



**STATEMENT OF
THOMAS W. ESSIG
CHIEF PROCUREMENT OFFICER
DEPARTMENT OF HOMELAND SECURITY**

**BEFORE THE
COMMITTEE ON HOMELAND SECURITY**

**UNITED STATES HOUSE OF REPRESENTATIVES
May 8, 2008**

Chairman Thompson and Members of the Committee, thank you for this opportunity to appear before you to discuss the Department of Homeland Security's (DHS) acquisition program in conjunction with the hearing entitled "*Performance Based Acquisitions: Creating Solutions or Causing Problems?*". I am the Chief Procurement Officer (CPO) for the Department.

As the CPO, I am the lead executive responsible for the management, administration and oversight of the Department's acquisition programs. In that capacity, I oversee and support eight procurement offices within DHS – U.S. Customs and Border Protection (CBP), Federal Emergency Management Agency (FEMA), U.S. Immigration and Customs Enforcement (ICE), Transportation Security Administration (TSA), United States Coast Guard (USCG), United States Secret Service (USSS), Federal Law Enforcement Training Center (FLETC), and the Office of Procurement Operations (OPO). My office provides the acquisition policies, procedures, training and workforce initiatives that enable our acquisition professionals to support mission accomplishment while also being good stewards of taxpayer dollars.

Before addressing the subject of today's hearing, *Performance Based Acquisitions: Creating Solutions or Causing Problems?*, I would like to take this opportunity to summarize my background and convey my top priorities as the CPO. I am a career Federal employee, with more than thirty years of public service in the acquisition career field. I began my Federal career in 1976 when I entered the Navy's Contracting Intern Development Program. My initial assignment was with the Naval Sea Systems Command (NAVSEA), where I served as a contract specialist supporting various Naval weapon systems and shipbuilding programs. I was selected as a member of the Senior Executive Service in 1995 and served as the Director of the Surface Systems Contracts Division of NAVSEA. I have also held Senior Executive Service positions with the Navy Department as the Executive Director of the Office of Special Projects, Director of the Navy Engineering Logistics Office, and Director for Program Analysis and Business Transformation in the Office of the Assistant Secretary of the Navy for Research, Development,

and Acquisition. I joined DHS in May 2006 as the Deputy Chief Procurement Officer and was selected as the Chief Procurement Officer in late December 2007. While most of my career has been in the area of contracting, my assignments have also given me responsibility for leadership of other critical acquisition functions. As a result, I am certified at Level III (the highest level) in both the contracting and program management career fields at both the Department of Defense (DoD) and DHS.

As you are aware, DHS is a relatively new Department, created after the events of September 11. Due to the scope of our mission and the challenges inherent in the creation of a new Department, we initially found ourselves short staffed and focused almost exclusively on one goal –mission accomplishment. At times, however, that was at the expense of the quality of the business deal. Since then, we have implemented a number of initiatives to improve our level of performance and ensure that our business deals enable us to both accomplish our mission and provide for good stewardship of taxpayer dollars

Earlier this year, I identified my top priorities for FY 2008. As those priorities are particularly relevant to today's topic, I would like to summarize them here.

Priority 1: Quality Contracting

This goal was initially put in place by my predecessor, Ms. Elaine Duke. While we have made significant improvements in this area, more remains to be done to ensure quality contracting over the entire life cycle of the contract, from preparing the statement of work to closeout of the contract. In support of this priority, my office intends to continue to develop a policy framework to facilitate the Department's ability to meet its acquisition-related mission requirements, even in the face of urgent requirements. Our initiatives include, but are not limited to the following:

Goal: To make good business deals.

- Improve the level and quality of our competitions by establishing competition goals for each of the Components and recognizing significant achievements through a competition award program;
- Achieve DHS small business goals;
- Stay current on acquisition policy matters by being an active member of the Civilian Agency Acquisition Council (CAAC), by leading the DHS Chief Acquisition Officer (CAO) Council, and by issuing DHS-wide policy guidance and training based on identified competency gaps;
- Advise Components on implementation of recommendations from DHS Oversight reviews;
- Ensure that acquisition personnel provide timely and accurate data entries into the Federal Procurement Data System-Next Generation (FPDS-NG) and the Past Performance Information Retrieval System (PPIRS) acquisition systems;

- Encourage Component Heads of Contracting Activities (HCAs) to leverage cost and pricing expertise from within the Office of the Chief Procurement Officer (OCPO) and other agencies, such as the Defense Contract Audit Agency (DCAA), the Defense Contract Management Agency (DCMA), or Navy Price Fighters Pricing, to ensure business deals are well supported and documented to reflect fair and reasonable prices; and
- Establish a DHS-wide Acquisition Knowledge Management toolkit.

Goal: To perform effective contract administration. In addition to ensuring our contract awards represent good business deals, we must perform effective administration of those contracts in order to ensure we get what we bargained for. In order to perform effective contract administration, my office intends to implement initiatives that include the following:

- Ensure proper contract administration is performed on all DHS contracts, to include obtaining support from organizations such as DCMA, especially with regard to Earned Value Management;
- Provide just-in-time contract administration training through the development of several online job-aids, to include training and policy guidance on proper role of Contracting Officer Technical Representatives (COTRs); and
- Develop a Government Furnished Equipment (GFE) “*Roadshow*” to acquaint professionals with significant changes to policy on administration of GFE.

Priority 2: Quality Acquisition Management

We also recognize that you don’t achieve program success through good contracting alone.

Goal: To improve the quality of program management throughout DHS. In order to deliver capabilities to meet the Department’s mission on schedule and within budget, my office is in the process of strengthening program management, including the related functions such as cost analysis, logistics, systems engineering, and test and evaluation, by implementing initiatives that include the following:

- Complete “*Quick-Look*” reviews of Department Level 1 acquisition programs as a rapid assessment tool to identify high risk area, as well as a more in-depth “*Deep Dives*” review when needed;
- Leverage insight gained from these reviews to refine Departmental acquisition policies and processes, and provide governance support to Component Program Managers;
- Implement program success metrics to provide an “automated” look into the health of our key programs;
- Re-engineer the DHS Investment and Acquisition Review Processes;
- Address concerns regarding the certification of acquisition personnel through various DHS training programs;

- Empower Program Managers and hold them accountable; and
- Facilitate improvement of practices and execution of programs through the DHS Program Management and Test and Evaluation Councils.

Priority 3: Quality People

Neither of the first two goals can be achieved without a highly skilled and motivated acquisition workforce.

Goal: To build and sustain the DHS Acquisition Workforce. In order to build a world class acquisition workforce, I am implementing initiatives that include the following:

- Provide centralized hiring for acquisition and procurement personnel through DHS-wide vacancy announcements and exercise the recently granted re-employed annuitant authority and pursue direct hire authority for the contracting career field in order to resolve personnel shortages;
- Standup of the Acquisition Professionals Career Program as an entry level vehicle to satisfy the long term need for qualified acquisition personnel with 66 participants in FY 2008 and 100 participants in FY 2009;
- Fund an Acquisition Workforce Training program to deliver unified training of personnel by developing their knowledge, skills and abilities to make good business deals; and
- Establish new Acquisition Workforce Certification requirements for acquisition personnel by revising these certification requirements to align with OMB and DoD policy.

Performance-Based Acquisitions (PBAs)

Federal agency usage of outcome-based service contracts, or PBAs, has been a topic of interest within the procurement community for more than twenty years. It is seen by many as a method of acquisition that provides for the potential for the Federal Government to tap into private industry innovation and its commercial best practices to achieve better mission outcomes than are achieved through traditional Government acquisition approaches. The focus of PBA is on the outcome rather than the process; the Federal Government is buying performance and results and is not focused on the processes or activities that our contractors utilize to achieve these desired outcomes.

In last year's report to the Office of Federal Procurement Policy (OFPP) and Congress, the Acquisition Advisory Panel noted that during its public deliberations, there was some debate as to the value of this technique. Witness testimony, as well as written public statements, was mixed on PBA merits. Some questioned the validity of PBA for Federal Government uses after more than a decade of attempts to implement the methodology have failed to produce expected results. Others, however, noted significant successes using PBA. And though an OFPP study found generally positive results, the Panel found no systematic government-wide effort to assess fully the merits of the process. Many witnesses spoke to the challenges in implementing the technique, most of which focused on the acquisition workforce, especially those who define

requirements within the program management community. Commercial organizations told the Panel that implementing the technique can be difficult, particularly in identifying the appropriate performance standards to measure. A number of witnesses suggested that several categories of requirements be excluded from the pool of acquisitions that should be considered for PBA, including staff augmentation requirements, such as program office support, and, requirements that necessitate absolute performance standards based on health and safety considerations, such as management of a nuclear facility where there is no room or desire for flexibility or innovative solutions. Further, the Panel noted that FPDS-NG reporting errors and the lack of meaningful data with respect to both PBA usage and successful outcomes continue to plague the Federal acquisition community.

Nevertheless, PBA has become widely accepted as a sound contract management method within the Federal Government for a wide range of requirements. Despite the difficulties noted in the Advisory Panel's report, PBA remains the preferred commercial technique seen as critical to obtaining transformational and innovative solutions. Ultimately, the Acquisition Advisory Panel determined that its statutory mandate was clear: improve the effectiveness and appropriate use of PBA.

It is OFPP who provides active leadership with respect to the implementation and reporting of PBAs throughout the Federal Government. In response to OFPP's requirement, DHS submitted its initial Performance-Based Acquisition Management Plan to OFPP on October 1, 2006. This Management Plan includes mission details by our respective Component contracting offices; management support strategies to ensure that PBAs are used within DHS to the maximum extent practicable; policy and guidance issued to encourage the use of PBAs; a summary of the acquisition process for PBAs including key roles and responsibilities; service categories where PBAs are primarily used; reporting requirements; and training initiatives.

In my experience, a key factor required for successful PBAs is a thorough understanding of the requirement by all parties. The term "requirement," however, is used throughout the acquisition process and can mean different things to different people. From the perspective of the user – which includes our first responders and law enforcement personnel – the requirement is a user defined need. From the perspective of the contracting officer and contractor, however, the requirement is what the contract identifies – no more and no less. That can be the source of problems downstream when the product or service that is delivered meets the contract's requirement, but not the user's. A key aspect in successful performance-based acquisitions, therefore, is the ability to translate the user need into measurable, outcome-based requirements that all parties – including the user - understand and agree to. That is not just a contracting function and consequently requires a team effort from a wide range of functional specialists. It is also a labor intensive process that must be completed prior to award of the contract.

Furthermore, PBAs are not right for every requirement. In complex service acquisitions, where user requirements may change during the course of the contract, the approach could be disadvantageous. In such a situation, the contract would "require" services that are not what the user actually needs.

While the benefits of PBA are many, the sophistication of both program, procurement and other offices involved in the process plays a key role in the ability of any agency to successfully initiate and manage a portfolio of PBAs. PBA usage requires considerable effort on the front-end of the process by a highly skilled requirements and acquisition workforce. Likewise, during contract administration, PBA requires a labor intensive effort of contractor surveillance that places further demands on the respective program management offices.

In my discussion of my top priorities for 2008, I mentioned the need for us to ensure that our business deals enable us to both accomplish our mission and provide for good stewardship of taxpayer dollars. PBAs can be an effective tool for accomplishing that. However, given the nature of our mission, the organizational maturity of our new Department, and the continuing staffing shortages in the full range of acquisition functions, it is essential that we pursue PBAs in a judicious manner. Our goal is to increase both the quantity and quality of our PBAs, while continuing to meet our essential mission requirements.

GAO Report on DHS' Use of Performance-Based Acquisitions

This week, the GAO released its report, "*DEPARTMENT OF HOMELAND SECURITY, Better Planning and Assessment Needed to Improve Outcomes for Complex Service Acquisitions*". GAO was asked to (1) evaluate the implementation of a performance-based approach in the context of service acquisitions for major, complex investments, and (2) identify management challenges that may affect DHS' successful acquisitions for major investments, including those using a performance-based approach. In its report, the GAO made the following recommendations:

"To increase DHS's ability to achieve improved outcomes for its service acquisitions, including those that are performance-based, we recommend that the Secretary of Homeland Security implement the following three actions:

- (1) routinely assess requirements for major, complex investments to ensure that they are well-defined and develop consistently measurable standards linked to those requirements;*
- (2) at a department-wide level, systematically evaluate the outcomes of major investments and relevant contracting methods; and*
- (3) continuously improve the quality of FPDS-NG data to facilitate the ability to accurately identify and assess the use and outcomes of various contracting methods."*

We concur with those recommendations and offer the following with respect to the report's three recommendations:

In response to the first two recommendations, DHS is committed to increasing its use of quality PBAs whenever practicable and appropriate, and my office will continue to lead the DHS acquisition community in this effort. PBA training sessions have been provided to the entire acquisition community, including a recent OFPP/GSA sponsored event. Further, we have centralized our training program, making the Department better positioned to maximize the use

of available training resources and to deliver needed training to a greater percentage of the acquisition workforce.

I am working to strengthen acquisition and procurement by institutionalizing solid processes that will support our ability to maximize our use of PBA, including the following actions:

- A. Strengthening the requirements and investment review processes. We are currently developing a new Department-wide requirements process and re-engineering our investment and acquisition review process;
- B. Reviewing the major programs and investments to ensure that the requirements are clear, cost estimates are valid, technology risks are properly assessed, schedules are realistic, contract vehicles are proper, and the efforts are well managed. We have held one formal Deputy Secretary IRB and projecting one per month. DHS is also beginning the process of conducting paper IRBs and Deputy Under Secretary for Management IRBs, as well as establishing Acquisition Program Baselines (APBs) and authorizing execution to the APB for all Level 1 and 2 programs;
- C. Building the capability to manage complex efforts by ensuring that program offices are properly structured and staffed with the right people and skills to ensure efficient and effective program management and oversight; and to aggressively hire where we have known shortages; and
- D. Examining best practice metrics in use by other departments with the intent to start implementation this year.

The Acquisition Program Management Division (APMD) within OCPO began operations in August 2007. The division was established to provide policy, oversight and support for the Department's acquisition programs. To date, APMD has performed *Quick Look* assessments of thirty-seven Level 1 programs and has overseen *Deep Dive* reviews of the SBInet and Advance Spectroscopic Portal (ASP) programs. APMD has provided advice and guidance to a number of programs, particularly in the area of cost benefit analysis. Currently the APMD team is focused on an aggressive Investment and Acquisition process re-engineering effort. The effort includes replacing DHS Management Directive 1400 *Investment Review Process*, establishing revised investment and acquisition decision procedures, as well as processes for acquisition program baselining, periodic reporting, acquisition of services, and other initiatives as they are identified.

We are also working to ensure that DHS obtains qualified acquisition professionals. Competition for these professionals is intense within the Washington, DC area. To resolve these personnel shortages, we are intensifying our human capital planning efforts to minimize skill and competency gaps as well as minimize our critical vacancies and reliance on contractors. We are also conducting staffing studies to better define our acquisition workforce needs. Our acquisition workforce currently includes both program managers and contract specialists. As part of our human capital planning efforts, we will be identifying other required acquisition career fields such as test and evaluation, systems engineering, logistics, and cost estimating. We are aggressively working to ensure that each acquisition position, upon definition, is encumbered by

an acquisition professional trained and certified at the appropriate level. To this end, we are continuously reviewing and updating our Acquisition Training Program, the underpinning of a good certification program. We are utilizing the Defense Acquisition Workforce Improvement Act framework to develop DHS certification standards. We have also centralized a number of recruiting activities including issuing Department-wide vacancy announcements. Our centralized recruitment efforts to date have focused primarily on contracting professionals. Expansion to other acquisition career fields will occur as each series is defined and Department-wide needs are identified. This initiative supplements our Components' on-going recruitment efforts with a goal of recruiting the best candidates available. This year, the Department received funding for the standup of the Acquisition Professional Career Program, which will be our primary source of entry level acquisition personnel, providing both on the job and formal classroom training. Our goal is to grow this program to 300 positions by FY 2011 to fill our critical acquisition needs.

Personnel from OCPO have been actively engaged in OFPP's Performance-Based Acquisition Interagency Working Group. The Group has worked to enhance OFPP's PBA *Seven Steps* Guidance and make available appropriate samples. And, OCPO recently sponsored a widely attended and well received "*Excellence in Contracting*" series training event on PBA that was conducted jointly by OFPP and the General Services Administration.

Acquisitions for services within DHS currently represent a significant portion of the agency's procurement dollars, and we recognize the need to ensure that our complex service acquisitions meet the program needs that serve to support the overall DHS mission. In addition to providing PBA policy and training support, my office is charged with performing oversight of all DHS contracting activities to include monitoring the usage and reporting of PBAs.

Further, as part of regularly conducted OCPO procurement management reviews of DHS Components, PBA is addressed to ascertain whether such contracts include the fundamental PBA elements such as performance-based statements of work and corresponding performance metrics, and to ensure that a quality assurance surveillance plan is in place and used to validate contractor compliance with contract-mandated outcomes. Additionally, on a quarterly basis, Component PBA data is reviewed to compare PBA goals to outcomes, and feedback capability is being added to this process in the fourth quarter of this fiscal year.

In response to GAO's third recommendation, as part of OCPO's oversight reviews, the accuracy of the FPDS-NG data is validated for the review sample, including whether the contract has been properly coded as performance-based. Additionally, OCPO is an active member of the Office of Federal Procurement Policy government-wide group that is working to improve FPDS-NG, including the re-competition of the service provider. OCPO has also established a Governance Board whereby OCPO reaches out to the DHS Components to improve upon the Department's data collection.

Summary

PBA is a sound acquisition management method for a wide range of requirements and can be critical to the attainment of innovative commercial solutions. A key aspect of successful implementation of PBA, however, is the ability to translate user needs into measurable, outcome-based requirements. The effort is not just a contracting function and requires a team effort from a wide range of acquisition specialists. PBAs also require considerable effort up front and are not right for every requirement. Given the nature of DHS' mission, the organizational maturity of our new Department, and the continuing staffing shortages in the full range of acquisition functions, it is essential that we pursue PBAs in a judicious manner.

Thank you, Mr. Chairman for your interest in and continued support of the DHS Acquisition Program and for the opportunity to testify before the Committee about the Department's use of Performance-Based Acquisitions. I would be glad to answer any questions you or other Members of the Committee may have for me.