



# NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

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## MBA PROFESSIONAL REPORT

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**An Analysis of the Performance-Based Service  
Acquisition (PBSA) and Its Applicability to  
Hellenic Navy Service Acquisition Activities**

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**By: Christos Avramidis  
December 2012**

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<b>REPORT DOCUMENTATION PAGE</b>			<i>Form Approved OMB No. 0704-0188</i>	
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188) Washington DC 20503.				
<b>1. AGENCY USE ONLY (Leave blank)</b>		<b>2. REPORT DATE</b> December 2012	<b>3. REPORT TYPE AND DATES COVERED</b> MBA Professional Report	
<b>4. TITLE AND SUBTITLE</b> An Analysis of the Performance-Based Service Acquisition (PBSA) and Its Applicability to Hellenic Navy Service Acquisition Activities			<b>5. FUNDING NUMBERS</b>	
<b>6. AUTHOR(S)</b> Christos Avramidis				
<b>7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)</b> Naval Postgraduate School Monterey, CA 93943-5000			<b>8. PERFORMING ORGANIZATION REPORT NUMBER</b>	
<b>9. SPONSORING /MONITORING AGENCY NAME(S) AND ADDRESS(ES)</b> N/A			<b>10. SPONSORING/MONITORING AGENCY REPORT NUMBER</b>	
<b>11. SUPPLEMENTARY NOTES</b> The views expressed in this thesis are those of the author and do not reflect the official policy or position of the Department of Defense or the U.S. Government. IRB Protocol number ____N/A____.				
<b>12a. DISTRIBUTION / AVAILABILITY STATEMENT</b> Approved for public release; distribution is unlimited			<b>12b. DISTRIBUTION CODE</b>	
<b>13. ABSTRACT (maximum 200 words)</b>  The purpose of this MBA professional report is to study and analyze Performance-Based Service Acquisition (PBSA) policies and processes within Department of Defense (DoD) for potential applicability to Hellenic Navy service acquisition polices. This MBA Report includes a literature review and background information about PBSA, current PBSA implementation within the U.S. DoD, current Hellenic Navy acquisition laws and regulations, the legal barriers and constraints to implementation of PBSA and recommendations (based on the findings) to the Hellenic Navy for the potential implementation of PBSA.				
<b>14. SUBJECT TERMS</b> Performance-Based Service Acquisition (PBSA), Hellenic Navy acquisition laws and regulations			<b>15. NUMBER OF PAGES</b> 109	
			<b>16. PRICE CODE</b>	
<b>17. SECURITY CLASSIFICATION OF REPORT</b> Unclassified	<b>18. SECURITY CLASSIFICATION OF THIS PAGE</b> Unclassified	<b>19. SECURITY CLASSIFICATION OF ABSTRACT</b> Unclassified	<b>20. LIMITATION OF ABSTRACT</b> UU	

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**AN ANALYSIS OF THE PERFORMANCE-BASED SERVICE  
ACQUISITION (PBSA) AND ITS APPLICABILITY TO HELLENIC  
NAVY SERVICE ACQUISITION ACTIVITIES**

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Submitted in partial fulfillment of the requirements for the degree of

**MASTER OF BUSINESS ADMINISTRATION**

from the

**NAVAL POSTGRADUATE SCHOOL  
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# **AN ANALYSIS OF THE PERFORMANCE-BASED SERVICE ACQUISITION (PBSA) AND ITS APPLICABILITY TO HELLENIC NAVY SERVICE ACQUISITION ACTIVITIES**

## **ABSTRACT**

The purpose of this MBA professional report is to study and analyze Performance-Based Service Acquisition (PBSA) policies and processes within Department of Defense (DoD) for potential applicability to Hellenic Navy service acquisition polices. This MBA Report includes a literature review and background information about PBSA, current PBSA implementation within the U.S. DoD, current Hellenic Navy acquisition laws and regulations, the legal barriers and constraints to implementation of PBSA and recommendations (based on the findings) to the Hellenic Navy for the potential implementation of PBSA.

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## LIST OF ACRONYMS AND ABBREVIATIONS

ACE	Acquisition Center of Excellence
AQLs	Acceptable Quality Levels
AT&L	Acquisition, Technology & Logistics
BPA's	Blanket Purchase Agreements
CDRL	Contract Data Reports List
CHOD	Chief of Defense
DAU	Defense Acquisition University
DFARS	Defense Federal Acquisition Regulation Supplement
DoD	Department of Defense
EU	European Union
FAI	Federal Acquisition Institute
FAR	Federal Acquisition Regulation
FASA	Federal Acquisition Streamlining Act
FSS	Federal Supply Schedules
FTEs	Full-time Equivalents
GAO	Government Accountability Office
GDP	Gross Domestic Product
GPRA	Government Performance and Results Act
GWAC	Government-wide Agency Contract
HN	Hellenic Navy
IPPD	Integrated Product and Process Development
IPT	Integrated Product Team
IPTs	Integrated Product Teams
MAS	Multiple Award Schedule
MOD	Ministry Of Defense
NATO	North Atlantic Treaty Organization
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget

PBA	Performance -Based Acquisition
PBC	Performance Based Contracting
PBM	Performance-Based Management
PBSA	Performance -Based Service Acquisition
PD	Presidential Decree
PPI	Past Performance Information
PPIRS	Past Performance Information Retrieval System
PRS	Performance Requirements Summary
PWS	Performance Work Statement
QA	Quality Assurance
QAP	Quality Assurance Plan
QASP	Quality Assurance Surveillance Plan
SARA	Services Acquisition Reform Act
SIPRI	Stockholm International Peace Research Institute
SOO	Statement of Objectives
SOW	Statement of Work

## **ACKNOWLEDGMENTS**

I would like to thank my Advisors, Prof. Janie L. Maddox and Dr. Rene G. Rendon, for their continuous support, guidance, and encouragement throughout the duration of my MBA project.

Most importantly, I would like to thank my wife, Lida, and my newborn daughter, Dimitra, for their continued support, sacrifice, love, and patience throughout the whole Naval Postgraduate School experience and especially during the writing of my MBA project. Dimitra, who was born during the writing of my report, and Lida sacrificed more than anyone during this research; I am truly blessed to have them in my life.

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# I. INTRODUCTION

## A. PROBLEM STATEMENT

Over the last two decades, the services that government agencies in the United States need and buy had increased significantly. Nowadays, the government agencies outsource most of these services in order to accomplish their mission; especially within the U.S. Department of Defense (DoD) the acquisition of services is a very significant component of procurements (see Figure 1).

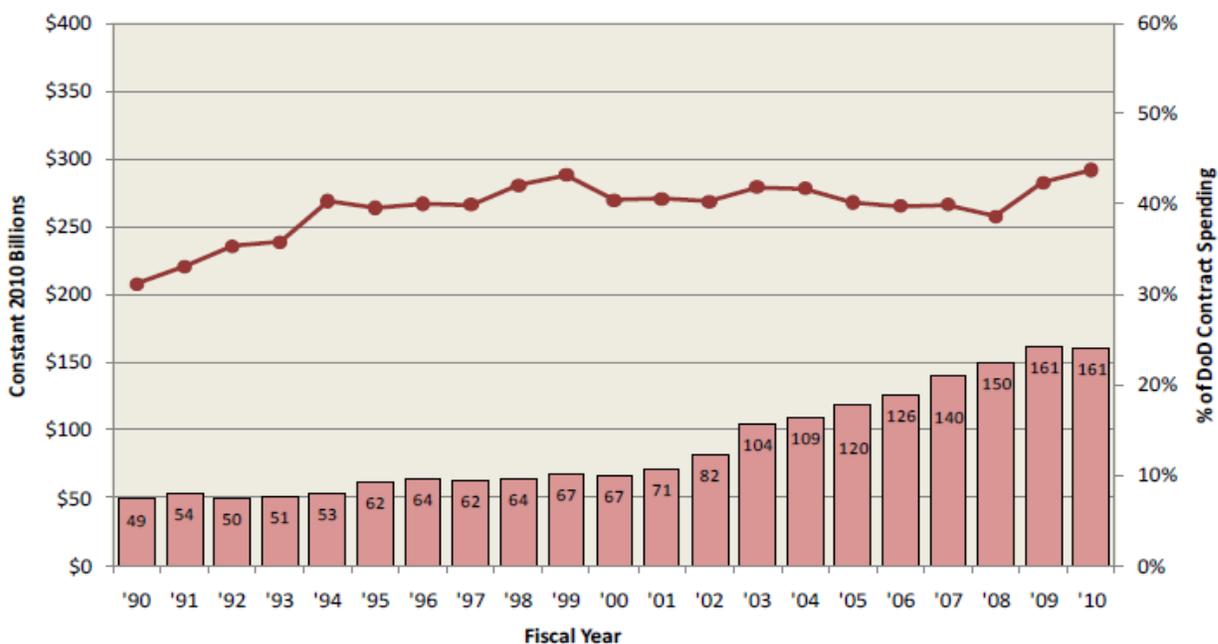


Figure 1. DoD Contract Spending for Services, 1990–2010<sup>1</sup>

Federal Acquisition Regulation (FAR) part 1.102 (a) states that: “The vision for the Federal Acquisition System is to deliver on a timely basis the best value product or service to the customer, while maintaining the public’s trust and fulfilling public policy objectives. Participants in the acquisition process should work together as a team and

<sup>1</sup> Jesse Ellman, Reed Livergood, David Morrow, and Gregory Sanders, May 2011, *Defense Contract Trends: U.S. Department of Defense Contract Spending and Supporting the Industrial Base*. [http://csis.org/files/publication/110506\\_CSIS\\_Defense\\_Contract\\_Trends-sm2.pdf](http://csis.org/files/publication/110506_CSIS_Defense_Contract_Trends-sm2.pdf).

should be empowered to make decisions within their area of responsibility.”<sup>2</sup> In order to accomplish these targets and to acquire the services in the most effective and efficient way the DoD adopted the use of performance-based acquisition (PBA) concept for services. Government-wide performance-based service acquisition (PBSA) policy was initially introduced in the Office of Federal Procurement Policy (OFPP) Letter 91–2 on service contracting, dated April 9, 1991. The letter stated that the government was not obtaining sufficient performance for the money that was being spent, due to the use of inappropriate contracting methods that concurred with an increase in the services acquisition. The OFPP policy was later introduced in the Federal Acquisition Regulation (FAR), which defines “Performance-based acquisition (PBA) as an acquisition structured around the results to be achieved as opposed to the manner by which the work is to be performed.”<sup>3</sup>

Furthermore the Under Secretary of Defense, in April 5 2000, in a memorandum stated that:

In order to ensure that the Department continually realizes these savings and performance gains, I establish, at a minimum, that 50% of service acquisitions, measured both in dollars and actions, are to be performance-based by the year 2005. To achieve this goal, I further direct that the Military Departments and the Defense Logistics Agency develop a PBSA implementation plan to increase the use of performance-based service acquisition strategies within their organizations not later than 60 days from the date of this memorandum. In addition, training is essential to increasing performance-based acquisition for services, and I am committed to providing to the acquisition workforce the training and tools needed to define, acquire, and manage service requirements efficiently and effectively.<sup>4</sup>

The acquisition of services is being done by the Hellenic Navy (HN) with the traditional strategies and in a small scale but the trend is to be increased in the near future. At the same time the financial crisis in Greece dictates for more efficient and

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<sup>2</sup> FAR 1.102 (a), *Statement of Guiding Principles for the Federal Acquisition System*.

<sup>3</sup> FAR 2.101, *Definitions*.

<sup>4</sup> J.S. Gansler, (USD (A&T)), 5 Apr 2000, *Memorandum: Performance-Based Services Acquisition (PBSA)*.

effective ways in the acquisition of services. PBSA is not used by the HN, but it could be potentially a good and useful tool for better and more efficient service acquisitions.

The main goal of this project is the analysis of the performance-based service acquisition (PBSA) within the United States Federal Government Agencies and its applicability to Hellenic Navy service acquisition activities. In order to achieve this goal, this project will study and analyze PBSA background information and current PBSA implementation within the U.S. DoD. It will also focus on the current Hellenic Navy acquisition laws and regulations, the legal and other barriers and constraints to implementation of PBSA and recommendations (based on the findings) to the Hellenic Navy for the potential implementation of PBSA.

## **B. SCOPE**

The scope of this report includes a literature review and background information about PBSA and the rules and regulations related to PBSA; An analysis and evaluation of the current PBSA implementation within the U.S. Federal Government Agencies; An analysis and evaluation of the current Hellenic Navy acquisition laws and regulations; An analysis and examination in current areas of services within the Hellenic Navy that PBSA can be potentially applied.

## **C. RESEARCH QUESTIONS**

### **1. Primary Research Question**

The primary research question of this report is: “Is Performance Based Service Acquisition (PBSA) a suitable and appropriate process for purchasing services for the Hellenic Navy?”

### **2. Secondary Research Questions**

- What are the current U.S. statutes, policies, and regulations related to PBSA?
- What is the current PBSA implementation within the U.S Federal Government Agencies, particularly DOD?
- What are the objectives and outcomes of PBSA?

- Are there any barriers and constraints to the implementation of PBSA within the Hellenic Navy?

#### **D. PROJECT ORGANIZATION**

This Professional MBA Report will review and analyze the Performance Based Service Acquisition (PBSA) concept and its applicability to Hellenic Navy service acquisition activities. It will examine the elements of PBSA, the background and the implementation of PBSA.

Chapter II will provide the historical background information on PBSA. This chapter will discuss the historical development of the PBA within the DoD, the definitions and terms of PBSA and the objectives and outcomes of PBSA. It will also make a comparison between the traditional service acquisition process and the PBSA.

Chapter III will focus on the analysis and evaluation of the current PBSA implementation within the U.S. DoD.

Chapter IV will focus on the analysis and evaluation of the current Hellenic Navy acquisition laws and regulations.

Chapter V will provide the conclusions and recommendations for the potential implementation of PBSA in the Hellenic Navy service acquisitions.

#### **E. METHODOLOGY**

This MBA professional report will use a comprehensive literature review and qualitative research techniques in order to study and present the PBSA concept to Hellenic Navy authorities along with recommendations for the potential implementation.

The methods that will be used are:

- A research of U.S. federal acquisitions rules and regulations concerning performance-based service acquisition (PBSA) on the Internet.
- A review of U.S. guidance policies, Government Accountability Office (GAO) reports and Executive orders regarding PBSA.
- A review of the previous researches available in the library, the Internet and acquisitions magazines.
- A search on the current Hellenic Navy acquisition laws and regulations related to service acquisition on the Internet.

- A development of conclusions and recommendations based on the review and analyses of all the documents and findings concerning the applicability of the PBSA to Hellenic Navy Service Acquisition Activities.

## **F. CHAPTER SUMMARY**

PBSA is a very useful technique. It can improve the services quality and at the same time reduce costs for the government, if it is applied properly. The technique can be used in a variety of services, from the simplest ones to the more complicated and demanding. PBSA has been used in the United States since the early 90's, and it will be used in greater amount in the future as the demand for services will remain high and the need for savings from acquisitions will also be increased. Since 2000 there has been an increased effort for the use of PBSA in the government-wide, and especially within the DoD, with demarcated targets and concurrently increased training, guidance and control. The results and benefits of PBSA still have not been analyzed and reviewed in great scale and fully but some researches have shown encouraging results along with some problems.

The next chapters of the report will focus and analyze some of these issues concerning PBSA and present the benefits and potential problems. Furthermore it will present an official guide of PBSA and the current use within the DoD. The Hellenic Navy operates in a different legal environment, where PBSA is not being used. This report will also try to identify if PBSA could be potentially used by the Hellenic Navy and what are the obstacles in doing so.

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## **II. BACKGROUND AND LITERATURE REVIEW**

### **A. INTRODUCTION**

Currently (2013), most of the countries of the Western world are facing many financial problems, budget deficits and high debts. Among them we can find both the U.S.A. and Greece. These difficulties have led and will progressively lead to severe defense budget cuts in the near future. Therefore, DoD and other U.S. Federal Agencies must learn how to execute their mission with less financial sources. Service acquisitions can be a potential source for these savings; especially today, where service acquisitions account for a big proportion of the total spending (more than 50% for the U.S. DoD). In order for DoD to realize greater savings from the service acquisitions, it must make proper and efficient use of the PBSA strategies and techniques.

“PBA is an acquisition structured around the results to be achieved as opposed to the manner by which the work is to be performed.”<sup>5</sup> The main goal of PBSA is to improve service quality and reduce costs. PBSA also promotes competition for DoD contracts by potentially reducing the barriers that firms face in entering the defense market.

### **B. HISTORICAL BACKGROUND AND LEGAL BASE OF PBSA IN THE UNITED STATES FEDERAL GOVERNMENT AGENCIES**

PBSA is not a new concept. More than 30 years ago, in 1980, The Office of Federal Procurement Policy (OFPP) issued the OFPP Pamphlet Number 4, “A Guide for Writing and Administering Performance Statements of Work for Service Contracts” to supplement the Office of Management and Budget (OMB) Circular No.A-76. That document presented a method of identifying and stating requirements in such a way that the statement of work (SOW) would state accurately the minimum requirements of a job and how to assure that the contractor had actually performed the services required. Furthermore it was built to educate the non-contracting staff how to write a statement of work (SOW) and a Quality Assurance Surveillance Plan (QASP) for services contracts.

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<sup>5</sup> FAR 2.101, *Definitions*.

Later, government-wide performance-based service acquisition (PBSA) policy was contained in Office of Federal Procurement Policy (OFPP) Letter 91–2 on service contracting that was issued on April 9, 1991.<sup>6</sup> The letter presented that the government was not obtaining sufficient performance for the money that was being spent, due to the use of inappropriate contracting methods. The letter stated that:

It is the policy of the Federal Government that (1) agencies use performance-based contracting methods to the maximum extent practicable when acquiring services, and (2) agencies carefully select acquisition and contract administration strategies, methods, and techniques that best accommodate the requirements. In addition, agencies shall justify the use of other than performance-based contracting methods when acquiring services, and document affected contract files.

The statutory support for the PBSA came with the enactment of the Government Performance and Results Act of 1993 (GPRA), the Federal Acquisition Streamlining Act of 1994 (FASA) and the Clinger-Cohen Act of 1996. The PBSA policy was later introduced in the Federal Acquisition Regulation (FAR) in 1997. In October 1998 the OFPP issued the “*Guide to Best Practices for Performance-Based Service Contracting.*” In April 5 2000, Dr. Jack Gansler, the Under Secretary of Defense for Acquisition and Technology, in a memorandum, stated that:

It is the policy of the Department of Defense (DoD) that, in order to maximize performance, innovation, and competition, often at lower cost, performance-based strategies for the acquisition of services are to be used wherever possible” and he established “at a minimum, that 50% of service acquisitions, measured both in dollars and actions, are to be performance-based by the year 2005.<sup>7</sup>

The *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense* that was issued on March 2001 came among others to promote PBSA strategies, to educate the acquisition workforce and to encourage innovative

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<sup>6</sup> OFPP, April 9 1991, *Policy Letter 91–2: Service Contracting.*

<sup>7</sup> J.S. Gansler, (USD (A&T)), 5 Apr 2000, *Memorandum: Performance-Based Services Acquisition (PBSA).*

business practices within DoD. According to J.S. Gansler, The Under Secretary of Defense, January 2001, the guidebook has the following goals:<sup>8</sup>

- to promote performance-based strategies for services acquisitions throughout the Department of Defense
- to educate the acquisition workforce and highlight the key elements of performance based services acquisition
- to encourage innovative business practices within the DoD acquisition process
- to promote use of the commercial market place
- to increase awareness that performance-based services acquisitions require participation from all stakeholders (the users, acquisition workforce personnel and industry) to ensure the requirement is adequately satisfied

In 2006, the Department of Commerce, Department of Defense, Department of Agriculture, Department of Treasury, the General Services Administration, and a private firm, Acquisition Solutions, issued a joint guidebook, the “*Seven Steps to Performance-Based Services Acquisition*” to further assist the acquisition personnel in understanding performance based contracting for service acquisitions. This guide breaks down performance-based service acquisition into these seven steps:<sup>9</sup>

Step 1: Establish an integrated project team

Step 2: Describe the problem that needs solving

Step 3: Examine private-sector and public-sector solutions

Step 4: Develop a performance work statement (PWS) or statement of objectives (SOO)

Step 5: Decide how to measure and manage performance

Step 6: Select the right contractor

Step 7: Manage performance

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<sup>8</sup> J.S. Gansler, (USD (A&T)), 2 January 2001, *Cover letter for: Guidebook for Performance-Based Services Acquisition in the Department of Defense*.

<sup>9</sup> An Interagency-Industry Partnership in Performance, 2005, *Seven Steps to Performance-Based Acquisition*.

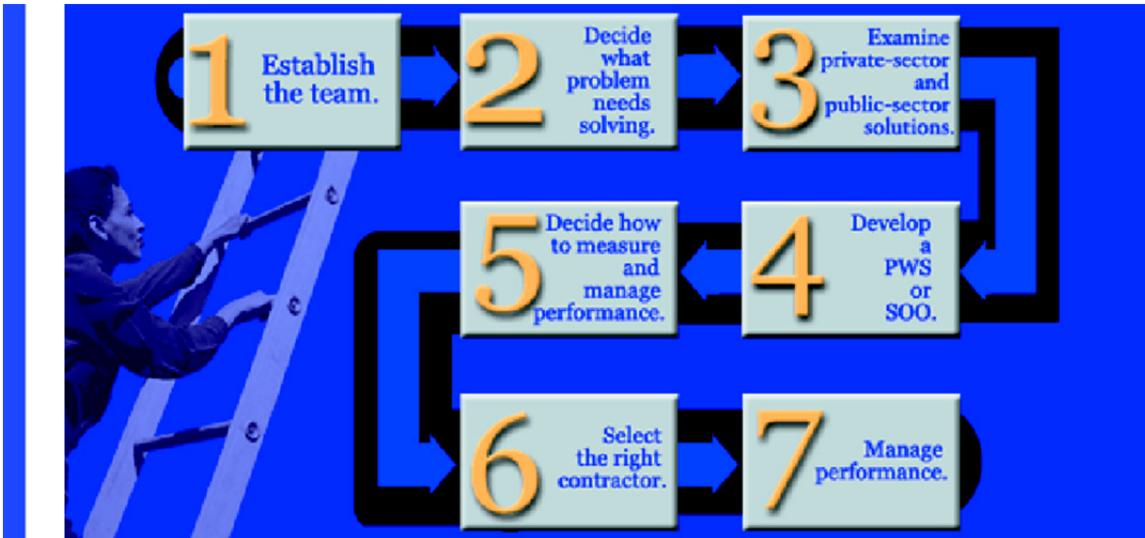


Figure 2. Seven Steps to Performance-Based Services Acquisition<sup>10</sup>

Today, performance-based service acquisition (PBSA) is the preferred method for acquiring services in the United States (Public Law 106-398, section 821).<sup>11</sup>

### C. TERMS AND DEFINITIONS

Since the 90's many terms and definitions on the subject of performance-based service acquisition (PBSA) have been introduced. Some of the official terms and definitions that describe the PBSA concept and its elements are as follows:

PBSA: *The Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense* defines PBSA as:

Performance-based services acquisition (PBSA) involves acquisition strategies, methods, and techniques that describe and communicate measurable outcomes rather than direct performance processes. It is structured around defining a service requirement in terms of performance objectives and providing contractors the latitude to determine how to meet

<sup>10</sup> An Interagency-Industry Partnership in Performance, 2005, *Seven Steps to Performance-Based Acquisition*.

<sup>11</sup> 37.102(a), *Policy*.

those objectives. Simply put, it is a method for acquiring what is required and placing the responsibility for how it is accomplished on the contractor.<sup>12</sup>

PBA: The Federal Acquisition Regulation (FAR) part 2.101 – Definitions describes performance-based acquisition (PBA) as:

Performance-based acquisition (PBA) means an acquisition structured around the results to be achieved as opposed to the manner by which the work is to be performed.

*The Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense* states that to be considered performance-based, an acquisition should contain, at a minimum, the following four elements:<sup>13</sup>

- **Performance Work Statement (PWS)**: The Performance Work Statement describes the requirement in terms of measurable outcomes rather than by means of prescriptive methods.
- **Measurable Performance Standards**: To determine whether performance outcomes have been met, measurable performance standards define what is considered acceptable performance.
- **Remedies**: Remedies are procedures that address how to manage performance that does not meet performance standards. While not mandatory, incentives should be used, where appropriate, to encourage performance that will exceed performance standards. Remedies and incentives complement each other.
- **Performance Assessment Plan**: This plan describes how contractor performance will be measured and assessed against performance standards. (Quality Assurance Plan or Quality Assurance Surveillance Plan (QASP)).

Additional important and useful terms around PBSA are presented in Table 1.

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<sup>12</sup> Department of Defense, March 2001, *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense*.

<sup>13</sup> Department of Defense, March 2001, *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense*.

<p><b>Performance-Based Acquisition (PBA)</b> (FAR 2.101, Definitions)</p>	<p>An acquisition structured around the results to be achieved as opposed to the manner by which the work is to be performed</p>
<p><b>Performance-Base Contracting</b> (Office of Management and Budget (OMB), October 1998, Best Practices for Performance-Based Contracting)</p>	<p>Structuring all aspects of an acquisition around the purpose of the work to be performed as opposed to either the manner by which the work is to be performed or broad and imprecise statements of work which preclude an objective assessment of contractor performance.</p>
<p><b>Performance Work Statement (PWS)</b> (FAR 2.101, Definitions)</p>	<p>A statement of work for performance-based acquisitions that describes the required results in clear, specific and objective terms with measurable outcomes</p>
<p><b>Statement of Objectives (SOO)</b> (FAR 2.101, Definitions)</p>	<p>A Government-prepared document incorporated into the solicitation that states the overall performance objectives. It is used in solicitations when the Government intends to provide the maximum flexibility to each offeror to propose an innovative approach</p>
<p><b>Quality Assurance Surveillance Plan (QASP)</b> (FAR 46.401(a), General)</p>	<p>Government contract quality assurance shall be performed at such times and places as may be necessary to determine that the supplies or services conform to contract requirements. Quality assurance surveillance plans should be prepared in conjunction with the preparation of the statement of work. The plans should specify: (1) All work requiring surveillance; and (2) The method of surveillance.</p>
<p><b>Market research</b> (FAR 2.101, Definitions)</p>	<p>Collecting and analyzing information about capabilities within the market to satisfy agency needs.</p>

Table 1. Important Terms of PBSA

## **D. OBJECTIVES OF PBSA**

According to the *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense* by describing requirements in terms of performance outcomes, agencies can help achieve the following objectives:<sup>14</sup>

### **1. Maximize Performance**

By following its own best practices, a contractor can deliver the required service. Since the prime focus is on the end result, contractors can adjust their processes, as appropriate, throughout the life of the contract without the burden of contract modifications. This adjustment may be done as long as the delivered service (outcome) remains in accordance with the contract. The use of incentives further motivates contractors to furnish the best performance of which they are capable.

### **2. Maximize Competition and Innovation**

Encouraging innovation from the supplier base by using performance requirements maximizes opportunities for competitive alternatives in lieu of government-directed solutions. Since PBSA allows for greater innovation, it has the potential to attract a broader industry base.

### **3. Encourage and Promote the Use of Commercial Services**

Most of the service requirements are commercial in nature. FAR part 12, Acquisition of Commercial Items, encourages and promotes the acquisition of commercial items and describes the policies and procedures for the acquisition, that can result in great benefits for the government by minimizing the reporting burden and reducing the use of government-unique contract clauses and similar requirements, which can help attract a broader industry base.

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<sup>14</sup> Department of Defense, March 2001, *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense*.

#### **4. Shift in Risk**

Much of the risk of the acquisition has shifted from the agencies to the contractors as they are now responsible for achieving the objectives in the PWS. Contractors are free to use their own techniques and processes to achieve the desired result. The government should understand this and try to create the right incentives for the contractors.

#### **5. Achieve Savings**

The use of performance-based requirements may potential result in cost savings for the government and the industry.

### **E. TRADITIONAL AND PERFORMANCE-BASED SERVICE ACQUISITION (PBSA) PROCESSES**

In the traditional service acquisition process, an agency specifies the process to be used in order to be achieved a specific outcome. To ensure that the agency receives the service that is being described in the contract, the agency employs oversight measures to ensure contract compliance. In the traditional process, metrics and incentives may be used, but these metrics are input-oriented; incentives reward a contractor for adherence to the government specified process used, not the measurable performance of their output. These types of contracts do not effectively incentivize contractors to continuously improve performance and reduce costs; administration of these contracts is relatively straightforward.

On the other hand, in the PBSA process the acquisition is structured around the results and tasks to be achieved and not to the manner by which the work is to be performed. The agency is checking on how effectively the tasks and results have been achieved. The source selection as well as the administration, inspection and acceptance tasks are more challenging and demanding than under the traditional management style. In the source selection procedures the requirement must be stated in way that describes the work to be done in clear, observable, and quantifiable or measurable terms and not just to express the product of the contract in terms of what the contractor is to accomplish. The personnel that will do the source selection must have wide market

knowledge in order to be able to compare and choose among the various and different proposals, the one that will cover the agency’s needs in the best way. The contract administration also is more complex due to the administration of award/incentive clauses.

Table 2 presents some of the differences between the traditional service acquisition process and the PBSA process.

<b>Aspect</b>	<b>Traditional</b>	<b>Performance-Based Acquisition</b>
Requirements Determination	Done through use of detailed specifications and processes	Done through use of performance specifications and objectives
Statement of Work	Detailed specifications and processes provided to contractor, deviation not allowed without prior approval	Focuses on outcome desired and leaves the how to contractor
Quality Assurance	Oversight, detailed inspections, and audits	Insight, surveillance plans, use of commercial standards
Selection Procedures	Emphasis on lowest cost, minimum acceptable technical capability	Use of competitive negotiations, best value approach
Contract Type	Fixed-price or cost reimbursement with very few awards or incentives	Fixed-price or cost reimbursement with an emphasis on award/incentive type arrangements
Contract Administration	Simple when compared to performance-based contracting	Complex due to administration of award/incentive clauses
Program Management	Complex government management toward the desired performance results	Government management is largely oversight, contractor is motivated toward desired performance results

Table 2. Differences between Traditional and Performance-Based Acquisition (Fuhs 1998)<sup>15</sup>

## **F. CHAPTER SUMMARY**

Performance-based service acquisition (PBSA) includes strategies, methods, and techniques that describe the measurable performance outcomes instead of describing the methods and procedures to accomplish these outcomes. The responsibility for the

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<sup>15</sup> Fuhs, J. W., 1998, “How the Implementation of Performance Based Contracting has Affected Program Management within the Department of Defense”, Monterey, CA: Naval Postgraduate School.

completion of the contract is placed on the contractor who is responsible to choose the procedures and strategies, which the contractor thinks are the most appropriate for the accomplishment of the contract.

FAR 37.102(a) states that: “Performance-based acquisition is the preferred method for acquiring services (Public Law 106–398, section 821).”<sup>16</sup> Many regulations and laws and the official policy require from agencies to use the PBA concept for services to the maximum extent, with specific targets of implementation and also requires agencies to submit their data to the OMB every year. The PBA approach is going to be the predominant method for services acquisition.

The next chapter presents the current implementation of PBSA in the United States and more specifically it presents the PBSA steps and processes for acquiring services, the benefits and risks of PBSA and finally provides some data for the implementation of PBSA within the U.S. Federal Government.

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<sup>16</sup> 37.102(a), *Policy*.

### **III. CURRENT PBSA IMPLEMENTATION WITHIN THE U.S. FEDERAL GOVERNMENT**

#### **A. INTRODUCTION**

The acquisition of services plays a vital role in advancing and maintaining the mission capability of the Department of Defense (DoD). Services acquisition covers a broad spectrum of requirements from research and development, advisor services, information technology support, medical, to maintaining equipment and facilities. Over the last decade and more DoD is spending more on service requirements than on equipment acquisitions. While the acquisition of systems follows a pretty well defined process, the acquisition of services tends to be more ad hoc. Services acquisition is not about awarding a contract; it is about acquiring performance results that meet performance requirements needed to successfully execute an organization's mission.

Performance-based service acquisition (PBSA) is the preferred method for acquiring services within the DoD. The FAR, in implementing public law 106-398, section 821, states that "performance based acquisition methods should be used to the maximum extent practicable."<sup>17</sup> PBA techniques are applicable to a broad range of service requirements. PBA for services involves performance requirements and acquisition strategies that describe the desired outcomes rather than the specific processes. It is aiming to describe the needed requirements in terms of performance results and give industry the chance to decide the best way to satisfy these objectives. Is a process for getting the results that are needed and putting the contractor responsible for the execution of the process. The contractor's performance against the required standards must be measurable through an objective process. This means that the government acquisition team must describe the required performance results in clearly defined terms with performance standards that can be effectively measured. This is often the most difficult part of implementing PBA techniques. Writing a PWS in a way that describes performance results requires someone to focus on the relationship between what needs to

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<sup>17</sup> FAR 37.102, *Policy*

be done and how well it must be accomplished, not how it must be accomplished or how many full-time equivalents (FTEs) are required. When PBA techniques are not appropriate for use, the decision must be documented and contained at the contract file.

J.S. Gansler, The Under Secretary Of Defense, in his cover letter to the *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense* stated that<sup>18</sup>: “Performance-based services acquisition (PBSA) strategies strive to adopt the best commercial practices and provide the means to reach world-class commercial suppliers, gain greater access to technological innovations, maximize competition, and obtain the best value to achieve greater savings and efficiencies.”

## **B. THE SERVICES ACQUISITION PROCESS**

The *DoD Guidebook for the Acquisition of Services*, published in 2011, provides the seven step framework for DOD acquisition personnel to follow when acquiring services. The service acquisition process begins with the organizations mission requirement towards a service that will contribute into the successful implementation of its mission. The process continues through a planning phase, which develops the foundation for defining your requirement and business strategy, and ultimately ends with the delivery and assessment of the services provided.

According to *DoD Guidebook for the Acquisition of Services*, the services acquisition process has three phases:<sup>19</sup>

- Planning Phase:
  - Step 1: Form the Team
  - Step 2: Review Current Strategy
  - Step 3: Market Research
- Development Phase:
  - Step 4: Requirements Definition

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<sup>18</sup> J.S. Gansler, (USD (A&T)), 2 January 2001, *Cover letter for Guidebook for Performance-Based Services Acquisition in the Department of Defense*.

<sup>19</sup> Department of Defense, 20 July 2011, *Guidebook for the Acquisition of Services*.

Step 5: Acquisition Strategy

- Execution Phase:

Step 6: Execute Strategy

Step 7: Performance Management

Each phase builds on the knowledge gained in the previous phase. Some actions within each phase can be completed in parallel; others should be completed sequentially to make more informed decisions based on new knowledge gained. Figure 3 presents the Services Acquisition Process within the DOD.

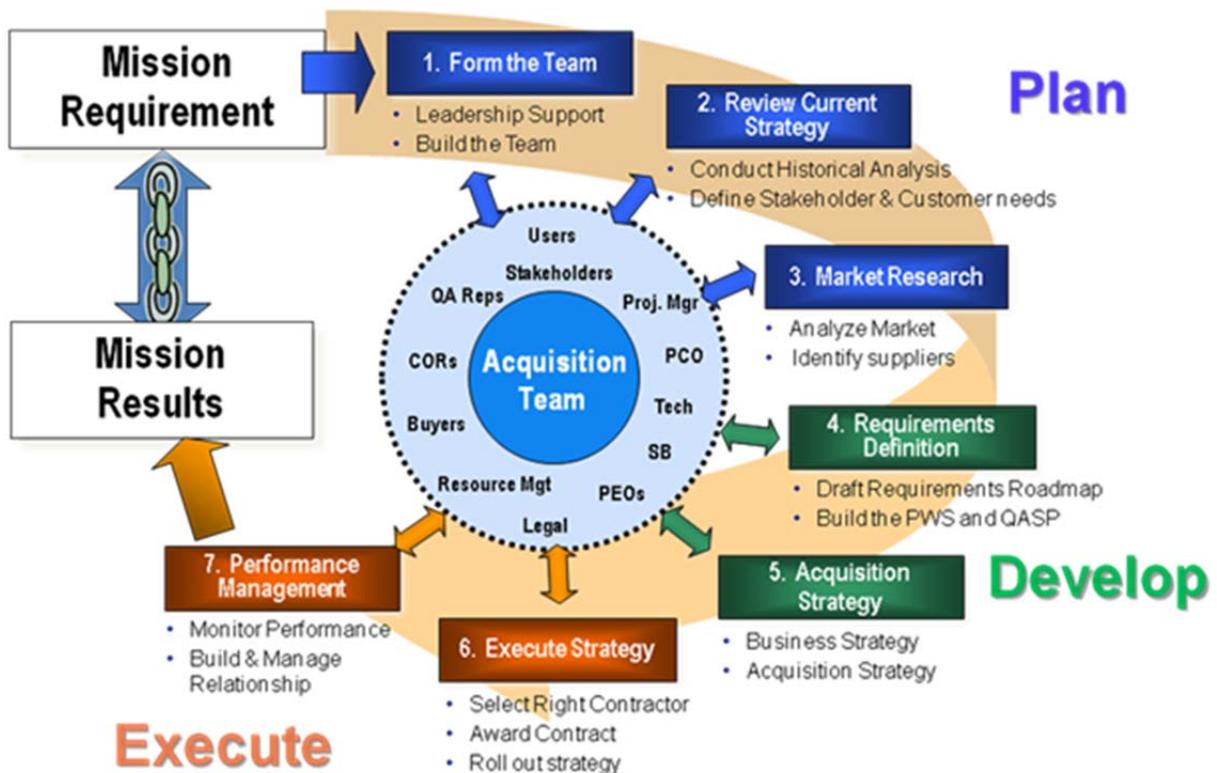


Figure 3. The Services Acquisition Process<sup>20</sup>

<sup>20</sup> Department of Defense, 20 July 2011, *Guidebook for the Acquisition of Services*.

## **1. The Planning Phase**

The Planning Phase, which includes the formation of the team, a review of current strategy and the market research, sets the foundation for action. The acquisition team is formed and gets the appropriate leadership support for all the actions needed to be performed. The team must set and analyze the current service strategies, identify problem areas and predict any possible mission changes. Furthermore the team and the stakeholders need to define the key performance outcomes for the requirement. Market research is used to reveal any new or existing technology or business techniques, the competition that exists, any small business opportunities, the current and any new contractors that could provide the service, and the applicability of commercial buying practices.

## **2. The Development Phase**

In the development phase we have the requirements definition and the acquisition strategy. During this phase the team is making the draft requirements roadmap in order to define the high level tasks and objectives, the standards, the allowable variations and the methods of inspection. The result of this process is the performance work statement (PWS) and the quality assurance surveillance plan (QASP). Furthermore the team will also identify the funds needs and the appropriate sources, will produce the government estimate of contract price and will get feedback from the contractors. Finally, the acquisition team will form a strategy which will balance the type of contract with the performance incentives as to deliver the most efficient and effective result to the final customer. The main issue is to describe to the industry the performance outcomes and what they should be like and not the procedures to arrive to these results.

## **3. The Execution Phase**

In the execution phase which includes the execution of strategy and the performance management, all the plans and development preparations will be executed. The solicitation that follows formally describes and transmits the requirements and strategy to industry. The industry responds with proposals for how they will meet the performance results and standards. The acquisition team then evaluates the proposals

against the predetermined criteria and chooses the right contractor which has the optimum approach to meet these criteria and deliver the best solution. After contract award, a good and tight relationship between the team and the contractor should exist that will foster the innovation and improve the mission performance results. The section of the process includes two key parts: The administration of the contract requirements and the management of the relationships and expectations of the contractor and customer in meeting the conditions of the contract and producing the desired mission performance outcomes. If there is a continued need for the service given this can lead to the beginning of the planning phase for continuation of the acquisition.

### **C. THE SEVEN STEPS TO PBSA GUIDE**

In 2006, the Department of Commerce, Department of Defense, Department of Agriculture, Department of Treasury, the General Services Administration, and a private firm, Acquisition Solutions, issued a joint guidebook entitled “*Seven Steps to Performance-Based Services Acquisition*”<sup>21</sup> to further assist the acquisition personnel in using performance-based contracting techniques for service acquisitions. This online guide includes the regulations and the policy along with guidance for the PBSA. Most importantly, it includes vetted examples, templates, and an “Ask the Expert” feature. The guide is part of the official guidance of the Office of Federal Procurement Policy (OFPP).

The guide breaks down PBSA into seven simple steps:

Step 1: Establish an integrated project team

Step 2: Describe the problem that needs solving

Step 3: Examine private-sector and public-sector solutions

Step 4: Develop a performance work statement (PWS) or statement of objectives (SOO)

Step 5: Decide how to measure and manage performance

Step 6: Select the right contractor

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<sup>21</sup> An Interagency-Industry Partnership in Performance, 2005, *Seven Steps to Performance-Based Acquisition*.

## Step 7: Manage performance

These seven steps are analyzed below.

### **1. Step 1: Establish an Integrated Project Team (IPT)**

Acquisitions are executed by a team which is working cooperatively for a common goal. FAR 1.102(a) states that: “The vision for the Federal Acquisition System is to deliver on a timely basis the best value product or service to the customer, while maintaining the public’s trust and fulfilling public policy objectives. Participants in the acquisition process should work together as a team and should be empowered to make decisions within their area of responsibility.” In addition FAR 1.102–3 states for the acquisition team that:<sup>22</sup>

The purpose of defining the Federal Acquisition Team (Team) in the Guiding Principles is to ensure that participants in the System are identified beginning with the customer and ending with the contractor of the product or service. By identifying the team members in this manner, teamwork, unity of purpose, and open communication among the members of the Team in sharing the vision and achieving the goal of the System are encouraged. Individual team members will participate in the acquisition process at the appropriate time.

In May 1995 the Secretary of Defense directed the Department to use the Integrated Product and Process Development (IPPD) concept of using Integrated Product Teams (IPTs) throughout the acquisition process. In July 1999 the Under Secretary of Defense for Acquisition and Technology reconfirmed the commitment of the Department to the IPPD and IPT concepts by requesting an update to the Rules of the Road: A Guide for Leading Successful Integrated Product Teams.

According to the *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense*:<sup>23</sup>

The PBSA team should be a customer-focused, multi-functional team that plans and manages service contracts throughout the life of the

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<sup>22</sup> FAR 1.102-3, *Acquisition Team*

<sup>23</sup> Department of Defense, March 2001, *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense*.

requirement. The requirement may be for a single function or for multiple functions. Estimated dollar value should not be the sole determinant of the amount of effort devoted to the acquisition. Previously, it was common for contracting and other functional experts to work independently in acquiring services. This should be a thing of the past. It is essential that all stakeholders—users/customers, acquisition personnel, and industry—be involved throughout the service acquisition life cycle, from the requirements analysis phase through contract award and administration. The duties, expertise, and contributions of each PBSA team member are important to the success of a service acquisition. Many functional experts can make up an acquisition team, as noted below.

According to the Seven Steps to PBSA guide the tasks, features and best practices for this step are:<sup>24</sup>

**a. Ensure Senior Management Involvement and Support**

Active involvement, participation and support by the senior management can bring success. An integrated solutions team is composed by persons that are from all their affiliations cross the organizational boundaries. The decision makers for the program must be part of the team and according to the FAR part 37.102: “To the maximum extent practicable, the program officials shall describe the need to be filled using performance-based acquisition methods.” Establishing collaboration and support from the senior management and establishing the hierarchy, are crucial for the PBSA success.

**b. Select Multidisciplinary Experts**

As acquisitions became mission and program based, many and different types of people are part of an acquisition team. In addition to contracting personnel, we can find program managers, financial personnel, users, and legal staff into the team. A team should include many and different types of skills and expertise in order to have a real performance-based approach to a need. An integrated team should not be a “training ground” but it should include people among the best in their fields that are well trained in acquisition. The synthesis of the team is a crucial factor for the success of PBSA.

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<sup>24</sup> An Interagency-Industry Partnership in Performance, 2005, *Seven Steps to Performance-Based Acquisition*.

**c. Define Roles and Responsibilities**

Every member of the team must know and understand their roles and responsibilities. Irrespective of the formulation, the team must ensure that the service acquisition:

- Meets the legal and statutory requirements.
- Have its performance and investment objectives in line with the strategic objectives of the organization.
- Successfully responds to the needs and the targets of the organization
- Stays within the timeframe and within budget

In successful teams we find: individual and mutual accountability, joint work-products, shared leadership roles, performance measures linked to the joint work-product. In such an environment, the team can produce impressive results.

**d. Establish Rules of Conduct**

An important process is to establish rules of conduct for the team members. Establishing rules and following them in continuity is vital for efficient team operation. Given a clear goal and specified approach to cooperation, the group is much more possible to pass fast the early stages of team performance and meet the desirable outcome. These stages of teamwork were described by BW Tuckman in the “Tuckman model:”<sup>25</sup>

- Forming, or coming together
- Storming, or conflict
- Norming, or working out the rules
- Performing, or getting the job done
- Adjourning, or ending the job (closure)

Table 3 reflects the two realms and the characterizations of the four critical stages.

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<sup>25</sup> Bruce W. Tuckman, (1965), *Developmental sequence in small groups*, “*Psychological Bulletin*, 63, 384–399.”

<b>Tuckman's Model</b>	
<b>Task Realm</b>	
Those factors that promote accomplishment of group goals and objectives and are view as being action oriented. This is reflected through doing and working towards the group's purpose.	
<b>Social Realm</b>	
Those factors that affect the relationships between individuals in the group and are primarily concerned with cohesion, care, feelings, and the emotional stability and health of the group.	
<p style="text-align: center;"><b>Storming</b></p> <p style="text-align: center;">Members become hostile and combative.</p> <p>Characterized by:</p> <ul style="list-style-type: none"> <li>• Infighting</li> <li>• Creating unachievable goals</li> <li>• Disunity, jealousy, tension</li> <li>• Polarization of members</li> <li>• Resistance to task demands in order to deal with personal issues</li> <li>• Sharp fluctuations and reversals of feelings</li> <li>• Establishment of pecking order</li> <li>• Minimal work accomplishment</li> </ul>	<p style="text-align: center;"><b>Norming</b></p> <p style="text-align: center;">Members accept team roles and behaviors of others.</p> <p>Characterized by:</p> <ul style="list-style-type: none"> <li>• Attempts at harmony by avoiding conflict</li> <li>• Establish and maintain team boundaries</li> <li>• Ability to express emotions constructively</li> <li>• Sense of team cohesiveness with common spirit and goals</li> <li>• High levels of intimacy, confiding in each other, trust</li> <li>• Moderate work accomplishment</li> </ul>
<p style="text-align: center;"><b>Forming</b></p> <p style="text-align: center;">Members come together to form a group</p> <p>Characterized by:</p> <ul style="list-style-type: none"> <li>• Hesitant participation</li> <li>• Intellectualizing</li> <li>• Identify how group will do its tasks</li> <li>• Feeling of initial attachment to team</li> <li>• Complaints about organizational environment</li> <li>• Suspicion, fear, and anxiety about new situation</li> <li>• Minimal work accomplishment</li> </ul>	<p style="text-align: center;"><b>Performing</b></p> <p style="text-align: center;">Members have established norms and are able to diagnose problems and come up with solutions.</p> <p>Characterized by:</p> <ul style="list-style-type: none"> <li>• Members experience insight into personal and interpersonal processes</li> <li>• Constructive self-change is undertaken</li> <li>• A great amount of work is accomplished!</li> </ul>

Table 3. Tuckman's Model<sup>26</sup>

**e. Strengthening the Team Members**

FAR part 1.102(a) states that: "Participants in the acquisition process should work together as a team and should be empowered to make decisions within their

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<sup>26</sup> Rodkin, D.M., 1999, *The Art of Student and Group Development Theory*, "SAACURH Conference 1999."

area of responsibility.” The level of empowerment is critical for success. Empowerment is connected to responsibility, authority, and autonomy. In an organization every member is responsible for a task of the acquisition and the performance of that task.

**f. Recognize Stakeholders and Care for Consensus**

Among the stakeholders we can find different people like customers, public, supervisory bodies, and members of the Congress. The team must know who are the stakeholders as well as their interests, goals, and potential oppositions. The stakeholders must be consulted and even be part of the team. During the acquisition process, the team members should use consensus and compromise, while having in mind these three questions:

- What is that I want to have?
- When is that I want it?
- How can I figure that it is satisfactory when I have it?

**g. Create and Maintain a Knowledge Base in the Project Life cycle**

Knowledge management is the right knowledge in the right place at the right time and in the right context; is mainly a matter of man, not a matter of technology. This approach must change its focus from the contracting side only to acquisition and project management. The core partners of the acquisition team (program manager, project manager, and contracting officer) must participate on the team from the early stages of the planning phase, throughout the contract execution and also into the contract closeout.

**h. Incentivize the Team and Create a Connection between the Program Mission and the Performance of Team Members**

Incentives are a great way to keep the team together. Such incentives will need to connect the mission of the program with team members’ performance, and subsequently performance to reward. Performance objectives should exist on the team. These objectives should bring value as regards pay, recognition and awards. Furthermore the performance objectives should be based on the program and not on the acquisition. The incentives should be tied to the “right” results.

## **2. Step 2: Describe the Problem that Needs Solving**

The acquisition begins with a requirement from the customers and the business planning that concentrates on the required improvement. The organization needs to specify the problem that needs solving along with desired outcomes and how these outcomes will satisfy the organizational and mission objectives. FAR 7.105 states that:<sup>27</sup> “Acquisition plans for service contracts or orders must describe the strategies for implementing performance-based acquisition methods or must provide rationale for not using those methods.”

Moreover FAR 37.102(e) states that:<sup>28</sup>

“Agency program officials are responsible for accurately describing the need to be filled, or problem to be resolved, through service contracting in a manner that ensures full understanding and responsive performance by contractors and, in so doing, should obtain assistance from contracting officials, as needed. To the maximum extent practicable, the program officials shall describe the need to be filled using performance-based acquisition methods.”

The Government Performance and Results Act of 1993, requires that agencies establish and “manage to” mission-related performance goals and objectives. PBA should connect the organization’s strategic plan and the performance plans of employees. The tasks, features and best practices for this step are:

### **a. Connect Acquisition to Mission and Performance Objectives**

The main issue of the PBA is the final outcome of the acquisition to support and improve the organizations mission and the performance goals and objectives. The agency needs to describe the acquisition in a way that explains how it supports the performance goals of the mission and enables the organization to clearly connect the acquisition to its business, and lay the groundwork for the development of an acquisition where the performance targets of the agency and the contractor concur.

### **b. Define the Desired Results**

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<sup>27</sup> FAR 7.105, *Contents of Written Acquisition Plans*.

<sup>28</sup> FAR 37.102(e), *Policy*.

After the acquisition is associated with the needs of the mission, the team should examine what exactly are the desirable results of contract performance. The answer can be found, through meetings with the program employees, customers, and stakeholders. In this way the results can be more innovative and with greater insight. After raised, these considerations must be transferred to the performance work statement (PWS) or statement of objectives (SOO).

**c. Define Success**

Equally significant as the defined desired outcomes is the definition of what will be a success for the project. The team must know what the target is and how to understand if this desired result has been met. A specific and clear target of success should be established, that will then help the team to shape the acquisition, the industry to compete for the contract, and help the government-contractor team for the whole duration of the contract.

**d. Measure the Current Level of Performance**

The team must measure the existing level of performance in order to be able to set a measurement of reference that the future performance will be compared.

**e. Develop the Need Statement**

Defining the need in a brief narrative statement serves multiple purposes for the acquisition. First, it allows an effective dialog to begin with the market research participants. It conveys the initial message to those sources as to what the agency or organization is trying to accomplish. It becomes the foundation for subsequently building the Statement of Objectives (SOO) or Performance Work Statement (PWS) once market research is complete. It also sets the tone throughout the process for the IPT to precisely focus on solving the problem from initial conception all the way through to the post-award performance-based management (PBM) environment. So it is really important to “get it right” at the start. While contractors can provide assistance to the government in many areas associated with acquiring goods or services, the government must be able to define its objectives. The following are best practices in developing the need statement

- Use a team-based approach

- Ensure the team is made up of program, customer, and other stakeholder staff
- Employ a facilitator
- Stay strategic: Focus constantly upwards to the highest level objectives and achieving the agency mission rather than getting bogged down in specific details or approaches
- Relate the activities to the agency strategic plan
- Validate throughout the agency
- Determine current level of performance to establish baseline. This is sometimes expressed as current costs.

### **3. Step 3: Examine Private-Sector and Public-Sector Solutions**

Following the description of the acquisition problem and the desired results is the examination of both industry and government wide solutions by the integrated team. This is can be done through market research which is a very useful tool for the team in order to direct an efficient PBSA. Market research is a continuing information gathering process in order to maximize reliance on the private market and take advantage of the opportunities, technologies, and competitive powers for achieving a necessary agency need. Market research is necessary for the ability of the government to purchase the best value products and services to resolve mission-crucial problems.

FAR 2.101 describes market research as:<sup>29</sup> “Collecting and analyzing information about capabilities within the market to satisfy agency needs.” DoD Market Research Handbook - July 1997, describes market research as:<sup>30</sup>

A continuous process for gathering data on product characteristics, suppliers’ capabilities and the business practices that surround them—plus the analysis of that data to make acquisition decisions. This requires one to collect and analyze information about the market that subsequently can be used to determine whether the need can be met by products or services available in the commercial market; whether commercial practices regarding customizing, modifying products or tailoring services are available to meet customer needs; what are the customary terms and conditions, including warranty, buyer financing, and discounts under

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<sup>29</sup> FAR 2.101, *Definitions*.

<sup>30</sup> Department of Defense, July 1997, *DoD Market Research Handbook*.

which commercial sales are made; and whether the distribution and logistics support capabilities of potential suppliers are sufficient to meet the needs of the government.

*DoD 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information System Acquisition Programs*, requires that:<sup>31</sup> “market research and analysis be conducted to determine the availability and suitability of commercial and non-developmental items prior to the commencement of any development effort, during the development effort, and prior to the preparation of any product description.” FAR 10.001 and FASA also specifically requires federal agencies to conduct market research prior to developing new specifications for procurement and before soliciting bids or proposals for a contract which exceeds \$100,000. FAR part 10 prescribes policies and procedures for conducting market research to arrive at the most suitable approach to acquiring, distributing, and supporting supplies and services.

According to the Seven Steps to PBSA guide the tasks, features and best practices for this step are:

**a. Have a Team Approach on Market Research**

Previously, the technical and contracting personnel were executing market research individually, each for its own purposes. The technicians were interested for the market products that exist and the contracting personnel for the prices and the practices of the market. Now the whole integrated team should take part in the market research as a team. This will help each member of the team to better understand and know the market and its conditions.

DoD Market Research Handbook states that:<sup>32</sup>

The military services and agencies do not have a specific group of people called market researchers; instead, a wide range of people are called upon to perform market research related to their area of expertise. Your participation may vary, depending on your organization and the types of

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<sup>31</sup> Department of Defense, April 5, 2002, *DoD 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information System Acquisition Programs*.

<sup>32</sup> Department of Defense, July 1997, *DoD Market Research Handbook*.

items for which you are responsible. A team effort may be the best approach since many functional areas may need information gathered during market research.

The team should comprise by specialists as needed like: Technical personnel, user, logistics specialist, testing specialist, cost analyst, legal counsel, contracting officer.

**b. Examine Solutions from Public-Sector Sources**

Usually agencies examine through market research the industry for solutions and not the wide-government side. The examination of public-sector sources can be extremely beneficial also. The agency can learn from the other agencies, which had the same needs, and acquire useful information and the practices that have been used. Furthermore a cross-agency partnership and cooperation may arise between the government agencies which can be proved very useful. The team members should be able to talk to the members of other teams in other agencies. By doing so, it may help to avoid issues that may occur during the acquisition

**c. Communicate With the Industry before the Acquisition**

The team must be aware of the conditions and capabilities of the market before is starts the acquisition. This can be done through FedBizOpps.gov, Industry Days, with Requests for Information, direct communications with the contractors and pre-solicitation conferences.

FAR encourages and promotes the communication and exchange of information with the industry for the aims of market research. Specifically FAR 15.201(a) states that:<sup>33</sup>

Exchanges of information among all interested parties, from the earliest identification of a requirement through receipt of proposals, are encouraged. Any exchange of information must be consistent with procurement integrity requirements. Interested parties include potential offerors, end users, Government acquisition and supporting personnel, and others involved in the conduct or outcome of the acquisition.

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<sup>33</sup> 15.201(a), *Exchanges With Industry Before Receipt of Proposals*.

Agency officials should treat the contractors in the definitions and limits of procurement integrity as they are described in FAR 3.104, *Procurement Integrity*. The main issue for the team is to conduct market research ahead of the real procurement.

**d. One-on-one Meetings with Potential Offerors**

Among the techniques that can be used to enhance the timely exchange of information is, according to the FAR 15.201(c)(4), the one-on-one meetings with potential offerors. If the market research is done prior to the solicitation or before the PWS is written, rules are different. FAR 15.201(f) states that:<sup>34</sup>

General information about agency mission needs and future requirements may be disclosed at any time. After release of the solicitation, the contracting officer must be the focal point of any exchange with potential offerors. When specific information about a proposed acquisition that would be necessary for the preparation of proposals is disclosed to one or more potential offerors, that information must be made available to the public as soon as practicable, but no later than the next general release of information, in order to avoid creating an unfair competitive advantage. Information provided to a potential offeror in response to its request must not be disclosed if doing so would reveal the potential offeror's confidential business strategy, and is protected under 3.104 or subpart 24.2. When conducting a presolicitation or preproposal conference, materials distributed at the conference should be made available to all potential offerors, upon request.

The effort should try revealing the best practices, the innovative ideas and tactics of the industry that will provide the services needed. It may also provide information about potential incentives that are already been used successfully in the industry. The results of the research may provide new solutions or even alter the scope and the whole approach of the acquisition by letting industry to provide the optimum solution.

**e. Search on Present Contracts**

FAR 10.002(b)(2)(iv) states that:<sup>35</sup> “Querying the Government wide database of contracts and other procurement instruments intended for use by multiple

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<sup>34</sup>FAR 15.201(f), *Exchanges with Industry before Receipt of Proposals*.

<sup>35</sup> FAR 10.002(b)(2)(iv), *Procedures*.

agencies available at <http://www.contractdirectory.gov/contractdirectory/> and other Government and commercial databases that provide information relevant to agency acquisitions.” It is very useful and timesaving for the team to search on the existing contracts for a solution. Several government-wide contracts are listed also at <http://www.gsa.gov/gwacs>.

**f. Document Market Research**

FAR 10.002(e) states that:<sup>36</sup> “Agencies should document the results of market research in a manner appropriate to the size and complexity of the acquisition.” It is required that a report on market research should exist on the contract file. The research that will be made must be proportionally to the value of the acquisition.

**g. The Right Time for a Decision on the Contracting Method**

The final choice as to contracting method should not be made until after market research has been made but it may be made before the PWS or SOO is complete. This offers an opportunity for contractors to share their views on the benefits of various approaches upfront during market research. However, the team will have to be very focused on the process of the chosen contracting method, as well as the timing and the limitations, because these types of buys are typically made on a very fast track and competitively.

**4. Step 4: Performance Work Statement (PWS)–Statement of Objectives (SOO)**

This process is very significant and maybe the most challenging from all, as it tries to describe exactly the requirement that an agency wants to put on the contract. If the agency has not completed the first three steps of the Service Acquisition process prior to beginning Step Four, the probability of successfully developing a solid requirements document is diminished. It is important to apply what has been learned in the first three steps to develop an effective requirements document that relates to the stakeholder needs and takes advantage of innovations in the market place. The specifications for a PWSA

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<sup>36</sup> FAR 10.002(e), *Procedures*.

can be done by using a Performance Work Statement (PWS) or a Statement of Objectives (SOO). The PWS comprises the “heart” of any service acquisition and the success or failure of a contract is greatly dependent on the quality of the PWS. Below are the tasks to building a successful PWS and SOO.

**a. The Performance Work Statement (PWS)**

(1) Conduct an Analysis

According to the Seven Steps to PBA guide:<sup>37</sup>

Preparing a PWS begins with an analytical process, often called to as a “job analysis.” It involves a close examination of the agency’s requirements and tends to be a “bottom up” assessment with “re-engineering” potential. This analysis is the basis for establishing performance requirements, developing performance standards, writing the performance work statement, and producing the quality assurance plan. Those responsible for the mission or program are essential to the performance of the job analysis.

DoD uses a different method to this analytical process which is a “top down” approach. The “*Guidebook for Performance-Based Services Acquisition (PBSA) in the DoD*” provides a series of analysis-oriented steps to help identify and define the requirement:<sup>38</sup>

Step 1: Define the desired outcomes: What must be accomplished to satisfy the requirement?

To define desired outcomes, list what needs to be accomplished in order to satisfy the overall requirement, from a top-level perspective. Use an interview or brainstorming approach with the customer (user) to determine all dependent variables (what, when, where, who, quantity, quality levels, etc.) to ensure that all unique requirements have been considered. For some requirements, you may simply be reviewing previous requirements for validity and accuracy.

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<sup>37</sup> An Interagency-Industry Partnership in Performance, 2005, *Seven Steps to Performance-Based Acquisition*.

<sup>38</sup> Department of Defense, March 2001, *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense*.

Step 2: On the basis of the desired outcomes defined in step 1, conduct an outcome analysis to identify performance objectives: What tasks must be accomplished to arrive at the desired outcomes?

An outcome analysis is the process that identifies specific performance objectives for those outcomes defined in the previous step. Performance objectives are the specific services that you want performed and delivered by the contractor, defined in terms of the outcomes. This step differs from the previous step in that it goes into greater detail and expands the analysis beyond the top-level perspective. The goal is to describe adequately what is expected in accomplishing the requirement (not how to accomplish it).

Step 3: On the basis of the performance objectives identified in step 2, conduct a performance analysis to identify the appropriate performance standards and acceptable quality levels (AQLs): When or how will I know that the outcome has been satisfactorily achieved, and how much deviation from the performance standard will I allow the contractor, if any?

A performance analysis is a process that identifies how a performance objective should be measured and, thus, what performance standards, (e.g., timeliness or quality levels) are appropriate and reasonable for that particular performance objective. In this step, you may also identify AQLs, also known as thresholds. Performance standards and AQLs are very important in that they identify acceptable levels of performance. Developing and setting performance standards and AQLs are judgment calls based on the needs of the mission, available expertise, and market research. The members of the acquisition team should work closely with each other when developing standards and AQLs.

The team may choose whichever approach thinks it is best from these two; the “bottom up” and the “top down” approach. Irrespective of the process selected, the team should be able to develop:

- A description of the requirement in terms of results or outcomes.
- Measurable performance standards.
- Acceptable quality levels (AQLs).

AQLs constitute a minimally acceptable level of performance and are typically stated as a percentage of required conformances or as a number of

permissible deviations. The team may allow the contractor to recommend its own standards of performance or action. This may boost the use of commercial practices.

(2) Apply the “So What?” Test

The team should recognize the main inputs, processes, and outcomes during the job analysis. One approach is to use the “so what?” test during job analysis. For example, once job analysis identifies outputs, the integrated project team should verify the continued need for the output.

(3) Write Down the Information in a Performance Matrix

The team should write down the outcomes of the analysis in the performance matrix. In DoD: desired outcomes, performance objectives, performance standards, and AQLs that have been created are recorded in a Performance Requirements Summary (PRS). The PRS will be the base for the PWS. PRSs should be brief and should capture the salient elements of the requirement. In the actual performance work statement, the acquisition team will elaborate on and describe the requirement in greater detail. The ultimate goal is to describe the requirement in a way that allows an offeror to understand fully what will be necessary to accomplish it. Figure 4 presents a sample PRS matrix from DoD PBSA guidebook.

<b>Performance objective</b>	<b>Performance standard</b>	<b>Acceptable quality level (AQL)</b>	<b>Monitoring method</b>	<b>Incentive</b>

Figure 4. Performance Requirements Summary Matrix<sup>39</sup>

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<sup>39</sup> Department of Defense, March 2001, *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense*.

(4) Write the Performance Work Statement (PWS)

The PWS clearly describes the performance objectives and standards that are expected of the contractor. In the PWS, the acquisition team will work on the contents of the PRS and define the requirements in a way that contractors will completely understand by their side, the necessary to achieve the requirement.

FAR part 37.602(b) states that agencies shall, to the maximum extent practicable:

- Describe the work in terms of the required results rather than either “how” the work is to be accomplished or the number of hours to be provided
- Enable assessment of work performance against measurable performance standards
- Rely on the use of measurable performance standards and financial incentives in a competitive environment to encourage competitors to develop and institute innovative and cost-effective methods of performing the work

Table 4 presents the typical sections of the PWS from the *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense*.

Introduction	Describes program goals, desired results to be achieved, interfaces that must be considered, and any previous problems that have been encountered. Keep this section succinct and to the point.
Scope of Work	This is a summary section that briefly describes the purpose of the current work and the desired outcome. It should also establish such general requirements as place of performance, normal work hours, applicability of Service Contract Act, etc.
Requirements	This portion is basically transference of the Performance Requirement Summary (PRS) matrix into the PWS. In other words, it is the PRS in text form, also containing greater detail. Specify standards to which the requirement must be completed. Include historical data on previous contracts or work by in-house personnel. Consider that a contractor will have a greater chance at success with adequate information that clearly defines the magnitude, quality, and scope of each outcome.
Data Requirements	This section contains information on data requirements, such as reports or any of those items contained within a contract data reports list (CDRL). Strive to minimize data requirements that require government approval and delivery. Acquire only the data that are absolutely necessary. The usual rule of thumb is to limit data to those needed by the government to make a decision or to comply with a higher level requirement.
Attachments, Appendixes, and Exhibits.	Through preliminary research and acquisition planning, the acquisition team should already have screened potentially relevant and necessary directives. If only a portion of a directive is pertinent, do not reference or include it in its entirety. Instead, excerpt only required parts of the directive into the PWS. Consider that the number of directives referenced should be few and should be restricted to those necessary as sources of such vital information as task descriptions, quality standards, and statutory or regulatory limitations. Many undesirable consequences can result from excessive or inappropriate application of directives, such as confusion or error due to conflicting guidance or unintentional direction buried within the document. If the government specifies “how to perform,” even within the context of one or more published documents, it then assumes outcome responsibility.
Schedules or Period of Performance.	This PWS section provides a realistic delivery schedule for contractor performance and completion. Provide sufficient detail for the contractor to establish specific, detailed milestones against which progress can be measured.
Task Orders	Task-order contracts will also require well-written, precise, definitive PWSs that include performance standards and incentives as appropriate. Ensure that all essential taskings are included and that those that are unnecessary or duplicative are deleted. Task descriptions should clearly define each deliverable outcome. Subtasks should be listed in their appropriate order and should conform to the numbering within the basic PWS from which the task order derives.

Table 4. Typical Sections of the PWS<sup>40</sup>

<sup>40</sup> Department of Defense, March 2001, *Guidebook for Performance-Based Services Acquisition (PBSA) in the Department of Defense*.

(5) Allow Contractor to Find the Solution, Including the Labor Requirements

The basic rule of PBA is to describe the need in terms of measurable results and not the way for job to be done. This is valid also for the labor requirements. Describing the labor requirements may limit the contractor of proposing his own best solution. The contractor will solve the problem and provide the labor mix to do it. The requirement should let space for the contractors to propose their own solutions for meeting these requirements. Contractors may subsequently recommend their solution for labor, according to the existing requirement.

***b. The Statement of Objectives (SOO)***

The alternative to the PWS is to develop a statement of objectives (SOO). The SOO is a government-prepared document that reveals the fundamental objectives of an acquisition. It exists at the solicitation in the place of an agency's PWS. Offerors' proposals include their statements of work and performance metrics and measures. Using a SOO may result in a broader range of possible solutions. FAR 37.602(c) states the SOO shall, at a minimum, include:<sup>41</sup>

- Purpose: This is a short introduction on what the contract is supposed to achieve. This short concise message should relate to the agency's program or mission need and what problem needs solving
- Scope or mission: The scope helps the competition get an idea of the services required. Another consideration is the budget authority, availability of funds for the acquisition. With this approach, the potential offerors will require information of the funding authority in order to build a realistic solution and in a competitive range.
- Period and place of performance: Period will also help the competition with an understanding of the scope of the effort. Place of performance provides the competition with another valuable piece of information.
- Background: Typically summarizes historical information that is necessary for the contractors to comprehend the current objectives.

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<sup>41</sup> FAR 37.602(c), *Performance Work Statement*.

It gives contractors an understanding of how and why the objectives are needed. This section is for informational purposes only and no directions to the contractor should be included in this section

- Performance objectives, i.e., required results: Here is where the team has to agree of what is the problem that must be solved. This data establishes the essential of the SOO. The approach should offer the contractor the chance to propose an innovative solution to the agency. This is the information that the contractor is going to use to respond back with a performance work statement that becomes part of the contract. What must be clear is that the objectives are mission-related, measurable objectives. These objectives need to be stated in a manner so that the contractor and government share the goals or the objectives.
- Any operating constraints: These are the necessary and needed limits the government must put on the responses. These restraints may range from where the work must take place to be regulated by policy requirements that must be adhered to in order for the solution to be acceptable or compatible with government systems or policies. This is an important element of the statement of objectives because it provides the limits on the flexibility of the offer received.

(1) Understand Contracting Methods Appropriate to Solutions-based Buying Using a SOO

The contractors and the agency should dedicate a great amount of time and effort to respond to a solicitation of a PBA and to evaluate the various proposals respectively. A PBA using a SOO needs from the agency to try and limit the potential offerors, at least in the final stages of the acquisition process, for the good of the economy and efficiency. For this reason, the acquisition team should use the “down-selection” process in order to reduce the number of the potential offerors to those that are really capable of offering a winning solution, saving them money, time and effort. Consequently, for PBA there must be a procedure to cut down the potential offerors before the “due-diligence” phase. There are three effective acquisition methodologies:

- Competitions conducted under Federal Supply Schedules (FSS) / Multiple Award Schedule (MAS) contracts or Blanket Purchase Agreements BPAs using special ordering procedures

- Multiple-award delivery order and task order acquisition under FAR Part 16 “fair opportunity” competitive processes using existing GWAC or MAC vehicles
- Contracting by negotiation, using the advisory multi-step process (FAR 15.202) and other techniques as warranted

All three acquisition methodologies mentioned above can be used with a solutions-based SOO approach to generate considerable competition with regards to both solutions and price.

(2) Start With a Clear Message

The initial notice on the SOO should describe the way that the acquisition is related to the organization’s needs and which problems require fixing.

(3) Describe the Scope

The scope helps contractors to get an idea of the services needed. Another issue is the budget authority and the availability of funds for the acquisition. With this approach, the contractors will require some information for the funding authority in order to create a solution more realistic and in a competitive range.

(4) Transfer the Performance Objectives in the SOO

When describing the problem (step 2), the team had to define what exactly was the problem that needed solution. The information that had used for that breakdown is the basic information for the SOO.

(5) Objectives Should Be Aligned With the Organization Mission and the Contractor Capability and Performance

The real success in an acquisition comes when the agency’s programs objectives and mission are aligned and at the same time are aligned with the contractor’s objectives. A good SOO will create a true partnership between the agency and the contractor toward the common targets. When these occur the chances of a successful program are pretty high.

(6) Set the Constraints

These are the necessary and needed limits the government must put on the responses. These constraints may range from where the work must take place to

regulated by policy requirements that must be adhered to in order for the solution to be acceptable or compatible with government systems or policies. This is an important element of the statement of objectives because it provides the limits on the flexibility of the offer received. The team should work with all the stakeholders to identify and set the appropriate constraints.

(7) The Background

The background summarizes the historic data needed for the contractor to comprehend the current objectives. Gives the contractor an understanding of how and why the objectives are needed.

(8) Final Checks and Corrections

Finally a review on the SOO by the integrated is needed, prior to finalize the document in order to correct any problems and to remove not important information for the acquisition.

**5. Step 5: Evaluate and Manage Performance**

The creation of a process for evaluating and managing performance is a complicated procedure requiring examination of several factors. This part of PBA can be considered equally to the development of SOW or the SOO, as it determines the strategy of the management contract for the achievement of performance targets planned.

**a. Performance Measurements and Determinants**

The team shall create the performance measurements and determinants and how to distinguish and manage these successful determinants. When the team had described the problem (step 2) it had already created a fundamental approach and definition of what is considered as success for the program.

**b. Use the Commercial Quality Standards**

Instead of creating metrics or performance standards, the team can use some of the existing and wide used commercial quality standards like the International Standards Organization (ISO9000) and others.

**c. Let the Contractor Propose the Metrics and the Quality Assurance Surveillance Plan (QASP)**

FAR 37.601(b)(2) requires that performance-based contracts for services shall include:<sup>42</sup> “Measurable performance standards (i.e., in terms of quality, timeliness, quantity, etc.) and the method of assessing contractor performance against performance standards” and FAR 37.604 states that:<sup>43</sup> “The Government may either prepare the quality assurance surveillance plan or require the offerors to submit a proposed quality assurance surveillance plan for the Government’s consideration in development of the Government’s plan.” Instead of setting the QASP the government can let the contractor to recommend the performance metrics and the QASP. This is very useful when a SOO is being used. As the contractors creating their own solutions, it is logical and useful to them to also create and recommend the QASP that best fits to their solution and practices.

FAR 46.401(a) states that:<sup>44</sup>

Government contract quality assurance shall be performed at such times (including any stage of manufacture or performance of services) and places (including subcontractors’ plants) as may be necessary to determine that the supplies or services conform to contract requirements. Quality assurance surveillance plans should be prepared in conjunction with the preparation of the statement of work. The plans should specify:

- All work requiring surveillance; and
- The method of surveillance

**d. Set a Few Useful Measures of Success**

Instead of setting many and useless measures the team should select those that are really significant for the project and can directly related to the project objectives. These measures should be proportional to the cost of the acquisition.

**e. Apply the Contract-type Order of Precedence**

The order of preference in contract types used for PBC is:

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<sup>42</sup> FAR 37.601(b)(2), *General*.

<sup>43</sup> FAR 37.604, *Quality Assurance Surveillance Plans*.

<sup>44</sup> FAR 46.401(a), *General*.

- 1. A firm-fixed price performance-based contract or task order.
- 2. A performance-based contract or task order that is not firm-fixed price.
- 3. A contract or task order that is not performance-based.

A firm-fixed price contract cannot be used for every requirement. The decision for the right type of contract is connected with the organization's need and may motivate great performance or either contributes to reduced performance and outcomes. The appropriate type of contract will be determined by market research, the informed business decision, and the negotiations.

#### **f. Incentive-type Contracts**

Selecting a type of contract is used as a way to incentivize the contractor. FAR 16.101 states that contract types vary according to:<sup>45</sup>

1. The degree and timing of the risk and responsibility assumed by the contractor for the costs of performance, and
2. The amount and nature of the profit incentive offered to the contractor for achieving or exceeding specified standards or goals

The government should select the appropriate contract that puts the right amount of risk, responsibility, and incentives on the contractor for performance. Two main contract types exist: the fixed-price contracts and the cost-reimbursement contracts. In a fixed-price contract the contractor bears maximum risk and full responsibility for all costs and the resulting profit or loss. A cost-reimbursement type, provide for payment of allowable incurred costs, to the extent prescribed in the contract and the contractor has low risk and responsibility for the performance costs. In between are the various incentive contracts, in which the contractor's responsibility for the performance costs and the profit or fee incentives offered are tailored to the uncertainties involved in contract performance. These are the:

- Fixed-price incentive contracts (firm target or successive targets)
- Fixed-price contracts with award fees
- Cost-reimbursement incentive contracts (cost-plus-incentive-fee or cost-plus-award-fee).

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<sup>45</sup> FAR 16.101, *General*.

**g. The “Award Term”**

Award term is an incentive type that rewards contractors with an additional period(s) of performance. It is a great tool for the contracting officer and program manager, to incentivize high levels of performance. The contract may be extended for “good” performance or reduced for “poor” performance. The award term can stimulate and improve the contractor’s performance. It requires an award term plan.

FAR 16.405–2 describes the award fee which is similar to the award term and states that:<sup>46</sup>

A cost-plus-award-fee contract is a cost-reimbursement contract that provides for a fee consisting of (1) a base amount fixed at inception of the contract, if applicable and at the discretion of the contracting officer, and (2) an award amount that the contractor may earn in whole or in part during performance and that is sufficient to provide motivation for excellence in the areas of cost, schedule, and technical performance.

The award term differs from the award fee as instead of rewarding the contractor with a fee is rewarding the contractor with a contract term extension (or reduction)

**h. More Incentive Tools**

There are many types of incentives. Some may be monetary while other may offer other things. These incentives should offer something extra to the contractor when meets the objectives but they should also have remedies when the targets not met.

Building incentive strategy is like creating an acquisition strategy. A single, perfect solution does not exist and the strategy should adjust to the each specific acquisition, the market environment and the objectives of the agency. The cost incentives are related to the contract type chosen. Some additional cost and non-cost incentives are:

- Contract length considerations
- Strategic supplier alliances
- Performance-based payments
- Performance incentive bonus
- Schedule incentives

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<sup>46</sup> FAR 16.405–2, *Cost-Plus-Award-Fee Contracts*.

- Past performance evaluation
  - Agency “supplier of the year” award programs
  - Competitive considerations
  - Nonperformance remedies
  - Value engineering change provisions
  - Letters of commendation
- i. Profit as an Incentive**

The primary concern for the industry is their bottom line or profit; private companies are struggling for profits in order to provide returns for their investors. Profit is a key incentive for the team. This must be connected to agency’s objectives. The contract should provide that both contractor and agency may win from savings, productiveness, and innovation during contract performance.

**j. Maintain the Relationship**

The team should try to rely more on a good partnership and a management by relationship and not to the authority power of the contract. Successful relationships are characterized by:

- Trust and open communication
- Strong leadership on both sides
- Ongoing, honest self-assessment
- Ongoing interaction
- Creating and maintaining mutual benefit or value throughout the relationship

**6. Step 6: Select the Right Contractor**

Selecting the appropriate contractor through specific strategies is essential for the PBA. The contractor should realize the PBA approach, understand the organization’s requirements, have a good past performance and have the needed processes and tools to execute the mission.

**a. The Competitive Requirements**

FAR part 6 prescribes the policies and procedures to promote the full and open competition in the acquisition process and presents the three standards of competition:

- Full and open competition
- Full and open competition after exclusion of sources
- Other than full and open competition

The FAR also gives some exceptions to the CICA competitive mandates and allows for the implementation of techniques that can be used in negotiated procurements to provide for efficient competition.

**b. Cost of Competition**

Full and open competition is the preferred acquisition process for the government. Although this should be beneficial for the government, sometimes it is also has a great cost in monetary and non-monetary terms both to the government and to the contractors. Full and open competition while fosters competition is expensive. There are other means to promote competition under the laws and regulations. The approach should be created with consideration to the specific organization's needs.

**c. Competition for the Solution**

The essential thing to select the correct contractor is to build the acquisition in a way that the agency states its problem and needs and the contractors compete with their proposed solution. The excellence of the proposed solution along with the offeror-proposed performance measures and process can be used in best value selection.

**d. Down-Selection and "Due Diligence"**

With "down-selection" the agency can reduce the number of the potential offerors to those that are really capable of offering a winning solution. This can be done by using the Federal Supply Schedules (FSS) Multiple Award Schedule (MAS)

competitive process and using the “fair opportunity” competitive process under an existing Government-wide Agency Contract (GWAC) or multiple-award contract (MAC).

Down-selection can also be applied to the full and open competition procedures, promoting in this way real competition and the efficiency and at the same time reducing costs for the contractors and the agency. FAR 15.306(c) describes the procedures for applying the competitive range by which the contracting officer can eliminate the proposals that are not included in the competitive range from the consideration for award. Competitive range is determined on the basis of the ratings of each proposal against all evaluation factors.

After the down-selection process, the remaining contractors are entering a period called due diligence. “Due diligence” is the period and process during which competitors take the time and make the effort to become knowledgeable about an agency’s needs in order to propose a competitive solution. It usually includes site visits, meetings with key agency people, and research and analysis necessary to develop a competitive solution tailored to agency requirements. During this time, the competing contractors must have access to the integrated project team and program staff so that the contractors can learn as much as possible about the requirement. It is a far more open period of communication than is typical in more traditional acquisitions.

**e. Communicate With the Contractors**

The evaluation of the contractors can be helped a lot by face-to-face meetings and interactive dialogue. These meetings can be extremely beneficial as the government team may acquire useful information about the contractor and solve any queries that may have that will ultimately help with the selection of the right contractor.

**f. Past Performance**

The past performance of a contractor is definitely a guide for the future performance. The team should review the past performance of the potential contractors and use them in the evaluation and selection process; especially when acquiring services. Recording and use the past performance offers great advantages. It helps the agency to

have a measure for the future performance and at the same time incentivize the current contractors to perform in their best way they can.

Past performance information can be found from many sources like the Past Performance Information Retrieval System (PPIRS), by other private databases and catalogues or even by asking them from the contractor (references). Another great tool for finding information about past performance is the market research. The team may ask other agencies for the contractor performance and their satisfaction, seek for quality standards and certifications.

The use of the past performance in the evaluation process should help the selecting officials to compare the “image” of the contractor with the agency requirements and realize the risks and the probability of successfully executing the contract and meeting the requirements. The information should be relevant, current and accurate.

The DoD Guide to Collection and Use of Past Performance Information (May 2003) came to articulate the key techniques and practices for the use and collection of past performance information. The following list contains the 10 most important tips from the DoD Guide to Collection and Use of Past Performance Information on working with past performance:<sup>47</sup>

#### 10 Most Important Tips on Working with Past Performance.

- Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) rules apply to all past performance information (PPI), however and whenever collected. This includes ensuring that contractors have the opportunity to comment on adverse PPI on report cards as well as on other PPI gathered under less formal collection methods.
- PPI is “For Official Use Only” and “Source Selection Sensitive Information” and should be so marked.
- The performance assessment process continues through contract performance assessments of award fee and past performance. Normally this assessment continuum should be consistent as to form and content throughout the contract performance period, to ensure successful performance.

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<sup>47</sup> Department of Defense, May 2003, *DoD Guide to Collection and use of Past Performance Information*.

- The narrative is the most critical aspect of PPI assessments.
- Performance assessments are the responsibility of the program/project/contracting team, considering the customer’s input. No single office or organization should independently determine a performance assessment.
- Performance assessments should be developed throughout the period of contract performance and not held to the end of the performance period.
- The use and evaluation of PPI for a specific acquisition should be tailored to fit the needs of that acquisition and clearly articulated in the solicitation.
- Source selection officials should use the most relevant, recent PPI available in making the source selection decisions. They must consider updated information provided by the contractor regarding relevant PPI.
- Personnel collecting PPI for use in a particular source selection should consider whether the data comes from reputable and reliable sources.
- The Government must share adverse PPI on which contractors have not had the opportunity to comment.

**g. Best Value Evaluation and Selection Process**

FAR 15.101 describes in the best value continuum that: “An agency can obtain best value in negotiated acquisitions by using any one or a combination of source selection approaches.” The team should select the contractor whose proposal offers the best value to the government. In the best value evaluation and selection process the team should select a proposal by evaluating factors in addition to cost or price. Two of the acquisition processes and techniques that may be used are the Tradeoff Source Selection Process and the Lowest Price Technically Acceptable Source Selection Process. The team should award the contract to the offeror that will offer to the agency the best value. The extent to which the best value will be used depends on the rules that govern the acquisition and the terms that were set forth in in the solicitation.

Some of the factors such that could be used in the evaluation process are:

- Quality and benefits of the solution
- Quality of the performance metrics and measurement approach
- Risks associated with the solution
- Management approach and controls
- Management team

- Past performance
- Past experience

## **7. Step 7: Manage Performance**

This last step of the seven steps of PBA is the most significant. Here is where the agency should deal with the management of the contract. This needs capable and experience personnel from the contracting and the program offices in order to succeed.

Effective contract management is a mission-critical function. The agency should have adequate personnel to manage their programs effectively. The contractor should be informed from the agency when is underperforming. The contractor should be member of the integrated team. FAR 1.102(c) states that:<sup>48</sup>

The Acquisition Team consists of all participants in Government acquisition including not only representatives of the technical, supply, and procurement communities but also the customers they serve, and the contractors who provide the products and services.

Management of the performance is described and directed from the terms and clauses of the contract and succeeds with the close partnership and cooperation between the contractor and the acquisition team. All parties of the acquisition are interesting for a success of the contract.

### **a. Retain the Integrated Project Team**

The acquisition process does not complete with the contract award but it continues through the contract management. The main members of the integrated project team that are experienced and knowledgeable with the acquisition should remain on the team and during the contract execution and management. This may bring success to the PBA. The team members shall remain on the team till the contract close out and the satisfaction of the need.

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<sup>48</sup> FAR 1.102(c), *Statement of Guiding Principles for the Federal Acquisition System*.

**b. Roles and Responsibilities**

Usually the members of the integrated team are assigned to different positions after the award and during the contract management. The responsibility is been shared between the program and contracting personnel. The Program office is responsible to maintain the project's strategic focus and tracking and checking on the contractor's performance. It ensures that the program is on cost, schedule and performance. Contract administration includes performing administrative procedures and tasks needed to verify that the contract requirements are satisfied. FAR 42.302(a), Contract Administration Functions, describes the contract administration functions of the contracting officer.

**c. Accountability for the Management and Monitoring of the Performance**

Each member of the acquisition team should be related with a specific role and responsibility concerning the management and monitoring of the performance. These personnel should be well familiar with the contract and its clauses, the contract needs and also to be qualified, experienced, knowledgeable and capable of performing their duties. In PBA almost every member of the team has accountability for the success or failure of the contract. The Services Acquisition Reform Act (SARA) dictates that the program managers have the proper training and the appropriate certifications to manage the projects.

**d. Post-award Meeting**

A post-award meeting takes places after the award of the contract, among all the persons that will be part of the contract performance. The conference will make clear to all participants the contract requirements and solve any potential queries. It also may help participants to develop an initial communication and partnership. The contractor should be part of the team and work closely with the agency members to satisfy all the mission and program needs.

**e. The Six Disciplines of Performance-Based Management**

PBA requires “a uniquely disciplined approach to managing contract performance and to program management. *The Six Disciplines of Performance-Based Management* are:<sup>49</sup>

- Cultural Transformation: Proactively manage the organizational and cultural changes integral to the success of the initiative
- Strategic Linkage: Provide a consistent vision throughout the organization, making sure the desired results reflect organizational strategic goals
- Governance: Establish roles, responsibilities, and decision-making authorities for project implementation
- Communications: Identify the content, medium, and frequency of information flow to all stakeholders
- Risk Management: Identify, assess, monitor, and manage risks
- Performance Monitoring: Analyze and report status; cost, schedule, and performance; on a regularly scheduled basis during project execution

The application of these disciplines helps drive “performance and results throughout an agency’s culture and business operations” and enhances the achievement of mission results.

**f. Review Contract Performance**

The contractor and the integrated team should meet frequently, in contract performance improvement workgroups in order to review the contract and the performance levels, identify problems, and to make the appropriate corrections and recommendations on the program. These meetings could be done every one or two months or even more frequent if is needed. The meetings should focus on the contact performance and not on the people.

**g. Reporting on Past Performance**

FAR 42.1503 requires that:<sup>50</sup>

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<sup>49</sup> Acquisition Solutions Training Institute, *The Six Disciplines of Performance-Based Management*<sup>TM</sup>

<sup>50</sup> FAR 42.1503, *Procedures*.

Agency procedures for the past performance evaluation system shall generally provide for input to the evaluations from the technical office, contracting office and, where appropriate, end users of the product or service. The evaluations then shall be provided to the contractor to review, submit comments, rebutting statements, or additional information. Agencies then shall submit the past performance reports electronically to the Past Performance Information Retrieval System (PPIRS).

#### **D. BENEFITS OF PBSA**

When compared to the traditional contracting method, PBSA offers potential benefits including higher performance, lower cost, increased competition and innovation, greater use of commercial services, better and less costly oversight, better risk-sharing between government and contractor, better government-contractor communication and cooperation, higher likelihood of completing projects successfully.

##### **1. Higher Performance**

PBSA can align the objectives of the contractor with those of the government. In PBSA the acquisition is structured around the results to be achieved as opposed to the manner by which the work is to be performed. In this way the contractors have the following:

- Have the freedom and flexibility to implement the strategy that will bring the best value to the final customer
- Can update their methods without the need to change contractual obligations
- Have the incentive to achieve their best performance.

These conditions promote the best effort and innovation by the contractor, maximize the potential for the government to receive optimal contractor performance, and result in a “win-win” situation for both parties.

##### **2. Lower Cost**

Top commercial firms have used performance-based contracts to reduce costs of services even as they raise performance. The federal government, unlike the private sector in its budgetary processes, is not focused on profits; rather, it is focused on accountability and transparency; minimizing fraud, waste, and abuse; and costs. The

federal government thus often retains more cost-inefficient practices and processes, and will significantly benefit from PBSA's cost savings.

### **3. Increased Competition and Innovation**

PBSA fosters competition and innovation. PBSA lets firms to determine the processes that will use in order to achieve the desired result. Since they are incentivized throughout the contract to meet the required metrics while minimizing the cost, competitive firms will continuously innovate to improve their processes while reducing costs. Also, PBSA by describing the results to be achieved as opposed to the manner by which the work is to be performed increases the competition among the companies. More companies out of the defense industry can bid and provide the best and most cost effective solution for the government.

### **4. Greater Use of Commercial Services**

The vast majority of service requirements are commercial in nature. Although government policy explicitly embraces greater use of commercial off-the-shelf technologies and commercial standards, DoD has been slow to fully implement these policies. By focusing on performance over process, PBSA helps to reduce barriers to entry for commercial firms.

### **5. Better and Less Costly Oversight**

Traditionally, the DoD has spent a large amount of resources verifying that contractors comply with the detailed processes and procedures the agency specifies in its contracts. With PBSA, the government can reduce the cost and increase the effectiveness of its oversight by tracking appropriately selected performance metrics to monitor contractor performance.

### **6. Better Risk-Sharing between Government and Contractor**

PBSA allows for better government control over contractor and more effective

accountability. The contractor has the responsibility to achieve the objectives of the PWS by using his preferred methods and processes. In this way the risk is passed from agency to contractor.

#### **7. Better Government-Contractor Communication and Cooperation**

PBSA encourages a better contractor-government partnership that is more collaborative and less adversarial than traditional contracting. PBSA requires trust and accountability. Private companies are given more flexibility to find cost-effective solutions, and also agree to meet the required performance metrics, which are often used to determine incentives.

#### **8. Higher Likelihood of Completing Projects Successfully**

Furthermore, according to the guidebook entitled “*Seven Steps to Performance-Based Services Acquisition*” the benefits of PBA include the following:<sup>51</sup>

- Increased likelihood of meeting mission needs
- Focus on intended results, not process
- Better value and enhanced performance
- Less performance risk
- No detailed specification or process description needed
- Contractor flexibility in proposing solution
- Better competition: not just contractors, but solutions
- Contractor buy-in and shared interests
- Shared incentives permit innovation and cost effectiveness
- Less likelihood of a successful protest
- Surveillance: less frequent, more meaningful
- Results documented for Government Performance and Results Act reporting, as by-product of acquisition
- Variety of solutions from which to choose

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<sup>51</sup> An Interagency-Industry Partnership in Performance, 2005, *Seven Steps to Performance-Based Acquisition*.

## **E. RISKS AND PROBLEMS OF PBSA**

The PBSA concept offers significant benefits to the U.S. Federal Government Agencies but its implementation also has some potential risks and problems. Despite the efforts for continuous training and support that has been provided to agencies over the last 20 years, some reports from the General Accounting Office (GAO) and OFFP studies had revealed problems, risks and challenges on the implementation of PBSA. These includes problems on training and support, problems with the cultural change and resistance of the personnel, the perception that the government loses control and an inquiry about the suitability of PBSA to all kind of services.

### **1. The Government Loses Control**

It is believed that the government, by not issuing explicit specifications on a service acquisition, will lose the control on the acquisition, and as a result, it may receive less satisfactory performance. This has been shown not to be the case, as the government describes the work in terms of the desired outcomes through PWS and the measurable performance standards and the method of assessing contractor performance against performance standards along with performance incentives. In this way the PBSA method had resulted in great savings and greater performance compared to traditional methods.

### **2. Training and Support**

Since 1991 and the OFPP Policy Letter 91-2, a great amount of training and support has been offered within the Federal agencies. The official OFPP guide, '*Seven Steps to Performance-Based Service Acquisition*' along with the Seven Step support website give a well-organized methodology, breaking the PBSA process down into seven steps. The web page gives information, sample materials, best practice examples and discussions on the seven steps. The Acquisition Center of Excellence (ACE) for services website also offers PBA support. The Defense Acquisition University (DAU) and the Federal Acquisition Institute (FAI) offer many PBA training opportunities. DoD's *Guidebook for Performance-Based Services Acquisition in the Department of Defense* and the *Guidebook for the Acquisition of Services* were issued in order to help DoD's acquisition personnel.

While the current training and support are quite significant, both GAO reports and the report of the Acquisition Advisory Panel<sup>52</sup> reported that there was inadequate guidance and training; particularly the cross-functional training, a weak internal control environment, and limited performance measures and data that agencies could use to make informed decisions on when to use PBA. As stated in OFPP policy memorandum for chief acquisition officers senior procurement executives on May 22, 2007:<sup>53</sup>

Effective training is crucial to the successful implementation of PBA, and opportunities include online and classroom courses, workshops, seminars and conferences. PBA training should be completed by senior managers, program/project managers, requirements personnel, quality assurance specialists, Contracting Officer's Representatives, Contracting Officer's Technical Representatives, subject matter experts and contracting officials involved in a PBA. Agency acquisition workforce policy should include these PBA training requirements at the appropriate level for all members of the acquisition workforce to ensure PBA principles are applied properly on service acquisitions.

### **3. Services that Are Suitable for PBSA**

In the beginning, PBSA was used on basic, simple and support services like security, laundry, and facilities maintenance. Over the last years, the use has been expanded in most areas of services, and especially on the information technology area. Not every service is suitable for a PBSA. Growing experience on PBSA helped agencies to identify, in a degree, which services are suitable for PBSA or not; but acquisition personnel expects further help to understand what services are appropriate for PBSA. While PBSA may be useful for routine, common, and relatively simple services, it is not as applicable for services that are too long-term and complex to permit complete specification of results and competitive pricing at the outset of contracting (Vernon J. Edwards and Ralph C. Nash, Jr.).<sup>54</sup>

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<sup>52</sup> Acquisition Advisory Panel, January 2007, *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress*.

<sup>53</sup> OFPP Memorandum, May 22, 2007, Subject: *Using Performance-Based Acquisition to Meet Program Needs – Performance Goals, Guidance, and Training*.

<sup>54</sup> Vernon J. Edwards and Ralph C. Nash, Jr, September 2007, *A proposal for a new approach to performance-based services acquisition*, "DAU: Defense Acquisition Review Journal".

According to Edwards and Nash:<sup>55</sup>

There are two categories of services, and PBSA works for one, but not the other. The first category includes many common, routine, and relatively simple services that can be acquired through PBSA as it is currently defined, including many housekeeping services, simple equipment maintenance and repair services, and the like. The second category includes services that are too long-term and complex to permit complete specification of results and competitive pricing at the outset of contracting. These include many long-term information technology services, services to operate government-owned facilities, and long-term and multifunction or multitask professional, administrative, and management support services.

According to the Acquisition Advisory Panel:<sup>56</sup> “Not every service contract lends itself to a performance based contract, and there is, a rush now to use this contracting technique without fully understanding when it works and when it doesn’t work: what are the risks inherent in using performance based contracting and what are the advantages.”

#### **4. Cultural Change and Resistance**

As in any organization change is hard. The resistance to change comes as people try to maintain consistency and stability. Change is sometimes very difficult and requires good leadership and management to successfully implement it. In this way

#### **F. PBSA IMPLEMENTATION IN THE U.S. FEDERAL GOVERNMENT**

On September 7, 2004, OMB sent out a memorandum on PBSA stating that: “Agencies should apply PBSA methods on 40% 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.”<sup>57</sup> On July 21, 2006, the OMB released a memorandum

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<sup>55</sup> Vernon J. Edwards and Ralph C. Nash, Jr, September 2007, *A proposal for a new approach to performance-based services acquisition*, “DAU: Defense Acquisition Review Journal”.

<sup>56</sup> Acquisition Advisory Panel, January 2007, *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress*.

<sup>57</sup> Robert A. Burton, September 7, 2004, Executive Office of the President, *Memorandum for Chief Acquisition Officers/Senior Procurement Executives, Increasing the Use of Performance-Based Service Acquisition*.

extending the 40% requirement to fiscal year (FY) 2006.<sup>58</sup> On May 22, 2007, the OMB stated in a memorandum that:<sup>59</sup> “According to the Federal Procurement Data System (FPDS), most agencies met or exceeded the goal, awarding over 45% of their eligible service contract actions” as performance-based and further increased the target on PBA contracts to 45% of the eligible service actions over \$25,000 for FY 2007, including contracts, task orders, modifications, and options, as measured in dollars. The latest OMB memorandum<sup>60</sup> (December 5, 2007) increased the Government-wide PBA performance goal from 45% to 50% for FY 2008.

The Federal implementation of performance-based acquisition according to agency reporting grew from 25.5% in FY2001 to 40.5% in FY2004; exceeding the goal by 0.5%.<sup>61</sup>

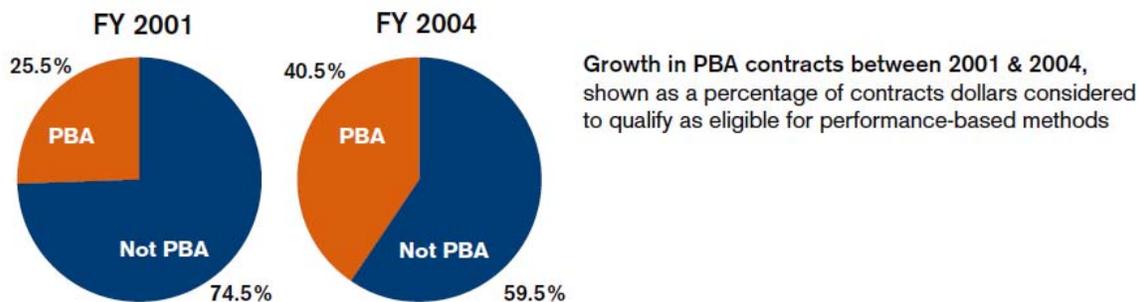


Figure 5. Growth in PBA Contracts between 2001 and 2004 (From Report of the Acquisition Advisory Panel, January 2007, p.173)

On April 5, 2000, J.S. Gansler, The Under Secretary of Defense, Acquisition, Technology & Logistics (USD (AT&L)), set a more ambitious target for the DoD than the

<sup>58</sup> Robert A. Burton, July 21, 2006, Executive Office of the President, *Memorandum for Chief Acquisition Officers/Senior Procurement Executives, Use of Performance-Based Acquisitions.*

<sup>59</sup> Paul A. Denett, May 22, 2007, Executive Office of the President, *Memorandum for Chief Acquisition Officers/Senior Procurement Executives, Using Performance-Based Acquisition to Meet Program Needs – Performance Goals, Guidance, and Training.*

<sup>60</sup> Paul A. Denett, December 5, 2007, Executive Office of the President, *Memorandum for Chief Acquisition Officers/Senior Procurement Executives, Fiscal Year 2008 Performance-Based Acquisition Performance Goal.*

<sup>61</sup> Acquisition Advisory Panel, January 2007, *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress, p.173.*

OMB, requiring that 50% of service acquisitions, measured in both dollars and actions, are to be performance-based by year 2005.<sup>62</sup>

The eligible PBSA dollars and the use of these dollars within the DoD are showed in Figures 6 and 7, for FY2005–2012.

Figure 6 shows that the percentage of PBA dollars that was used increased from 54.8% in 2005 to 73.00% in 2011 (a 33.22% increase).

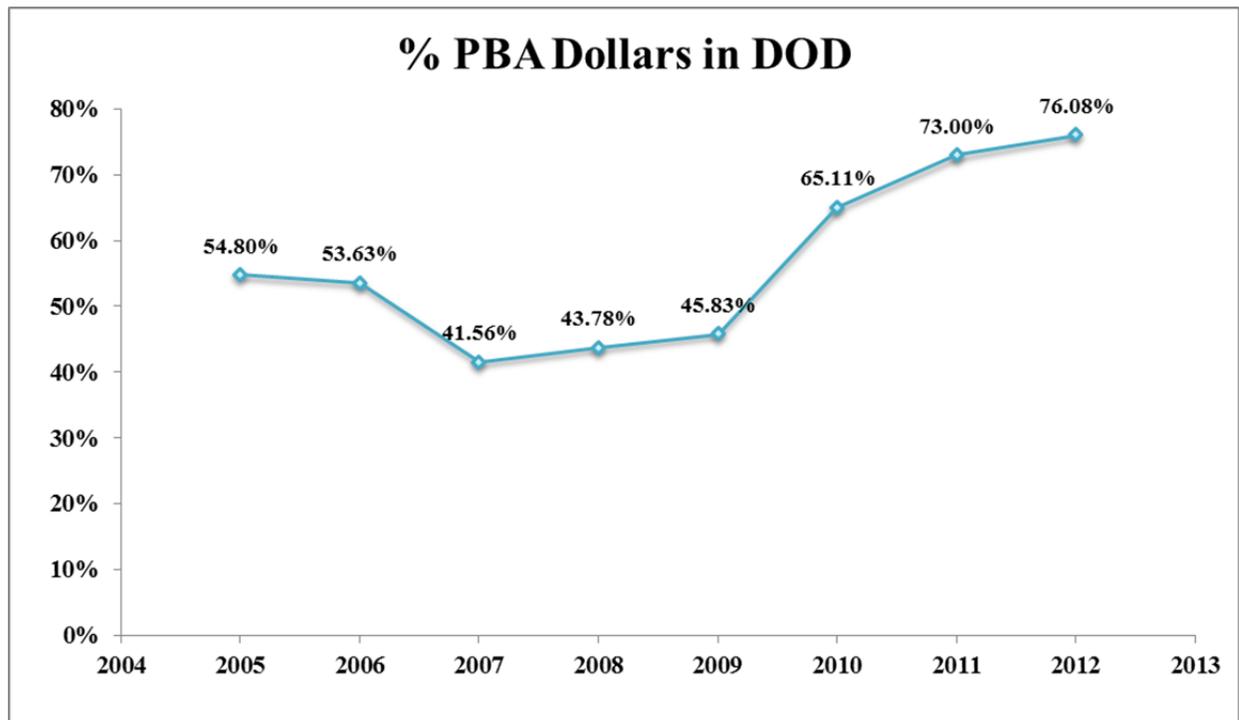


Figure 6. Percentage of PBA Dollars Used in the DoD (Data From Federal Procurement Data System–Next Generation, 2012 data up to July, 31, 2012)

Figure 7 shows that the eligible PBA dollars had increased from \$86.93bn in 2005 to \$125.85bn in 2011 (a 44.77% increase) and to \$93.85bn until July 2012.

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<sup>62</sup> J.S. Gansler, (USD (A&T)), 5 Apr 2000, *Memorandum: Performance-Based Services Acquisition (PBSA)*.

FY	Eligible PBA		PBA		% PBA	
	Actions	Eligible PBA Dollars	Actions	Actions	PBA Dollars	Dollars
2005	224,164	\$86,934,932,523.68	89,974	40.14%	\$47,637,935,813.05	54.80%
2006	245,861	\$96,610,578,374.91	102,635	41.75%	\$51,813,139,492.73	53.63%
2007	335,940	\$100,889,518,398.38	98,478	29.31%	\$41,927,358,039.98	41.56%
2008	350,653	\$110,498,407,182.18	106,640	30.41%	\$48,380,855,907.51	43.78%
2009	361,020	\$121,138,678,536.05	125,364	34.72%	\$55,517,959,524.45	45.83%
2010	373,762	\$120,496,131,438.92	193,593	51.80%	\$78,452,412,185.62	65.11%
2011	10,647,494	\$125,853,532,575.95	9,793,847	91.98%	\$91,872,676,793.74	73.00%
2012	8,696,543	\$93,845,214,777.35	8,559,173	98.42%	\$71,399,064,570.17	76.08%

Figure 7. Performance Based Acquisition Report on DoD FY 2005–2012 (Data From Federal Procurement Data System–Next Generation, 2012 data up to July, 31, 2012)

It appears that the implementation of PBSA within the DoD, at least from the percentages of PBSA dollars and the PBA dollars used, was extremely good and beyond the targets that the OMB and DoD officials had put as the percentage of PBA dollars that was used increased from 54.8% in 2005 to 73.00% in 2011 (a 33.22% increase) and way above the targets of the OMB and DoD and the eligible PBA dollars that was been used had increased from \$86.93bn in 2005 to \$125.85bn in 2011 (a 44.77% increase) and to \$93.85bn until July 2012 (year still open).

## G. CHAPTER SUMMARY

The services acquisition is an important element for maintaining and promoting the capabilities and supporting effectively the missions of the Department of Defense (DoD). The services acquisition process starts with the mission requirement, continues with the planning phase, where the requirements and the strategy is being defined and finishes with the delivery of the services.

PBSA is a very useful and helpful method for acquiring the services needed and the preferred method for the United States. It potentially can provide great benefits, regarding cost and the quality of the service provided. But it also has some potential problems and drawbacks and it needs qualified and experience personnel in order to be

applied satisfactory. The guides that have been issued and the official Letters and orders along with the continuing training have helped a lot to overcome most of these issues and problems.

Overall the benefits outbalance the potential problems and drawbacks. Up to now, the implementation of PBSA in the U.S. Federal government and especially within the DoD was very successful meeting the targets that the government had mandated. The next chapter will present the laws and regulations within the Hellenic Navy in order then to identify the applicability of PBSA to the HN service acquisition activities along with the potential obstacles.

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## **IV. CURRENT HELLENIC NAVY ACQUISITION LAWS AND REGULATIONS**

### **A. INTRODUCTION**

The Hellenic Navy (HN) has a long history and tradition through the centuries. Greece is surrounded by sea so the Navy had always been a priority for the Greeks as they could expand through the sea and at the same time protect themselves from the potential enemies. In this way the first naval units of the HN created.

Nowadays, the mission of Hellenic Navy is to conduct the necessary maritime operations, during peace and war time, in order to ensure National objectives of its responsibility, in cooperation with the other branches of Armed Forces aiming to contribute to the deterrence of enemy attacks, the preservation of National integrity, the defense of National interests and the achievement of National Defense Policy's goals, in general. To fulfill its mission, Hellenic Navy utilizes the National Sea power and avails of, since peace time, personnel and means which are supplemented, as necessary, following military and civilian mobilization.

Within the framework of the guidance of the Ministry Of Defense (MOD) and The Chief of Defense (CHOD) and the need to adapt to the country's new financial situation, the modern operational and technological requirements and the new organizational structure of the Armed Forces, Hellenic Navy (HN) is transforming through the initiation of reforms in a number of areas. These areas are further broken down into actions, which are specific, measurable, achievable and realistic, planned within clear timeframes, via the HN's scorecard system. Basic principles of these planned actions are the cost-effectiveness improvement and the rationalized functional enhancement.

In this way the HN must find a more efficient and effective way to manage its service acquisitions in order to face the significant defense budget cuts along with the

expected rise in services that needed to acquire in the near future and the need for better and more reliable service acquisitions. PBSA can be a very good and helpful concept for the HN.

This chapter will present the services that HN could outsource, describe the current Hellenic Navy acquisition laws and regulations for services and the basic procedures, make a comparison with the current U.S. DoD PBSA implementation and try to identify the possible legal barriers and constraints for the implementation of PBSA.

## **B. DEFENSE EXPENDITURES IN GREECE**

Greece is a member of The North Atlantic Treaty Organization (NATO) since 1952 and is also a member of the European Union (EU). Greece takes part in all the NATO operations, as a member, by providing the necessary means and resources. Especially since the 1990 and the first golf war, Greece has provide significant Naval support to the NATO allies. Greece also has a strategic position in the Mediterranean Sea. The Mission of the armed forces is to contribute to the deterrence of enemy attacks, the preservation of National integrity, the defense of National interests and the achievement of National Defense Policy's goals, in general. In order to achieve these, Greece is making significant defense expenditures.

The defense expenditures of Greece are from the highest within the NATO in terms of percentage of GDP. Table 5, "Defence expenditures as a percentage of gross domestic product," presents data for NATO countries from 1990–2010. More specifically Table 5 shows that Greece is the highest spending country among the European NATO member-countries. In fact the defence expenditures as a percentage of gross domestic product (GDP) of Greece is almost double than of the Europe NATO average. Furthermore Greece is the second biggest spender, behind the USA, among all the NATO members (as a percentage of GDP), again with spending above the average. This reveals that Greece is dedicates a significant proportion of its national budget for the national defense

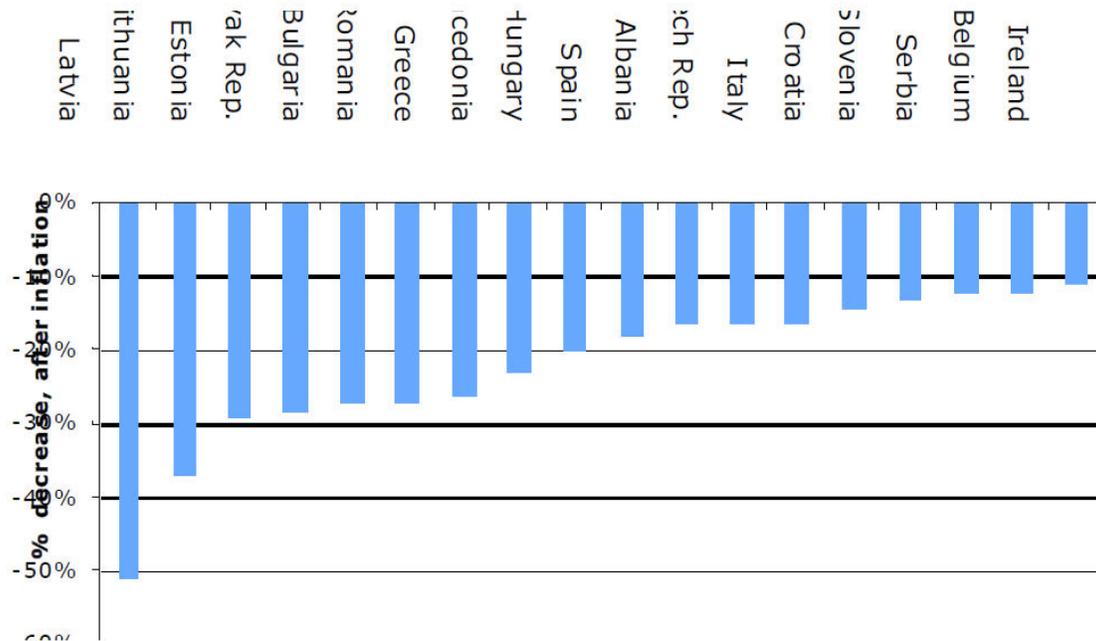
Table 3: Defence expenditures as a percentage of gross domestic product									
Tableau 3: Dépenses de défense en pourcentage du produit intérieur brut									
Country / Pays	Average / Moyenne 1990 - 1994	Average / Moyenne 1995 - 1999	Average / Moyenne 2000 - 2004	Average / Moyenne 2005 - 2009	2006	2007	2008	2009	2010e
(0)	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Based on current prices / Sur la base des prix courants									
Albania	//	//	//	//	//	//	//	1.5	2.0
Belgium	1.9	1.5	1.3	1.2	1.1	1.1	1.2	1.2	1.1
Bulgaria (a)	//	//	//	2.2	2.2	2.4	2.2	1.9	1.7
Croatia	//	//	//	//	//	//	//	1.6	1.5
Czech Republic	//	//	2.0	1.6	1.7	1.5	1.4	1.6	1.4
Denmark	1.9	1.7	1.5	1.4	1.4	1.3	1.4	1.4	1.4
Estonia	//	//	//	1.6	1.4	1.7	1.8	1.8	1.8
France (b)	3.3	2.9	2.5	2.3	2.5	2.4	2.3	2.1	2.0
Germany	2.1	1.6	1.4	1.3	1.3	1.3	1.3	1.4	1.4
Greece (c)	3.9	4.1	3.2	2.8	2.8	2.7	2.9	3.1	2.9
Hungary (c)	//	//	1.6	1.3	1.3	1.3	1.2	1.1	1.1
Italy (c)	2.0	1.9	2.0	1.6	1.8	1.4	1.4	1.4	1.4
Latvia	//	//	//	1.4	1.6	1.5	1.6	1.2	1.0
Lithuania	//	//	//	1.1	1.2	1.2	1.1	1.1	0.9
Luxembourg (c)	0.7	0.7	0.7	0.5	0.6	0.6	0.4	0.4	0.5
Netherlands	2.3	1.8	1.5	1.5	1.5	1.5	1.4	1.5	1.4
Norway (d)	2.8	2.2	1.9	1.5	1.5	1.5	1.4	1.6	1.5
Poland	//	//	1.8	1.8	1.8	1.8	1.6	1.7	1.9
Portugal (c)	2.3	2.1	1.7	1.5	1.6	1.4	1.5	1.6	1.6
Romania	//	//	//	1.6	1.8	1.5	1.5	1.4	1.3
Slovak Republic	//	//	//	1.6	1.6	1.5	1.5	1.5	1.3
Slovenia	//	//	//	1.5	1.6	1.5	1.5	1.6	1.6
Spain	1.6	1.3	1.2	1.2	1.2	1.2	1.2	1.2	1.1
Turkey (c)	2.8	3.2	3.2	2.0	2.2	1.8	2.0	2.1	1.9
United Kingdom (e)	3.7	2.7	2.3	2.5	2.4	2.5	2.6	2.7	2.7
<b>NATO - Europe *</b>	<b>2.5</b>	<b>2.1</b>	<b>  1.9</b>	<b>  1.8</b>	<b>1.8</b>	<b>  1.7</b>	<b>  1.7</b>	<b>  1.7</b>	<b>1.7</b>
Canada	1.8	1.3	1.2	1.3	1.2	1.3	1.3	1.4	1.5
United States (e)	4.6	3.3	3.4	4.5	4.1	4.2	5.1	5.4	5.4
<b>North America</b>	<b>4.4</b>	<b>3.2</b>	<b>3.2</b>	<b>  4.2</b>	<b>3.9</b>	<b>3.9</b>	<b>4.7</b>	<b>5.0</b>	<b>5.0</b>
<b>NATO - Total *</b>	<b>3.5</b>	<b>2.7</b>	<b>  2.6</b>	<b>  3.0</b>	<b>2.9</b>	<b>  2.8</b>	<b>  3.1</b>	<b>3.3</b>	<b>3.3</b>

Table 5. Defense Expenditures of NATO Countries as a Percentage of Gross Domestic Product<sup>63</sup>

Another fact is that the defense budget of Greece is decreasing due to the austerity measures that have been introduced across Europe since 2010, as countries have prioritized deficit reduction above other economic goals, and military expenditure cuts have usually been part of such measures. According to Stockholm International Peace Research Institute (SIPRI) “among western European countries, the countries with the biggest falls have included many that have faced severe sovereign debt crises, and where austerity measures have been particularly harsh: Greece (down 26 per cent since 2008),

<sup>63</sup> Financial and Economic Data Relating to NATO Defence, 10 Mar. 2011, *Defence Expenditures of NATO countries (1990–2010)*.

Spain (18 per cent), Italy (16 per cent) and Ireland (11 per cent); but also Belgium (12 per cent). Figure 8 shows that Greece is among the countries with biggest decreases in defense spending in Europe.



### 3.1. Biggest decreases.

Figure 8. Biggest Decreases in Real Military Spending in Europe, 2008–11 (Figures show percentage decrease/increase after inflation)<sup>64</sup>

These decreases in defense spending that probably will continue for the next years will force the MOD and the Hellenic Navy to find more economical and effective ways to acquire the appropriate items and services in order to fulfill their mission and objectives. The concept of PBSA could be proved a good and effective solution for the acquisitions of services within the HN. PBSA may potentially improve service quality and reduce costs. In the budget of MOD for 2012 the acquisition of services accounts for 32.64% (excluding payroll) and the percentage within the HN is 32.59%. These percentages are

<sup>64</sup> Stockholm International Peace Research Institute (SIPRI), *SIPRI factsheet on military expenditure for 2011*.

low in comparison with the U.S. DoD, which is close to 60%, but probably they will increase in the near future as the need for more services will increase and mainly the need to outsource them.

### **C. SERVICES IN THE HELLENIC NAVY**

The service acquisitions within the HN are limited in comparison to the DoD service acquisitions. This is due to the fact that till now these services are provided by personnel employed within the HN, military and civilians, and a small proportion is being outsourced. But this is changing day by day and the need for more service acquisitions will be increased. The HN personnel will be reduced and the services that now are being performed within the HN must be outsourced. Below are some areas of services that currently are being outsourced or potentially could be outsourced in the future.

#### **1. Ship Repairs and Maintenance**

The Naval Dock Salamis and Naval Dock Crete provide the main maintenance, repair, construction and logistics facilities for the vessels of the HN with permanent personnel, military and civilians. At the same time, over the last 10 years many of these services are provided by private companies; two main shipyard and other smaller companies. In the future there will be a greater need for these kinds of services from the private sector and the HN should outsource them, mainly because the workforce is going to be reduced and there will be a need for cost savings. This is a potential field that PBSA could be used.

#### **2. Cleaning Service**

In Greece there is a mandatory military service for all the men. More specifically all men between the age of 19 and 45 with Greek citizenship or those designated by Greek authorities as being of Greek origin, ancestry or descent — regardless of country of birth, current citizenship, passport or domicile — must serve mandatory military service of nine (9) months regular duty in the army; or 12 months in the navy or air force. This mandatory service used to be much longer in the past. The cleaning within the HN in bases and ships, used to be done mainly by the enlisted personnel in the past.

Nowadays both the service time and the number of enlisted sailors is being reduced; no enlisted sailors are on the ships, as they are all professionals and a few enlisted are in the bases. Ships are managing the cleaning operations with their personnel and the bases are outsourcing these services. The navy hospital, the general staff and most of the agencies are hiring private companies to provide them with cleaning services. This is another potential sector that PBSA could be used.

### **3. Food Service**

In the HN the enlisted sailors should be fed during their duty and also the personnel that are on duty or in exercises is to be fed. That is why the bases and training centers and also the Navy Academy and the Navy hospital have and operate kitchen facilities. Ships have their own kitchen facilities too and dedicated personnel for the food. This probably is not the most economical thing. In the past the HN and specifically a training center try to outsource the food services to test how the process will work. The results were not encouraging and due to problems and negative publicity the idea and concept were being abandoned. Now the HN dedicates personnel, has kitchen facilities to provide the food services and doing the whole process. The HN could outsource these food services for the bases, the navy hospital, the training centers, and the naval academy and enjoy some cost savings and quality services. The situation on ships should be sustained as they must be always ready to live at any time. Perhaps when the ships are on Naval docks will not have to prepare their own food.

### **4. Transportation Service**

Currently the HN provides transportation services, in the area of Athens where most of its personnel is commissioned, to its personnel, military and civilians. This includes buses, minibuses and also sea transportation to the personnel that is working on the Naval Dock Salamis. The Central Car Park Navy (KSAN) which is responsible to retain, possess and traffics vehicles, as well as to conduct technical-quality control / repair / maintenance / minor alterations / fueling-lubricate vehicles and, where appropriate, those held by other services of the HN, with a view to maintain the functionality of rolling stock HN and meet their respective needs is performing these

ground transportations. KSAN has the appropriate vehicles and drivers and also the personnel and infrastructure to maintain its fleet. This requires significant costs for the operation and maintenance and without always the customers to be happy with the provided services. HN could search for potential providers of these services by private firms and could use the PBSA concept.

## **D. THE LEGAL ENVIRONMENT OF THE HELLENIC NAVY SERVICE ACQUISITION**

### **1. Legal and Statutory Framework**

The Basic laws and rules governing the acquisition of services are:

- Law 2286/95, “Public Procurement and Relevant Issues.” This law governs the issues of implementation of procurements in the public sector and related issues,
- Law 2362/95 “Public Accounting, expenditure control and other provisions.” Refers to a variety of subjects relating to the audit of state expenditure,
- Presidential Decree (PD) 118/07 entitled “Regulations for Public Procurements.” Defines with special detail most issues relating to public procurement from the preparation of declarations of competitions until the inspection and acceptance of the goods to be supplied

Furthermore service acquisitions are governed by other laws and regulations that exist within the government and supplement the basic laws and also directives and laws issued by the European Union (EU). Presidential Decree 60/07 “Adapting Greek legislation to the provisions of directive 2004/18/EU” is a recent law that its purpose is the adaptation of Greek legislation on public works, supplies and services to Directive 2004/18/EC of the European Parliament and Council of 31 March 2004 “On the coordination of procedures for the award of public works, supplies and services .”

Greece as part of the EU needs and is obliged to follow the laws and regulations that are being issued by the European Parliament and Council.

### **2. The Basic Principles of Public Procurement in Greece**

Government procurement must adhere to the following three principles:

a. The Principle of publicity. In principle, government purchases must be made known to stakeholders in the national press and the Journal of the European Communities. The principle of publicity does not apply to certain categories of supplies extremely low value, defined explicitly by statute.

b. The principle of transparency of the rules procedures. The whole process of the declaration, the supplier selection and award of a public contract must be based on rules that are known in advance and are valid throughout the whole duration of the competition. It also must be understood and distinguished for clarity. Expressly prohibited from changing the terms of the competition after the proclamation. The competition rules can be changed only upon acceptance complaints / appeals by bidders. Generally, the transparency principle is violated when, during a competition one person who does not participate, make the following observation: “With the new conditions imposed by the institution and I could get the competition.”

c. The principle of equal treatment. The competition rules are not possible to exclude foreign country or a group of companies from the same country entering discrimination policy.

### **3. Procurement Procedures for Services Acquisition and Works Execution**

There are three basic procurement procedures for services acquisition and works execution, the open tender, the closed tender and the process of negotiations. For services/ works of low budget, which are defined by law and which are not within the scope of EU laws, it is provided the handy tender.

#### ***a. Open Procedures (Open Tender)***

This process ensures the greatest possible participation of bidders / contractors, since it presupposes the publication of the full declaration and allows any interested person to submit a bid. The documents must be submitted with each bid are referred in Articles 6, 8 and 9 of PD 118/07. In the summary of the declaration of acquisition, under Greek law, the elements that must be listed are in accordance with paragraph B of the Annex to PD 118/07. In the summary of the declaration of acquisition,

in accordance with European and Greek law, the elements that must be listed are in accordance with the appropriate Annexes of Decree 60/07, respectively.

***b. Closed Tender***

This procedure proceeds in two phases:

(1) First of all published call for proposals, which is a very general statement. The applicant shall submit applications for participation with a folder “of capacity,” which describes the company profile.

(2) Those that are selected on the basis of “data capacity” take note of the full Declaration and invited to submit a full bid, i.e., submission of prices, specifications, etc.

(3) In the context of closed tender, contracting entities may, through the call for proposals, to define the minimum and maximum number of suppliers intend to invite. This number should not be less than five (5), and the greater may be twenty (20).

***c. Negotiated Procedures***

In exceptional cases is allowed to entities to directly negotiate with suppliers / contractors of their choice, with or without prior publication of the declaration. In negotiations without publication should be invited at least three (3) suppliers / contractors.

This procedure is followed only in cases provided for in Article 2 of law 2286/95, Article 22 of PD 118/07 and Articles 82 and 83 of law 2362/95 or when the service / work performed according to EU law, in cases provided for in Article 10 of PD 118/07, in that it is not contrary to EU Directive (2004/18 EU), such as for emergencies, equipment for research, experimental or artistic, additional commissions already selected supplier etc. Also, sometimes this procedure is followed in case of failure of a competition or when deemed uneconomic prices achieved and there is an urgent need, so the competition continues the process of negotiating with the submission of further financial and technical bids or tenders, wherever necessary

***d. Handy (or Synoptic) Tender***

This tender is scheduled for procurement of low value up to a limit, which varies by decree. The procurements do not justify conducting regular competition.

(1) The handy tender does not require publication and conducted by three-member committee and with written bids. At the handy tender are invited to submit bids at least three suppliers

(2) The invitation to tender must necessarily be determined if the contract is awarded, will be based on the lowest price or best offer.

(3) As in all tenders (open or closed) and the draft tender is not accepted counteroffers; In case of submission they are rejected as unacceptable.

**4. Award Criteria for Service Acquisition and Executions of Work in the HN**

There are two criteria for the award of a supply / work / service. In any proclamation or invitation is required to define clearly which of these following two will be used:

***a. Criterion Based on Lowest Price***

The contract shall be awarded to the supplier with the lowest price, of suppliers whose bids are deemed acceptable, based on the technical specifications and conditions of the Declaration, in accordance with those in the second paragraph of Article 20 of Presidential Decree 118/07. Highlighting the bidder is provided that if an offer is deemed too low can be dismissed after having requested an explanation from the concerned supplier / contractor and judged inadequate. About this rejection shall be informed and the European Commission (for commissions due amounts, are governed by Community law).

***b. Criterion Based on the Most Economically Advantageous Offer***

To select the most economically advantageous offer assessed only offers that are deemed technically acceptable and comply with the other terms of the

Declaration. The elements are classified into two groups: group A, “Technical Specifications, Quality and Efficiency” and Group B ‘Support and Coverage “under paragraph 2b of Article 20 of Presidential Decree 118/07.

## **E. POTENTIAL BARRIERS IN THE IMPLEMENTATION OF PBSA**

### **1. Contract Types**

In the U.S. DoD the contracts are divided into two major categories of contracts:<sup>65</sup>

Fixed-price contracts (where the government pays a pre-determined price, subject to some fixed maximum “ceiling” amount if a sharing incentive is used) and cost-reimbursement (where the government reimburses the contractor for allowable costs incurred to do the contracted effort, subject to some specific limitations, as well as normally some type fee). There are also the incentive contracts, fixed-price incentive contracts and cost-reimbursement incentive contracts, which are appropriate when a firm-fixed-price contract is not appropriate and the required supplies or services can be acquired at lower costs and, in certain instances, with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor’s performance.

In the PBSA concept the use of a type of contract is the initial element of incentive for an agency. Contracts incorporate incentives that can enhance superior performance. According to the Guidebook for PBSA in the DoD:

Using evaluation factors established in an award fee plan, award-fee contracts are a tool for subjectively assessing contractor performance for a given evaluation period. They allow contractors to earn a portion (if not all) of an award-fee pool established at the beginning of the evaluation period. The agency unilaterally determines the amount of earned fee. In the context of PBSA, the award-fee evaluation will be based on a subjective assessment of how well the contractor meets or exceeds the applicable performance standards.

Furthermore the award-term contract arrangements provide to the contractor additional periods of performance as compensation for quality performance. Award-term arrangements are most suitable when establishing of a long-term relationship is valuable both to the government and to the potential contractor.

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<sup>65</sup> Defense Acquisition University, February 2011, *Relationship between Contract Management and Financial Management*.

In Greece and within the HN the only type of contract that exists is the fixed price contract. No other contract exists or any price adjustment can be done due to performance reasons. The only price adjustment that can be done is only when from the declaration provided time delivery of material greater than twelve (12) months; it may be specified in the declaration requirement that a price adjustment can be done. This is a drawback for the implementation of the PBSA technique within the HN, as PBSA uses the various contracts to incentivize the contractors to reduce costs and perform well.

## **2. Technical Specifications**

PBA is an acquisition structured around the results to be achieved as opposed to the manner by which the work is to be performed. It describes and communicates measurable outcomes rather than direct performance processes; it is structured around defining a service requirement in terms of performance objectives and providing contractors the latitude to determine how to meet those objectives.

The Greek laws require from an agency to describe its need in the declaration in the technical specification. The description of the project is done with every detail and gives general and specific instructions on both the way a project should be executed and the desired results. This does not leave any space for the potential contractors to propose their own innovative approaches and techniques that could potentially result in better results and cost savings. The agency is obligated by law to prepare the technical specification prior to the declaration and in every detail to describe the procedures and outcomes of the service required. This consumes valuable resources in terms of personnel and time, does not always produces the best results as the personnel may not be familiar with the specific task, and do not allow the potential contractor to offer a different, innovative and more effective/efficient proposal. This constitutes a serious obstacle to the implementation of PBSA within the HN.

## **3. Experience**

PBSA has been in use within the U.S. Federal government agencies since the early nineties. The acquisition personnel have been trained, acquired experience; many guides have been created and efforts from the federal government for the implementation.

Still there are certain problems and concerns on the implementation and the results have been analyzed in great scale. The PBSA concept is not known in Greece and the HN acquisition personnel. It will be a totally new idea that will need time, training and effort for the personnel to be familiar with this subject and its tactics. PBSA requires special knowledge and capabilities, an integrated environment and guidance. It will take a significant amount of time for the introduction of the concept and even more for the personnel to familiarize with it. Furthermore, many of the current officials will not accept this tactic very easy.

#### **4. The Legal Environment**

From the previous is perceived that the current laws and regulations in Greece do not help at all the implementation of the PBSA concept. On the contrary they are imposing obstacles into the implementation of PBSA. In addition Greece has also to comply with the EU directives and laws concerning service acquisitions.

#### **F. CHAPTER SUMMARY**

PBSA is not a new concept for the U.S. Federal government agencies. It is around for more than 20 years and now is the preferred method for acquiring services in the United States where the service acquisitions account for the 60% of DoD's spending. The acquisition personnel has been trained and familiarized with the methods and techniques and now it can be considered mature. The laws and regulations in the United States promote and encourage the use of PBSA to the maximum extend.

On the other hand PBSA is an unknown concept for Greece and the HN. The traditional methods are used for acquiring services. The current laws and regulations in Greece would impose serious obstacles in the implementation of PBSA. There are no other types of contracts, except from fixed price, in order to incentivize the contractors as the PBSA theory requires. Furthermore the agencies must describe in full details their needs and requirements from the services along with the procedures and methods in the technical specification sheet. This does not allow the contractor to offer his own solution that it may be more innovative, efficient and cost effective solution for the agency needs.

Also it will take some time for the stakeholders, acquisition personnel and industry, to know and understand the new concept as there is no previous experience.

From all the above it is made clear that in order for the PBSA to be implemented within the HN there must be undertaken some serious changes. First in the legal environment and the procedures and then there must be done an appropriate training. The next chapter will summarize this report and provide conclusions and recommendations for the potential implementation of PBSA in the Hellenic Navy service acquisitions.

## **V. CONCLUSIONS AND RECOMMENDATIONS**

### **A. INTRODUCTION**

Nowadays, the government agencies outsource most of their services in order to accomplish their mission and especially within the U.S. Department of Defense (DoD) the acquisition of services is a very significant component of procurements (almost 60%). In order for the DoD to acquire these services in the most effective and efficient way the DoD adopted the use of performance-based acquisition (PBA) concept for services in accordance and to the wide government wills and policies. Government-wide performance-based service acquisition (PBSA) policy was initially introduced with the OFPP Letter 91-2 on service contracting on 1991. Many regulations, guides, reports, and training of the personnel followed to strength this policy. Today PBSA is the preferred method for acquiring services in the United States.

PBA is an acquisition structured around the results to be achieved as opposed to the manner by which the work is to be performed. It involves strategies, methods, and techniques that describe and communicate measurable outcomes rather than direct performance processes. It is structured around defining a service requirement in terms of performance objectives and providing contractors the latitude to determine how to meet those objectives. The main elements of PBSA are:

- Performance work statement (PWS)
- Measurable performance standards
- Remedies
- Performance Assessment Plan

The Performance work statement (PWS) or alternative the Statement of Objectives (SOO) is a very important part of the PBSA as tries to describe exactly the requirement that an agency wants to put on the contract. The outcomes of a PWS should be:

- A description of the requirement in terms of results or outcomes.
- Measurable performance standards.
- Acceptable quality levels (AQLs).

Another crucial part of PBSA is to appropriately incentivize the contractors. This can lead to cost savings and great quality. There many ways that can be used in order to incentivize the contractor. Incentives can be monetary, non-monetary, positive, or negative. The contract type is one of them. An award fee contract or an award-term arrangement could boost the contractors' performance and produce great results in terms of performance outcomes. Past performance also can be used not only in the decision making but also as way to motivate and create increased performance by the industry.

The main goal of PBSA is to improve service quality and reduce costs. PBSA also promotes the competition for contracts by potentially reducing the barriers firms face in entering the defense market. Some of the potential benefits include:

- Higher likelihood of completing projects successfully
- Better government-contractor communication and cooperation
- Less risk for the government
- Greater use of commercial services
- Better and less costly oversight

In the HN service acquisition accounts for 30% of the acquisitions and is relatively low in comparison to the DoD. In the future this need probably will increase as the HN will have to outsource some of the services that currently perform, due to the workforce reductions. Also the current financial crisis in Greece will lead to severe defense budget cuts. The HN should find ways to acquire the services that needs more efficiently and effectively.

The services that will be in greater need for service acquisitions are the transportation services, the food services, the cleaning services and the ships repairs and maintenance. Some are already being outsourced and some are still executed within the HN. The acquisition of services in the HN is being done with the traditional way and with the use of fixed price contracts; as they are the only ones that are allowed.

The PBSA concept and its procedures are not known in Greece and the potential implementation of PBSA will have to deal with some obstacles and legal barriers and it will need a significant amount of time.

## **B. CONCLUSIONS**

1. PBSA is a great concept and can offer valuable results for the government when it is properly applied. Savings in cost and performance excellence are the main outcomes; and not only, competition and innovation, less risk and oversight and greater use of commercial services are some other great objectives. Both the government and the industry can potentially win from this. The technique can be used in a variety of services, from the simplest ones to the more complicated and demanding with the proper handling. The use of PBSA in the DoD has been successful over the last years and it will be used more in the future.

2. The legal environment in Greece is a serious obstacle in the potential implementation of PBSA within the HN. The laws prohibit the use of any other type of contract except for the fixed price contracts. No adjustments can be done in the price after the contract is signed. This reduces the effectiveness of PBSA and more specifically takes out a big part of the element of incentives. With a fixed price contract the contractor will have no incentive to reduce the cost and to over-perform.

3. The current laws also require from agencies in a service acquisition to describe their needs and requirements in the declaration, with a very detailed technical specification. The technical specification describes in great detail the requirements and the desired results but also the exact way the work is to be done, the tools that will be used and also the labor requirements and mix. This is in contrast to the PBSA philosophy and idea that leaves space to the contractors to propose their own, innovative and unique sometimes solutions and the labor requirements, that will best satisfy the agency needs and requirements. After all, the basic rule of PBA is to describe the need in terms of measurable results and not the way for job to be done. PBSA describes and communicates measurable outcomes rather than direct performance processes; it is structured around defining a service requirement in terms of performance objectives and providing contractors the latitude to determine how to meet those objectives.

4. The PBSA concept is not used within the HN and is not known. In order for a successful implementation it will need significant time, training and guidance. In the

United States the concept is around for more than 30 years and only since 2000 there is wide acceptance and use among the agencies. Successful implementation requires knowledge, experience, procedures, guides, training and acceptance by all the stakeholders. This will require significant time and support.

### **C. RECOMMENDATIONS**

1. The Hellenic Navy should dedicate enough acquisition personnel to study this concept in detail in order to prepare a plan for the implementation. This should include guides and procedures, training of the personnel and informing the industry about the concept. An intergraded team can be built by all the stakeholders, to better see the concept and its procedures from the angles. Cooperation with the DoD authorities for guidance and help would also be a very useful action. In DoD, this concept is mature and great knowledge and experience has been built around it. Training in U.S. schools like Naval Postgraduate School (NPS), DAU and others is highly recommended.

2. The PBSA could be then implemented for a test period and in a small scale. This could be a good start for the officials to make some observations and understand better the concept. A period of one year in low cost acquisitions would be appropriate. The process would be monitored and any problem, concern or benefit would be analyzed in detail. The HN then could make some conclusions about the implementation. Of course during the implementation there must be some exceptions from the current laws and regulations in order for the implementation to be as real as possible and according to the principles and processes of PBSA.

3. Certain changes must be made to the laws and regulations that will enable the proper and full use of PBSA. New types of contracts should be introduced; except from the fixed price contract that exists. Sharing incentives should be applied to the fixed price contracts and the cost-reimbursement contracts should be done available. In this way there will be a better way for the contractor to be incentivized. This will be beneficial for the contract and financial management in general too.

Also the declaration and the technical specification should allow the contractor to submit his own solution and procedures in order to provide the required services. This

except from the benefits of better services and less costly services will also save time and effort from writing in every detail the whole process.

#### **D. AREAS FOR FURTHER RESEARCH AND ANALYSIS**

This report presented and introduced the PBSA concept in a detail way and its implementation in the United States and within the DoD to the Hellenic Navy. It presented the current laws and regulations in Greece concerning service acquisitions and current services within the HN that PBSA could be applied. It also tried to identify the potential barriers and constraints for the implementation of PBSA within the HN and to do some recommendations.

Further research is needed on PBSA, the potential constraints, the legal environment and the services that PBSA could be applied. Some of the questions that should be done research on are:

- In which services within the HN the PBSA concept could be applied and what would be the benefits from this change (cost benefit analysis)?
- How the current legal barriers could be overcome and what exactly needs to change?
- What will be needed for the implementation of the PBSA in terms of workforce, training, organization and plan?

PBSA could result in great savings in cost and better services for the HN in the future and for this reason it should be considered as potentially good solution for the HN.

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