CHAPTER 5
PERFORMANCE MEASUREMENT AND ASSESSMENT

WHAT ARE THE BASIC PRINCIPLES AND OBJECTIVES OF PERFORMANCE MEASUREMENT AND ASSESSMENT?

1. Performance measurement and assessment improves the management and delivery of products and services, improves communications, helps justify programs and their costs, and demonstrates accountability of Federal stewardship of taxpayer resources.

2. Business systems performance and oversight adhere to the Department's mission.

3. Partnering of the Contracting Officer's Representative (COR) and Contracting Officer (CO) enhances the proper management of performance objectives and measures.

4. Assessments determine whether performance measures and incentives have been met.

5. Evaluation of current and past performance increases the likelihood of successful future contract performance.

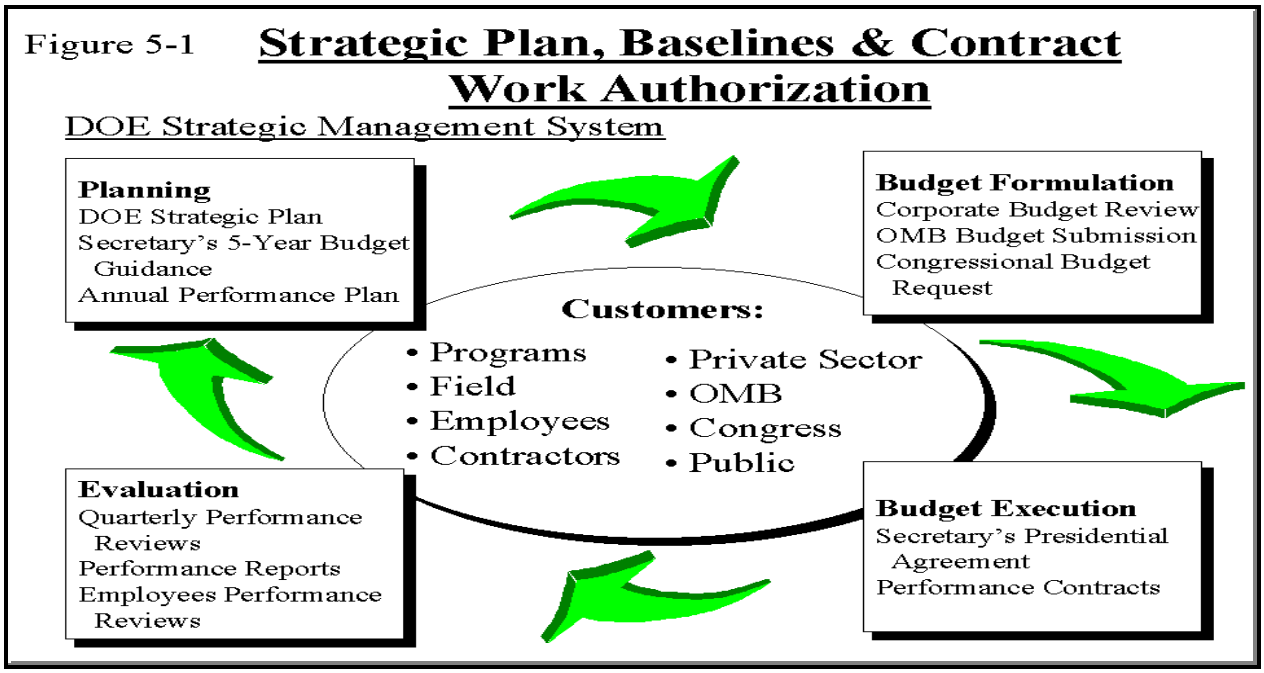
6. Cost reductions achieve measurable cost savings without adversely impacting performance.

WHY IS PERFORMANCE MEASUREMENT AND ASSESSMENT IMPORTANT?

This chapter informs contract administration team members about the functions, roles, and responsibilities and differing uses for performance assessment based on results. The purpose of Contract Administration is to promote outstanding contractor performance in an effective and efficient manner. DOE G 120.1-5 states that performance measurement provides measurable results so the Department can demonstrate progress towards goals and objectives. Progress is measured by providing specific measurement results that aggregate to Department of Energy (DOE)-wide measures. Performance measurement also determines the effectiveness of each contract towards meeting the Department's mission, vision, and goals.

The Department gathers and maintains information on contractors' performance and routinely uses this information, as well as past performance information available from other sources. Use current information to assess contractor performance when making:

- Extend or compete decisions,
- Evaluations of offerors,
- Exercise of option decisions, and
- Fee determinations, etc.



WHAT IS A GENERAL DESCRIPTION OF THE PROCESSES UNDER PERFORMANCE MEASUREMENT AND ASSESSMENT?

A. How is the Department's Strategic Management System tied to performance measurement?

The Government Performance and Results Act of 1993 changed the way the government manages, measures, and funds itself. It now focuses greater oversight and accountability on achieving program goals and other improvements -- instead of the processes, resources, and practices used. The Government Performance and Results Act is also the foundation for the Federal Acquisition Streamlining Act in linking program needs and budgets to contracts and contract performance. The Government Performance and Results Act requires the Department to submit, as part of the annual budgeting process, its five year strategic plan, indicating the performance goals and program activities to be achieved, how they will be accomplished, and how it will be monitored and measured. It also requires the department to later report back on a previous year's performance, discussing progress made against the plans and measures earlier selected.

The Department implemented the Government Performance and Results Act in 1996 with the Department's Strategic Management System. It provides the framework by which the Government Performance and Results Act and other financial and management legislated requirements are satisfied. See Figure 5-1.

The goal of DOE's Strategic Management System is to:

- Ensure operational planning drives resource allocation,
- Provide for regular evaluation of results, and
- Provide feedback.

Performance measures are the main elements in all recent management and procurement reform initiatives. They establish the link between Department planning, budgeting, contracting, and evaluating.

In the new federal results/performance measures construct, performance requirements are to flow:

- From more general DOE Strategic Plan goals and objectives;
- Through all Departmental organizational levels;
- To more specific contract requirements, performance measures and incentives.

DOE's Strategic Plan determines the 5-year direction the Department will take toward achieving stated goals. The strategic goals are long-term, broad, and outcome-oriented. Program offices and Field/Operations Offices flow down, as applicable, many of the Department's goals into their own strategic plans.

Annual Performance Plans state the delivered results expected during the fiscal year. In planning, performance is defined in terms of measurable results. The measures contained within annual plans will clearly link to the strategic goals, objectives, and strategies contained in the Strategic Plan.

Budget Formulation allocates fiscal and personnel resources against priorities. It is critical that the performance commitments made in the Department's planning and budget formulation processes be clearly communicated, understood, and agreed to by Program Offices, Field Offices and Contractors. Information on the Budget Formulation process may be obtained under order DOE O 130.1, "Budget Formulation."

Budget Execution uses the Department's appropriated funds to deliver goods and services to customers. The work is predominantly accomplished through performance-based contracts administered by DOE Field organizations. Information on the Budget Execution process may be obtained under order DOE O 135.1, "Budget Execution - Funds Distribution and Control."

Program Evaluation includes performance measurement and tracking, analysis, and reporting of what is delivered. Measuring and tracking provide the data for analyses necessary for management to make informed decisions for the current fiscal year as well as future plans and budgets. Reporting is the documentation and sharing of performance measurement and evaluation information with customers and stakeholders to support decision-making and for improvement. Performance reviews at multiple organizational levels provide feedback to ensure progress and accountability.

Ultimately, performance measurement provides a path of accountability between the Department's long-term vision and the day-to-day activities of individual Federal and contractor employees.

B. What are Best Practices for a Performance Measurement System?

Many approaches to performance measurement are being tried in both the private and public sectors. One of the Department's laboratories has suggested that World Class Performance Measurement System best practices might include the following:

- Balanced approach to performance measurement and the infrastructure to support its implementation;
- Extensive use of comparative data to evaluate performance, set performance targets, and keep measures current with national standards;
- A metrics weighting system that provides the organization with a more comprehensive analysis of performance;
- Robust processes in place to ensure measures are kept current with changing business needs; and
- Ongoing review and refinement of metrics used to indicate achievement of objectives with leading indicators emphasized.

Also, it is important to remember, when creating performance measures arising out of various requirements, directives, and policies, that a balanced approach needs to be maintained. It is very possible that (in developing performance measures from contract performance requirements, directives, or policies) performance measures could be developed which conflict with other directives, policies, etc. Care should be taken to step back and view the requirements as a whole in order to ensure that resulting performance measures are balanced and work in concert with each other.

In June 1997, the National Performance Review published the "Serving the American Public: Best Practices in Performance Measurement." The report Documents the team's findings and is useful for leaders and managers in identifying and applying best-in-class performance measurement and performance management practices. The study findings include:

- Leadership is critical in designing and deploying effective performance measurement and management systems;
- A conceptual framework is needed for the performance measurement and management system;
- Effective internal and external communications are the keys to successful performance measurement;
- Accountability for results must be clearly assigned and well-understood;
- Performance measurement systems must provide intelligence for decision-makers (not just compile data);

- Compensation, rewards, and recognition should be linked to performance measurements;

- Performance measurement systems should be positive, not punitive; and

- Results and progress toward program commitments should be openly shared with employees, customers, and stakeholders.

Where can I read more of the National Performance Review report, "Serving the American Public: Best Practices in Performance Measurement?"

This report may be reached at the following web page which is also listed in Appendix B:

http://www.npr.gov/library/papers/benchmrk/nprbook.html

Other National Performance Review (NPR) reports may be accessed at the NPR's web page listed in Appendix B of this Reference Book.

C. How are performance measures and their associated incentives developed?

1. Planning starts with the DOE Strategic Plan and flows through several plans, including Program Strategic Plans and Annual Site Plans. Planning occurs from DOE Headquarters down through the Field/Operations Offices. Planning takes place across all programs and functional areas. Contractors are involved in planning from the ground up at the sites. The Field/Operations Offices meld the Department's and contractor's planning into contractual language and into the processes needed to administer those contracts.

Communication, coordination and partnering across programs and functional offices is essential in order to achieve objectives. Planning not only includes programmatic objectives(e.g., Waste Management, Research, etc.) but also socioeconomic objectives (Community Relations, Equal Employment Opportunity, Labor Relations, etc.) and administrative objectives (Procurement System, Property Control, Accounting System, etc.).

It is important to have all interested parties represented in the planning process. Parties should represent the breadth of knowledge from programmatic to administrative and the depth of knowledge from Headquarters to site contractor.

Establishing the specific performance measures and metrics is within the purview of the government. Nevertheless, the contractor should also be involved to ensure realistic objectives. DOE's goal is to develop performance measures for each site contractor which are realistic, specific, succinct, objective, results-oriented, measurable, and verifiable. Planning includes:

- Development of specific requirements associated with the appropriate baseline and budgeted funds;

- Establishment of performance measures and metrics for those requirements, as appropriate;

- Identification of those performance measures to be incentivized; and

- Assignment of weights to those performance measures indicating their relative importance to one another.

The desired performance level (the performance objective) determines the weighting of performance measures that will result in:

- Measurable progress toward the DOE end-goals for the site as reflected in the baseline;

- Resolution of corrective actions; and

- Accomplishment of all other requirements for site operation.

The development of site specific requirements and the identification of the performance measures that should be incentivized should occur prior to the commencement of the period in which they are performed (normally a Fiscal Year) and should be done well in advance, if possible. Further guidance is addressed in Acquisition Letter (AL) 98-08 "Performance-Based Contracting Guide", Chapter 5.

2. Performance measures may be objective, subjective, or some combination thereof. In moving toward performance based/results oriented contracts, the goal is to generally maximize objectivity to the extent it makes sense. Objective performance measures tend to be specific in nature and lend themselves to measurement and validation against quantifiable measures. Subjective performance measures tend to be those which cannot have quantifiable measures readily developed, or which are subject to change beyond the control of the contractor. Care must be taken not to force a subjective incentive into an objective form.

3. When incentives are used, they are generally placed on the "critical few" objectives and measures related to a key mission. However, during DOE's early experience with developing and implementing performance objectives, measures, and incentives, DOE found that contractors tended to strongly focus on incentivized objectives and measures to the detriment of other less critical, but necessary, functions. As a result, it is necessary to structure measures and incentives in such a way that non-critical (but necessary) work receives an appropriate amount of attention.

One approach used at Rocky Flats is to utilize a "gateway" approach. Under the "gateway" approach, when a milestone is missed (and fee is forfeit), fee may not be earned under subsequent related milestones until the missed milestone is completed. This provides a strong incentive to ensure that work under missed incentives is accomplished before fee can be earned under and subsequent related incentives. More information on the "gateway" approach is available in the "Performance-Based Contracting Guide" attached to Acquisition Letter 98-08.

The use of Department of Energy Acquisition Regulation 970.5204-86, "Conditional Payment of Fee, Profit, or Incentives," affords the Department flexibility to emphasize critical requirements (through the direct association to fee) while not ignoring the significant number of other requirements which still must be performed. This also allows the contractor to reasonably allocate its resources. This clause is discussed further in the "Environment, Safety and Health," Chapter 2.

4. Several considerations when developing incentives include:

- The inclusion of cost incentives if other incentives (e.g., performance, schedule, etc.) are included.
- The adequacy of the contractor's systems and the ability of those systems to segregate and track costs and technical performance.
- The degree to which the performance measures and/or metrics can be defined.
- The definitiveness of the baseline.
- The importance of the task to the achievement of the program.
- The degree of additional benefit obtained by the government if the baseline performance level is exceeded.
- The degree to which additional increases in the level of performance of a performance measure become harder to obtain and thus more costly.
- The degree to which the attainment of a level of performance of a performance measure is within the contractor's ability.
- The degree to which the DOE obtains benefit from the performance of a performance measure in an incremental versus a continuous fashion.
- The degree to which continued incentives are important.
- The degree to which offering incentives for some performance measures may be to the detriment of others.

Further discussion of these considerations is in AL 98-08.

5. Objective cost incentives can lead to more efficient performance, but only to the extent that several conditions are met:

- The work performed must be defined and estimated.
- A cost baseline must be established
- The contractor must have an accounting system that accurately allocates and tracks costs.
- A method of sharing cost savings or overruns must be agreed to.

Subjective cost incentives should be avoided. Such goals as:"...perform in a cost efficient manner..." or"...reduce costs 10% below the previous baseline..." without further definition are hard to verify effectively.

6. The Department of Energy Performance-Based Measurement Process /Performance-Based Incentive Process is structurally related as shown in Figure 5-2. It was developed for the Department's Oversight Pilot in 1995. A more detailed description of each step is listed in DOE G 120.1-Guidelines for Performance Measurement.

D. What are the roles of the Contracting Officer's Representative (COR) and Contracting Officer (CO) as partners on the contract administration team ?

Contract performance assessments are performed in essentially all contract functional and compliance areas. They are used to determine:

- What was contracted for has been delivered,
- How much the contractor is reimbursed, and
- The amount of total available fee paid.

Contractors prepare and submit documentation to indicate that the performance items are complete.

CORs perform valuable roles in contract administration. Verifying performance is just one such role. Surprisingly, neither the Federal Acquisition Regulation (FAR) nor the Department of Energy Acquisition Regulation (DEAR) cover the appointment of CORs or specifics about their responsibilities or authority. The definition of a contracting officer at FAR 2.101 provides among other things, that the term includes:

> *"authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer."*

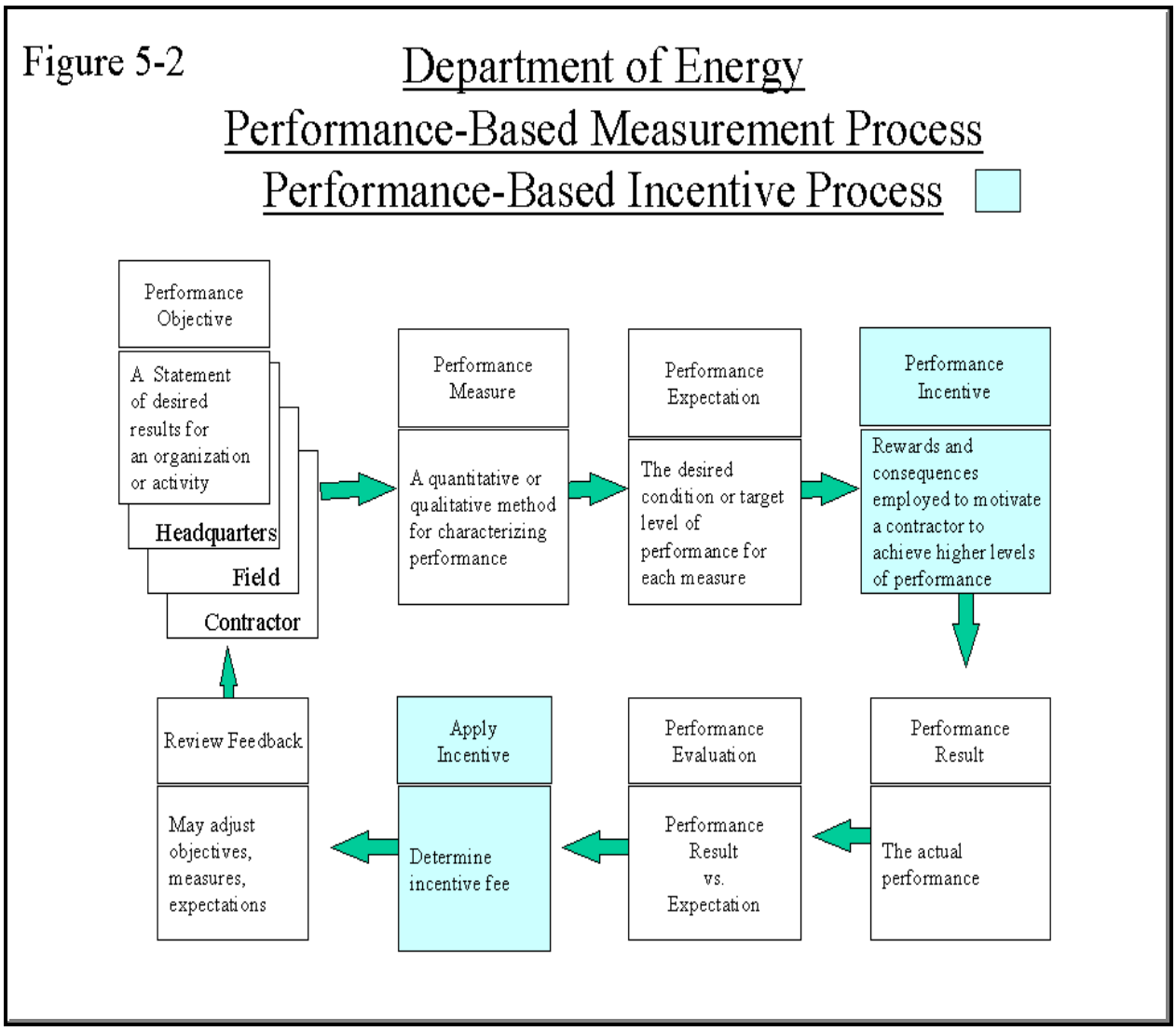
Although the FAR does not state for what disciplines CORs would be needed, it does state at FAR 1.602-*2(c)* that contracting officers shall request and consider the advice of

> *"specialists in audit, law, engineering, transportation, and other fields, as appropriate*."

The functional areas for which CORs are needed depend on the requirements of the contract. The only Headquarters (HQs) level guidance on CORs is contained in DOE O 541.1. This order states the minimum requirements for an individual to become a COR. Individuals "must have completed a minimum of 24 hours of formal education in basic Government procurement or contract administration or have at least one year's experience as a COR at a Federal agency." It further states that COR appointments shall designate in writing the name, position of the individual, and instructions listing actions the COR may and may not take for the CO.

Operations/Field Office guidance usually has the CO:

- Designate CORs,
- List their duties and limitations, and



- Provide the contractor a copy of the designation letter.

The COR functions as the "eyes and ears" of the CO, monitors technical performance and reports any potential or actual problems to the CO. They review contractor submitted reports for completeness, verify compliance with performance requirements in the contract, and validate completion. The COR identifies performance in writing and provides written reports to the CO, including any performance deficiencies. This COR and CO communication and partnership is essential to achieving contract objectives.

The Office of Federal Procurement Policy (OFPP) "Guide to Best Practices for Contract Administration" (October 1994), (see Appendix B) identifies a number of Federal Government weaknesses in contract administration relating to CORs:

- Lack of Training on COR duties;

- Lack of well defined relationship between CO and COR;

- Undefined limitation of COR authority;

- Undefined COR roles and responsibilities; and

- Inadequate surveillance and monitoring of contracts by CORs.

That OFPP Guide also recommends a number of best practices addressing the weaknesses. It is suggested that it may be prudent to consider how these best practices might benefit individual contracting organizations. Below is a condensation of those best practices:

- **Establish COR training requirements.** While DOE O 541.1 does address minimum qualifications including training, many Operations/Field Offices additionally require CORs to have a specific COR training course as well as individual training given by the CO. It is prudent to ensure that CORs involved in performance measurement be well versed in the mechanics of the associated performance-based incentives. It is noted that a number of private firms and Government agencies offer COR training. Additionally, a free on-line COR training course is available from the Federal Acquisition Institute.(see Appendix B).

- **Develop a COR and CO partnership.** The CO and COR(s) should, to the maximum extent possible, endeavor to keep each other informed of developments which might affect the other's responsibilities. Where multiple CORs exist, emphasize the importance of a contract administration plan, which sets forth a strategy for the interaction of CORs and the other contract administration team members.

- **Define COR roles and responsibilities.** Letters of designation should define roles and responsibilities. "Technical Direction" clauses, defining the responsibilities and limitations of COR authority should be inserted into the contract to alert all parties.

- **Better define the COR's limits of authority.** It is vitally important that all parties, including the contractor and COR, be fully aware of the limits of the COR's authority. This can limit the risk of inadvertent constructive changes to the contract resulting from unauthorized directions by the COR.

- **Develop a contract administration plan.** The plan can better define the COR's roles and responsibilities, provide a strategy for coordination among the contract administration team including multiple CORs, and provide the methodology for the measurement of performance including cost and quality.

The Defense Acquisition University Intermediate Contracting CON 202 course material, suggests a contract administration plan include the following key elements:

- A list of terms and conditions related to contract administration;
- Contract milestones;
- Contractor reporting requirements;
- A list of deliverables;
- The quality assurance level;
- Inspection and acceptance criteria and procedures;
- Internal control measures;
- Steps to take in case of conflicts of interest arise;
- Names, roles authorities, and responsibilities for contract administration team members; and
- Milestones for reports from team members.

Whether or not a formal written contract administration plan is executed such planning is absolutely critical to successful administration of the contract.

E. What tools are available to determine whether all contract functional and compliance areas of performance objectives, measures, and incentives have been met?

Performance measurement is mandated by the Government Performance and Results Act of 1993 and is central to other legislation and initiatives. Other benefits of utilizing performance information include:

- Drive continuous improvement;
- Improves communication;
- Factual data for management decision making;
- View of historical level of performance, including trends;
- Basis for comparison to others; and
- Help demonstrate stewardship to taxpayers.

In 1996 DOE's G 120.1-5 "Guidelines for Performance Measurement" was designed to assist DOE's Federal and contractor employees in developing organizational performance measurement systems. These systems tie into Departmental initiatives. The vision is that all organizations within the Department have performance measurement systems to support their own planning and evaluation activities. Field Elements have systems in place to measure performance to include a structured program for performing assessments with qualified assessors.

Acquisition Letter (AL) 98-08, "Performance-Based Contracting Guide" was issued in 1998, to assist all Department personnel involved in developing performance measures and incentives relating to performance-based management contracts (PBMCs). The assessment program includes field verification of performance objectives, measures, and performance-based incentives, peer reviews and program reviews, as appropriate. The degree to which performance-based contracting is implemented is dependent upon DOE and the contractor having adequate resources and infrastructure to support it. The infrastructure includes personnel and management, accounting, and estimating systems.

The fee paid to contractors should reflect the contractor's performance during the evaluation period. The performance assessment conducted to make fee determinations should closely parallel the past performance evaluation for the same period. The basic principles underlying the Department's fee policy at DEAR 970.15404-4-1 are:

- Amount of available fee should reflect the financial risk assumed;

- When work elements cannot be fixed price, incentive fees (including award fees) should be tied to objective measures to the maximum extent appropriate; and,

- Award fees should be tied to objective/subjective measures and to a specific portion of the fee pool, to the maximum extent appropriate.

All PBMCs awarded on a cost-plus-award-fee basis must set forth in the contract, or the Performance Evaluation and Measurement Plan, a site specific method of rating the contractor's performance of the contract requirements and a method of fee determination, if applicable, tied to the method of rating. The Performance Evaluation and Measurement Plan may, consistent with the contract statement of work, be revised during the period of performance as stated at DEAR 970.5204-54(d).

In order for the Contractor to receive all otherwise earned fee, fixed fee, profit, or share of cost savings under the contract in an evaluation period, DEAR 970.5204-86 requires the Contractor to meet the minimum requirements for Environment, Safety & Health (ES&H) Program, catastrophic event, specified level of performance, and cost performance. For more information on this topic, please refer to Chapter 2.

DEAR 970.15404-4-2, "Special Considerations Laboratory Management and Operations" lists considerations for the CO to consider in determining whether any fee is appropriate and includes:

- The nature and extent of financial or other liability or risk assumed or to be assumed under the contract;

- Proportion of retained earnings utilized to fund the performance of work related to the DOE contracted effort;

- Facilities capital or capital equipment acquisition plans;

- Other funding needs including contingency funding, working capital funding, and provision for funding unreimbursed costs deemed ordinary and necessary;

- The utility of fee as a performance incentive; and

- The need for fee to attract qualified contractors, organizations, and institutions.

In the event fee is considered appropriate, the amount of fee may be established as a total available fee with a base fee portion and a performance fee portion. Base fee, if any, shall be an amount in recognition of the risk of financial liability assumed by the contractor and shall not exceed the cost risk associated with those liabilities or the amount calculated in accordance with the fee policy, whichever is less. The total available fee, except base fee, shall normally be associated with performance at or above the target level of performance as defined by the contract. (See DEAR 970.15404-4-2)

F. How is performance assessment used in making future award decisions including options and extend/compete decisions?

Field Elements establish local procedures for the collection and maintenance of information on contractor performance. DOE G 120.1-5, "Guidelines for Performance Measurement," provides guidance and useful information on performance measurement. Local procedures identify responsibilities of technical, program, and contracting offices for collecting, maintaining, disseminating, and using past performance data. Program offices assign a technical official for the technical and past performance requirements related to the source selection process. They provide input with the CO and, where appropriate, the end user with respect to the evaluation of contractor past performance. Contracting activities collect, review, and utilize information on contractor performance and share this information with the Office of Management Systems (MA-52) and other Federal contracting activities. The past performance data is used in making future award, exercise of option, and extend/compete decisions.

The Office of Federal Procurement Policy is currently updating its publication, "A Guide to Best Practices for Past Performance Information." Among the areas that OFPP will be emphasizing in the update are:

- Two way communication is vital to a productive relationship;

- A past performance information system should record contractor performance in quality, cost, and schedule performance, and in business relations;

- When recording past performance information, try to keep the record simple and focus on information that will answer the question: "Would I do business with this contractor again?"

- Agencies are encouraged to make past performance information an essential consideration in the award of negotiated acquisitions.

- The goal of effectively using current and past performance information is obtaining high quality products or services at the best value for the taxpayer.

Once OFPP has updated this best practices guide it will be available at the following web site which is also listed in Appendix B:

http://www.ec3.org/InfoCenter/09_LinkSites/FederalURLs/Fed_OFPP.htm

Effective work performance under the Department's PBMCs is facilitated by the use of a relatively long contract term of up to ten years. This term usually consists of a basic term not to exceed five years and an option to extend for up to five years. Considerations to be addressed in the CO's extend or compete decision involve an analysis of whether it is in the Government's best interest based on:

- Information collected through the performance assessment process;
- The extent PBMC provisions are present, or can be negotiated into the contract; and
- The impact of a change in contractor on the Department's discharge of its programs.

Because of the significance of PBMCs to the fulfillment of the Department's mission, there is a need to balance the benefits of competition with the benefits of relatively long-term contract relationships. The Department's policies in DEAR parts 917 and 970 accommodate both objectives by establishing competition as the norm and provide for a contract period of up to ten years. Although competition is the norm, under certain circumstances there may be a need to continue the contract with the incumbent contractor beyond the original contract period of performance. As part of the extension approval, the required justification for other than full and open competition, pursuant to the statutory authorities identified in FAR 6.302, must be supported by the pertinent facts and circumstances and subjected to a rigorous, rational examination. This ensures that the need to maintain a relationship with an incumbent contractor beyond the original contract term meets the statutory requirements and is in the best interests of the Department.

G. How do you implement Cost Reduction?

The Cost Reduction clause at DEAR 970.5204-87 is used if cost savings programs are contemplated. The goal of a cost reduction incentive is to achieve measurable and verifiable cost savings from a defined baseline without adversely impacting the performance of the work. It provides for incentives for quantifiable cost reductions associated with contractor proposed changes to a design, process, or method that has established cost, technical, and schedule baselines. Cost reductions are also defined, and subject to a formal control procedure. Proposed changes must be:

- Initiated by the contractor,
- Innovative,

- Applied to a specific project or program, and

- Not otherwise included in an incentive under the contract.

Such cost reduction incentives do not constitute fee and are not subject to statutory fee limitations.

Another way to effect cost reduction is to negotiate specific cost-plus-incentive-fee, fixed-price incentive, or firm-fixed-price incentive arrangements. Field Elements take the lead in developing and implementing the most appropriate pricing arrangement or cost reduction incentive for the requirements. Pricing arrangements which provide incentives for performance and cost control are preferred over those that do not. Field Elements ensure that the necessary resources and infrastructure exist within the contractor's and government's organizations to prepare, evaluate, and administer the pricing arrangement or cost reduction incentive prior to its implementation.

It is also important to establish, validate, and control cost baselines to ensure awareness and monitoring of cost performance in general. Baseline management is required to track performance against planning, to update planning, and validate performance. Another method is to use baselines for the identification of critical path work for acceleration if funds become available through cost reductions in other areas. Program and project managers monitor and evaluate cost, schedule and technical reports of the contractor's execution of contract funds. They identify areas where efficiency or cost effectiveness can be improved.

H. What is the Business Management Oversight Process?

The passage of the Government Performance and Results Act, the National Performance Review, and the Department's initiative in contract reform led to the creation of a performance based oversight process for business management activities of the Department and its contractors. The Business Management Oversight Process is a process for using performance-based management as a key component of oversight among Headquarters, Field organizations and contractor in all business activities.

The Business Management Oversight Process was institutionalized at DOE in December 1997 with DOE O 224.1, and included the following objectives:

- To improve contractor performance in business management functions through a performance-based process;

- To institutionalize a business management system that encourages and rewards excellence, continuous improvement, and timely communication;

- To effect a level of communication, partnership, and trust that minimizes the Department's need for conducting on-site reviews of contractor business management functions; and

- To establish performance objectives, measures, and expectations that:

Drive cost-effective performance improvement, focus on performance results, and maintain appropriate internal controls and compliance;

When possible, are objectively measurable, thereby allowing meaningful trend and rate of change analysis; and

Encourage bench-marking initiatives as a means of incorporating industry business standards that are meaningful, appropriate, and consistent with DOE requirements.

The process requires Field Elements to establish pre-agreed performance objectives, measures and expectations in business areas. Operational awareness is conducted during the period and the contractor submits a written self assessment at year end. An annual review may be conducted. Success in meeting/exceeding performance expectations in the business areas will be rewarded with less frequent reviews. For Cause reviews may result from poor performance or trends indicating the potential for improvement requiring DOE follow-up to protect the Government's interest.

An objective of AL 98-10 is to promulgate the Balanced Scorecard process which is used to satisfy the assessment requirements of the Business Management Oversight Program for Federal and contractor procurement. This acquisition letter also provides a guide which explains the business systems assessment program applicable to procurement/purchasing offices. The guide was developed to assist all Department and contractor personnel involved with assessing performance of the Department's procurement and contractor purchasing systems. It describes the implementation procedures, evaluation standards, reporting process, and other administrative issues.

Where may I find additional information on the Business Management Oversight Process?

Additional information on BMOP may be obtained at the following web site which is also listed in Appendix B:

http://www.cfo.doe.gov/progliaison/bmop/index.htm

WHAT ARE MY MAJOR ROLES AND RESPONSIBILITIES IN THE AREA OF PERFORMANCE MEASUREMENT AND ASSESSMENT?

On the following pages are the major roles and responsibilities of members of the contract administration team. Key sections of documents have been summarized for ease of reference. Please bear in mind that the referenced documents themselves are controlling and should be consulted for a complete discussion of the various roles, responsibilities and requirements. Additionally, other documents, not listed here, may contain other roles and responsibilities.

Note: Various responsibilities on the following pages are marked with an asterisk (*****). This signifies that the responsibility is not specifically assigned to this individual by a clause, regulation, or procedure. It is suggested because:

(1) The responsibility is necessary to perform Government contract administration responsibilities; and is either commonly performed by this individual or reflects "good business practice."

(2) The responsibility is stated in the reference as a DOE/Government responsibility; and is either commonly performed by this individual or reflects "good business practice."

Local guidance may determine who specifically is obligated to perform the responsibility.

HEAD OF THE AGENCY

Authorize COs to enter into/renew management and operating contracts.
[FAR 17.602; Acquisition Letter 96-09]

PROGRAM OFFICE

Lead in planning and selecting performance objectives, measures and incentives with Fee Determining Official and CO.
[Acquisition Letter 98-08]

Provide input to the evaluation of contractor past performance;
Assign a cognizant technical official responsible for the technical and past performance requirements related to the source selection process.
[DOE Acquisition Guide, Chapter 42]

Cognizant Assistant Secretary(s) and Procurement Executive (PE) approve CO's decision to exercise contract options.
[DEAR 970.1702-1]

Regarding safety management:
* Provide input to and implement the provisions of the Strategic Plan including the Department's mission statement.
* Prepare Secretarial Office strategic plans and mission statements.
* Provide mission assignments and program guidance to field managers.
[DOE M 411.1-1A, sections 9.1.1, 9.1.2 and 9.1.3]

PROCUREMENT EXECUTIVE

Determine applicability of fee policy to contracts other than management and operating contracts;
Approve fee exceeding Schedules/Guidelines amounts;
Use cost-plus-fixed-fee or base fee with reduced Classification Factors for other than Labs;
Approve fixed fee or total available fee exceeding 75% of fee calculated, or establish fee for life of contract for Labs.
[DEAR 970.15404-4, DEAR 970.15404-4-1, DEAR 970.15404-4-8, DEAR 970.15404-4-9]

Coordinate maximum available fee with HCA**.**
[DEAR 970.15404-4-1]

May waive review/approval requirements by Office of Management Systems (MA-52) when Head of Contracting Activity (HCA) demonstrates internal processes adequate to ensure performance measures/fee structures are properly developed/administered.
[Acquisition Letter 97-06]

Approve the CO's decision to exercise contract options with the cognizant Assistant Secretary.
[DEAR 970.1702-1]

Provide consultation, training, or facilitator services, including facilitation of bench-marking and process improvement based on balanced scorecard results, when requested by the HCA.
[Acquisition Letter 98-10]

OPERATIONS/FIELD OFFICE MANAGER

Ensure all important contract performance areas are specified in the contract or Performance Evaluation and Measurement Plan, even if not assigned specific weights or percentages of available fee.
[DEAR 970.15404-4-8]

Review contractor's self-assessment, if submitted;
Determine total available fee earned.
[DEAR 970.5204-54]

* Operations and Field Offices ensure necessary resources and infrastructure exist within both the contractor and government organization to prepare, evaluate and administer Cost Reduction Incentives prior to implementation.
[DEAR 970.15404-4-3, Acquisition Letter 97-09]

May reduce in whole or in part earned fee, fixed fee, profit, or shared net savings for the evaluation period if the contractor fails to achieve stipulated performance levels. (See also Chapter 2, "Environment, Safety and Health," for further information.)
Consider whether willful misconduct/negligence contributed to the catastrophic event.
* DOE approve Safety Management System.
[DEAR 970.5204-86]

* Contracting activities collect, review, and utilize information on contractor performance.
[DOE DOE Acquisition Guide, Chapter 42]

FIELD ELEMENT MANAGER[1]

Review and provide input, regarding safety management, to program guidance developed by the Program Secretarial Office and implement that guidance.
[DOE M 411.1-1A, section 9.1.3]

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[1]The term Field Element Manager (FEM) is used in DOE M 411.1.1-1A. It refers to the head of a field element. The FEM can be the head of a field or operations office, the head of an area office, etc. In most cases, the FEM would be the Operations/Field Office Manager.

HEAD OF THE CONTRACTING ACTIVITY

Maintain a database of CORs identifying their authority and limitations**.**
[DOE O 541.1]

Coordinate the maximum available fee with the PE prior to issuance of a competitive solicitation or initiation of negotiations for an extension of a contract.
[DEAR 970.15404-4]

Establish an internal process for development and administration of performance objectives, award fees, and incentives to ensure they are well defined, rational, integrated, and mechanisms exist for validation of contractor performance against objectives.
[Acquisition Letter 97-06, Acquisition Letter 97-08]

Ensure appropriate, timely integrated participation by key personnel including high level management in the identification of goals that should drive contract performance requirements.
[Acquisition Letter 97-08, Acquisition Letter 98-08]

* Submit a recommendation with supporting documentation to extend a management and operating contract to the Head of the Agency through the cognizant Assistant Secretary and the PE no later than 18 months prior to the expiration of the contract term.
[DEAR 970.1702-1]

Ensure that the Balanced Scorecard assessment program is implemented in their Federal and DEAR 970.7103 management contractor purchasing systems as part of DEAR 970.0901 DOE review of contractor management control systems.
[Acquisition Letter 98-10]

* Cognizant DOE Office concurs with and validates assessment processes,
Review problem analyses and improvement action planning.
[Acquisition Letter 98-10]

Ensure that the contractor maintains a written description of business system;
Approve, conditionally approve, or disapprove business system if cognizant DOE Office; and
Provide a copy to DOE HQ.
[Acquisition Letter 98-10]

Designate Organizational Contract Management Officer for primary interface with DOE HQ and oversight of contractor business systems, surveillance, and follow-up assessments.
[Acquisition Letter 98-10]

Document contractor agreed performance-based business management objectives, measures, and expectations;
Have an operational awareness process that continuously monitors contractor success in meeting them; and
Conduct reviews based on validation of the contractor's self assessment of results.
[DOE O 224.1]

CONTRACTING OFFICER

* Select performance objectives, measures, incentives as a team member with the Fee Determination Official and subject matter experts.
[Acquisition Letter 98-08 Chapters 5 and 6]

Select the Facility/Task Category for computing total available fee.
Tailor the documentation of the negotiated fee.
Set forth in the contract or Performance Evaluation and Measurement Plan a site specific method of rating the contractor's performance of the contract requirements and a method of fee determination tied to the method of rating.
[DEAR 970.15404-4-8, DEAR 970.15404-4-10]

Establish a Performance Evaluation Measurement Plan and notify the contractor of plan changes for cost-plus-award-fee contracts.
[DEAR 970.5204-54]

* Designate CORs (listing their duties and limitations) and provide the contractor a copy of the designation letter.

Assess whether competing the contract will produce a more advantageous offer than exercising the option and decide with approval of PE and cognizant Assistant Secretary.
[DEAR 970.1702-1]

Review each M&O contract at least once every five years to determine whether meaningful improvement in performance or cost might reasonably be achieved by extension or renewal.
[FAR 17.605, DEAR 970.1702-1]

Accept, reject, or defer Cost Reduction Proposals; and
Validate actual shared net savings prior to approving a contractor's share of net shared savings.
[DEAR 970.5204-87]

Consider whether any fee is appropriate for the management and operation of a laboratory.
[DEAR 970.15404-4-2(a)]

Accept the contractor business system and changes in writing;
Evaluate and validates contractor's assessment; and
Advise HCA/PE of performance issues.
[Acquisition Letter 98-10]

Determine the evaluation of the Contractor's achievement of the level of performance within the stipulated cost performance levels.
[DEAR 970.5204-86]

CONTRACTOR

Involved in developing site specific requirements, level of performance and measurement benchmarks. **[Acquisition Letter 98-08]**

* Negotiate the requirements, evaluation areas and requirements subject to incentives, the total available fee, and the allocation of fee.

Submit a self-assessment addressing strengths and weaknesses of performance during the evaluation period, when required by Operations/Field Office Manager.
[DEAR 970.5204-54]

Submit comments, rebutting statements, or additional information regarding past performance to the CO for the ultimate conclusion when applicable.
[DOE Acquisition Guide, Chapter 42]

Identify areas where cost reductions may be effected and develop and submit cost reduction proposals to the CO.
[DEAR 970.5204-87]

Establish/maintain management systems to monitor and achieve performance expectations, including defining roles and responsibilities and self assessments.
[DOE O 224.1]

Maintain effective systems of management controls for administrative and programmatic functions, documented, and satisfactory to DOE.
Periodically review them.
[DEAR 970.5204-20]

Establish and maintain business systems which meet Department requirements.
Conduct documented assessments to include problem analyses.
[Acquisition Letter 98-10]

Develop, obtain DOE approval of, and implement a Safety Management System;
Meet minimum requirements for ES&H Program, catastrophic event, specified level of performance and cost to receive all otherwise earned fee, fixed fee, profit, or share of cost savings under the contract in an evaluation period.
[DEAR 970.5204-86]

CONTRACTING OFFICER'S REPRESENTATIVE

* Ensure products/services are delivered by the contractor in accordance with cost, scope, schedule, and contract terms and conditions.
Perform inspections/acceptance of work.
Conduct periodic contractor reviews, assessments, and surveillance to ensure compliance with contract terms and provides deficiency observations to the CO for formal contractor notification.
Provide review/concurrence of fiscal year work plans/scope documents and contractor performance evaluations.
Provide written technical direction.
Shall not make written/verbal changes to cost, scope, schedule or terms of the contract; authorize expenditure of funds to the contractor; supervise the contractor's employees.
Assist CO in developing contract administration plan.
[Acquisition Letter 98-08 Chapter 6]

WHERE CAN I GO FOR MORE DETAILED INFORMATION ON PERFORMANCE MEASUREMENT AND ASSESSMENT?

On Meeting Performance Expectations

1. DEAR 970.15404-4, "Fees for Management and Operating Contracts"
2. DEAR 970.5204-54, "Total Available Fee: Base Fee Amount and Performance Fee Amount"
3. DEAR 970.5204-86, "Conditional Payment of Fee, Profit, or Incentives"
4. Acquisition Letter 97-06, "Review and Approval of Contract Performance Objectives and Fee Structures"
5. Acquisition Letter 97-08, "Structuring Performance-Based Incentive Arrangements"
6. Acquisition Letter 98-08, "Performance-Based Contracting Guide"
7. DOE G 120.1-5, "Guidelines for Performance Measurement"
8. DOE O 130.1, "Budget Formulation"
9. DOE O 135.1, "Budget Execution - Funds Distribution and Control"
10. DOE M 411.1-1A, "Safety Management Functions, Responsibilities and Authorities Manual"
11. DOE Acquisition Guide, Chapter 42 "Contract Administration," "Contractor Past Performance Information" Section

On Contracting Officer Representatives

12. DOE O 541.1, "Appointment of Contracting Officers and Contracting Officer Representatives"

On Future Award Decisions Including Options and Extend/Compete Decisions

13. DEAR 917.602, "Policy"
14. DEAR 970.1702-1, "Term of Contract and Option to Extend"

15. DEAR 970.5204-88, “Limitation on Fee”
16. FAR 17.602, “Policy”
17. FAR 17.605, “Award, Renewal and Extension”
18. Acquisition Letter 96-09, “Procedures to Extend Management and Operating Contracts”

On Cost Reduction

19. DEAR 970.5204-87, “Cost Reduction”
20. Acquisition Letter 97-09, “Cost Reduction Incentives”

On Business Systems Performance and Oversight

21. DEAR 970.5204-20, “Management Controls”
22. Acquisition Letter 98-10, “Balanced Scorecard Performance Measurement and Performance Management Program for Federal Procurement and Contractor Purchasing Systems”
23. DOE O 224.1, “Contractor Performance-Based Business Management Process”

DO YOU HAVE ANY COMMENTS OR SUGGESTIONS FOR IMPROVING THIS CHAPTER OR THE BOOK? IF SO, PLEASE CONTACT US AT:

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