms of performance criteria.

Professional services are inherently different from the types of services obtained in the past with performance-based acquisition strategies because they are, in most respects, not easily defined using the same type of standards. Furthermore, the lack of frequent repetition and the sensitivity to context make it difficult to develop meaningful histories of job outcomes.

This paper explores a conceptual framework for defining performance criteria for professional services and shows how this framework can lead to effective implementations of performance-based acquisition strategies.

For More Information...

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