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Sponsor: Richard H. Hopf, Director, Office of Procurement & Assistance Management

Lead Office Director: Stephen J. Michelsen, Director, Office of Contract & Resource Management

Team Lead: James Tower, Office of Contract & Resource Management

Sounding Board Advisors:

Donette Cappello, PC-1
Gwendolyn Cowan, MA-51
Leif Erickson, RL
Linda Johnson, GC-61
John LaBarge, SC-7
Richard Mehl, FI-10
William C. Meyers, AL
Jane Monhart, CH
Mona Snyder, OH

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Forward

“Contract administration” refers not only to the more formal actions of the contracting officer, but it also pertains to the every-day efforts of the contracting officer’s representative, the property administrator, the traffic manager, the representative of the program office, the representative of the Chief Financial Office, and all of the others involved in ensuring that the contract runs smoothly and the work gets done in a manner which meets the objectives of the Department. In many ways, “contract administration” is the “hard part” of Federal acquisition. In earlier phases of the acquisition life cycle, the steps, procedures, and behaviors leading to award of a contract were clear and straightforward. There were *numerous* policies, guidelines, plans, reviews, etc. that guided members of the team through the acquisition process.

In the post-award phase, because of the infinite variety of events which can occur during the administration of a contract, there are few detailed references providing a step-by-step guide for those involved in contract administration. With award of the contract, a more variable environment takes over where issues and problems cannot always be predicted with a high degree of accuracy. Contract administration is an area where the federal government, overall, has not invested (for many reasons) attention and resources commensurate with the value of the work being undertaken within the contracts.

The fact remains, however, that contract administration can make or break the best of contracts. This reference book was developed to assist those involved in the administration of DOE’s major site and facility management contracts to make those contracts successful. This reference book does not attempt to establish any new policy or procedures. Instead, it brings together into one useful reference tool existing policy, procedures and major roles and responsibilities from many different sources. This book has arisen out of the dedicated efforts of a great many experienced people representing a multitude of disciplines throughout the DOE complex. The draft was reviewed by an outside firm, Acquisition Solutions, Inc., that specializes in implementing sound and efficient Federal contracting practices.

This is the first edition of the DOE Reference Book for Contract Administrators. It will be updated as the contracting environment changes and best practices and lessons-learned are gathered and analyzed. In many ways, this is *your* book. In that context, we welcome ideas, suggestions, innovations, and other comments. Please send your comments to Jim Tower at editor@pr.doe.gov.

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ACRONYMS USED IN THIS REFERENCE BOOK

ACO	Administrative Contracting Officer	FAR	Federal Acquisition Regulation
AL	Acquisition Letter	FPMR	Federal Property Management Regulations
CAS	Cost Accounting Standards	GAO	General Accounting Office
CFO	Chief Financial Officer	HCA	Head of the Contracting Activity
CFR	Code of Federal Regulations	HFO	Head of Field Office
CO	Contracting Officer	HR	Human Resources
COR	Contracting Officer's Representative, also includes Contracting Officer's Technical Representative and Government Technical Representative	M&O	Management and Operating
CPFF	Cost-Plus-Fixed-Fee	OFPP	Office of Federal Procurement Policy
DEAR	Department of Energy Acquisition Regulation	OPMO	Organizational Property Management Officer
DOE	Department of Energy	PBMC	Performance-Based Management Contract
DOE HQ	Department of Energy Headquarters	PE	Procurement Executive
DOEPMR	DOE Property Management Regulations	Pub. L.	Public Law
EO	Executive Order	R&D	Research and Development
EEO	Equal Employment Opportunity	SMS	Safety Management System
ES&H	Environment, Safety and Health	US	United States
		USC	United States Code

OVERVIEW

WHAT IS THE PURPOSE OF THIS REFERENCE BOOK?

This Reference book provides a consolidated Department-wide reference tool on the major functions, roles, and responsibilities of those involved in administering the Department's performance-based management contracts (PBMCs). For the purposes of this book, PBMCs include the Department's management and operating contracts, management and integration contracts and other major site or facility management contracts. These are generally the contracts which to some degree include clauses from Part 970 of the Department of Energy Acquisition Regulation.

This Reference Book is *not* intended to be inclusive of all contract administration roles and responsibilities. The goal of contract administration is to achieve outstanding contractor performance in an effective and efficient manner. Contract administration involves activities that need to be performed by multi-disciplinary teams from planning the award of the contract through the stages of the contract when work has been completed, accepted, payment made, disputes resolved, and the contract is closed out.

Major factors influencing the specific extent of contract administration include the nature of the work and the type of contract. Recently, the need for changes in contract administration and in the systems supporting administration have been heightened -- brought about by the Department's move to performance-based contracting. Particular

attention is needed in the planning of contract types features and their support systems in order to ensure that performance objectives of the contracts can be met.

DOES THIS REFERENCE BOOK IMPOSE ANY MANDATORY REQUIREMENTS?

No! Although many of the sources referenced in this Reference Book contain mandatory requirements, the Reference Book itself does not impose any requirements. It is intended as a useful reference tool designed to consolidate information from existing regulations and policies under one cover. You are cautioned to consult the actual documents referenced in the chapters for detailed requirements. The contents of this Reference Book are to be treated as nonmandatory.

WHO DOES THE REFERENCE BOOK APPLY TO?

This Reference Book applies to all Department of Energy (DOE) personnel involved with the administration of PBMCs. Administration of these contracts involves a team of people from many different disciplines. Although many individuals do not normally think of their jobs as performing contract administration, one of the objectives of this Reference Book is to communicate that almost everyone whose work touches upon the contract or the performance of the contractor is a contract

administrator. Individuals in program management, environment safety and health, security, transportation and traffic management, patents law, real and personal property management, engineering, records management, just to name a few, are all at times contract administrators. Each discipline may have its own unique set of statutes, regulations, perspectives, and policies. The Reference Book provides a source of established guidance for all contract administration members regarding the major areas of contract administration, descriptions of administration processes, an understanding of roles and responsibilities, and references for you to use for further guidance.

WHAT ARE CONTRACT ADMINISTRATION'S WEAKNESSES?

The Office of Federal Procurement Policy (OFPP) identified in its "Guide to Best Practices for Contract Administration" Federal-wide contract administration weaknesses which include:

- C Unclear roles and responsibilities of contracting officer's representatives (CORs),
- C Excessive backlog in contract closeout and incurred costs audits,
- C Improperly trained officials performing contract oversight,
- C Lack of specific internal control measures,

- C Unclear statements of work that hinder contractor performance, and
- C Inadequate guidance on voucher processing and contract closeout.

The aforementioned guide may be accessed on the OFPP web site address listed in Appendix B at the back of this book.

DOE's fiscal year 1997 PBMC self assessment revealed opportunities for improvement in contract administration in the following areas:

- C Cost segregation and tracking at the incentive level;
- C Cost reduction incentive program infrastructure systems such as strengthening cost estimates, validating cost baselines;
- C Effective incentives for laboratories;
- C Involving the DOE contractor community in determining and implementing lessons-learned; and
- C Formulating incentives for consistent, high quality administrative functions and consistent high performance.

Lessons learned over the last several years indicate that effectively implementing performance-based incentives had been hampered by various conditions. This was due to the fact that the infrastructure, needed to track and measure both technical and cost performance, was not in place either with a number of contractors or with the Government.

Further discussion of performance measurement, incentives and assessment is

provided in Chapter 5, “Performance Measurement and Assessment.”

WHAT IS THE BACKGROUND OF THE CHANGE IN APPROACH TO CONTRACT ADMINISTRATION?

A. What were the drivers of Performance-Based Management Contracts?

The Department’s move to performance-based contracting methods has generated a whole new set of challenges for those involved in contract administration. Reforms have increased accountability by linking together agency performance-based planning, budgeting/funding, and contracting. The Clinton Administration’s National Performance Review (1993), the Government Performance and Results Act (1993), Title V of the Federal Acquisition Streamlining Act (1994), the Galvin Report (1995), and DOE’s Contract Reform Team Report (1994) all have one thing in common. *They all emphasized the importance of focusing on performance results.* The aforementioned drivers and others have influenced the reform of DOE’s contracting methods with the following objectives:

- C Increase competition,
- C Manage risks,
- Add more diversity,
- C Change to results oriented work statements,
- C Develop performance objectives/measures/incentives,

- C Improve financial accountability,
- C Implement cost reduction,
- C Consolidate oversight, and
- C Move to administration based on results.

As the Department implements these reforms, there have already been indications from performance data at several Field Elements that the contract reform efforts with the application of PBMCs are having a positive impact on the Department’s ability to meet its mission needs. However, this same input indicates that the Department continues to focus too much attention on process compliance than on achieving results -- both in awarding and administering its contracts. To gain the benefits possible from PBMCs, the Department must place more emphasis on “what” is required in output terms, rather than on “how” the work is accomplished by DOE and contractor personnel.

B. Who are Contract Administration Team members?

The contract administration team consists of all relevant participants in the acquisition process. The previously mentioned reform efforts require major changes in the way the Department awards and administers management contracts. While daunting, these major changes do conform to other Government-wide management and contracting reforms. Most notably, the changes warranted conform to the revised Guiding Principles of the Federal Acquisition Regulation (FAR) system. FAR 1.102, for example, states:

“the Participants in the acquisition process should work together as a team and should be empowered to make decisions within their area of responsibility. The Federal Acquisition System will - -

- Satisfy the customer in terms of cost, quality, and timeliness of the delivered product or service;*

- Minimize administrative operating costs;*

- Conduct business with integrity, fairness, and openness; and*

- Fulfill public policy objectives.*

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.”

C. How are Contract Administration Team members involved?

Each member of a contract administration team needs to be involved to the appropriate extent in managing awarded contracts. Although members may have different roles, perspectives, and expectations, they all need to be involved in participating in a way that promotes the achievement of mutually beneficial goals.

In this context, the Department chose to “work as a team and advocate teamwork” as a core value in fulfilling our mission and achieving its vision. Good contract

administration depends upon developing a proper working relationship among team members and contractors. This will enable the team to act as trusting partners to solve overlapping multi-disciplinary issues.

Personnel functioning as members of a contract administration team will likely be provided from various Department organizations with stakes in a contract’s successful outcome. Such personnel may be formally assigned or they may participate less frequently on a more informal basis. Regardless, they are still members of the “team.” Although those individuals may remain in their “home” organizations, as an acquisition team they need to effectively work together to provide the expertise and attention necessary to make a contract successful.

Contract administration planning is the process by which the efforts of all personnel and disciplines responsible for a contract are obtained, coordinated, and integrated through a comprehensive plan for fulfilling the Department’s need. To that end, a number of factors need review, analysis, and plan of approach. The team should review the project, solicitation, and evaluation/contractor selection findings to determine such things as:

1. What are the contract schedule, performance, and cost risks involved and what management methods are needed to manage those elements?
2. What type of contract and features are involved?
3. What type of contract-required or contractor provided status and progress reports will be available?

4. What steps are necessary to make sure the right things happen at the right time and sequence?
5. Who is responsible for making the various decisions and evaluations?
6. How will decisions be made?

Individuals contemplating the above elements need to consider:

- Product/service deliveries and inspection/acceptance criteria and processes,
- Government property availability and management,
- Costs and funding monitoring,
- Classified information needs and management,
- Contract changes and termination,
- Labor relations,
- Quality assurance requirements, and
- Compliance; etc.

See the Reference Book's various chapters and FAR Part 42.302 for a more detailed listing of contract administration functions.

The degree to which performance-based contracting is employed under DOE's PBMCs is dependent upon both the Department and the contractor having the adequate resources and infrastructure (including performance tracking systems) to support and manage them. Resource considerations include:

- Funding;
- Management support;
- Program, project, quality assessment inspectors, auditors, environment, safety and health (ES&H), property and other personnel.

Also of critical consideration are the contractor and DOE management, accounting and estimating systems.

WHY PLAN FOR CONTRACT ADMINISTRATION?

A. How did the Federal Acquisition Streamlining Act improve accountability for results?

The 1994 Federal Acquisition Streamlining Act departed from past procurement reforms when it introduced the following program acquisition instructions in Title V which requires:

- All agencies must establish cost, schedule, and performance goals for each "acquisition program" (according to OFPP, they include all acquisitions over \$20 million);
- Agencies must measure progress of their major and non major acquisitions and achieve "on average" a minimum 90% success rate; and
- Agencies must take action and report remedial actions on non-compliance (vs. establishes goals), to include termination.

B. How are Risks managed?

FASA prescribes use of cost, schedule, and performance measures. Not coincidentally, it is also cost, schedule, and performance risks that also need to be assessed and managed in every contract. All contracts involve these risks — they only vary in the degrees of individual risks and the tradeoffs made. FAR 1.102-2(c)(2) addresses this critical area as follows:

“To achieve efficient operations, the System must shift its focus from ‘risk avoidance’ to one of ‘risk management.’ The cost to the taxpayer of attempting to eliminate all risk is prohibitive. The Executive Branch will accept and manage the risks associated with empowering local procurement officials to take independent action based on their professional judgment.”

Risks are allocated and managed by the selection of the contract type, pricing, use of contract clauses, and during dispute resolution by the courts and appeals boards. During planning, it is important to become familiar with the requirements, objectives, and potential problem areas of the program and the contract in order to properly allocate risks.

So much is risk and risk management fundamental to Federal buying, that over the decades various contract types and forms have been developed to deal with them. Differing contract risks and types require different forms of contract administration.

When contracts are first contemplated, the Department should ascertain the various and expected risks and craft the appropriate contract structure to deal with them. The

objective of selecting the “right” contract form is to reasonably allocate the performance risks between the Department and its contractors while, at the same time, incentivizing the contractors to perform efficiently and economically. The challenge is to select a contract form that places the appropriate level of responsibility on the contractor to successfully perform. Another key aspect in this challenge is to develop a contract business structure that can be efficiently administered.

The relevant contract performance risks and contract structure drive the nature and magnitude of administration functions necessary. This fact warrants that those selected to administer contracts should have some involvement in the earlier activities in developing the acquisition strategy.

C. What is a Contract Administration Plan?

Planning for contract administration should start early in the pre-award acquisition planning phase. This involves reviewing the project baseline for critical path elements, determining how contract milestones tie to the Department and program strategic plan goals and objectives, and other program and location interfaces up, down, across, inside, and outside the Department. Contract administration planning consists of all activities involved in setting up the necessary systems and procedures to monitor progress in achieving the objectives set forth in the work statement, consistent with the contract terms and conditions.

Planning for contract administration through a formal contract administration plan is good business practice. The person administering

the contract should finalize the plan at contract award. The level of monitoring and surveillance specified in a plan should be based in large part on the criticality and importance to the Government of those factors listed in FAR 42.1104, and past experience with similar requirements, type of contract, and whether requirements are described in terms of being performance-based. Key elements of a contract administration plan are discussed in the chapter “Performance Measurement and Assessment.” Whether or not a formal written contract administration plan is executed, such planning is absolutely critical to successful administration of the contract.

HOW IS THIS REFERENCE BOOK ORGANIZED?

Figure 1.1, “Performance-Based Management Contract Administration Flow Chart,” on the following page summarizes the process of defining performance requirements in DOE’s performance-based management contracts. It also summarizes the contract administration process.

Performance

requirements flow from more general DOE Strategic Plan goals and objectives to more specific contract requirements, performance measures and incentives. Desired outcomes cascade from the corporate level, through the Program and Site Strategic Plans, and into contract performance requirements.

Following this Overview, chapters divide the administration of contracts into 12 general performance requirement areas as shown in Figure 1-1. Each chapter addresses:

- Basic principles and objectives;

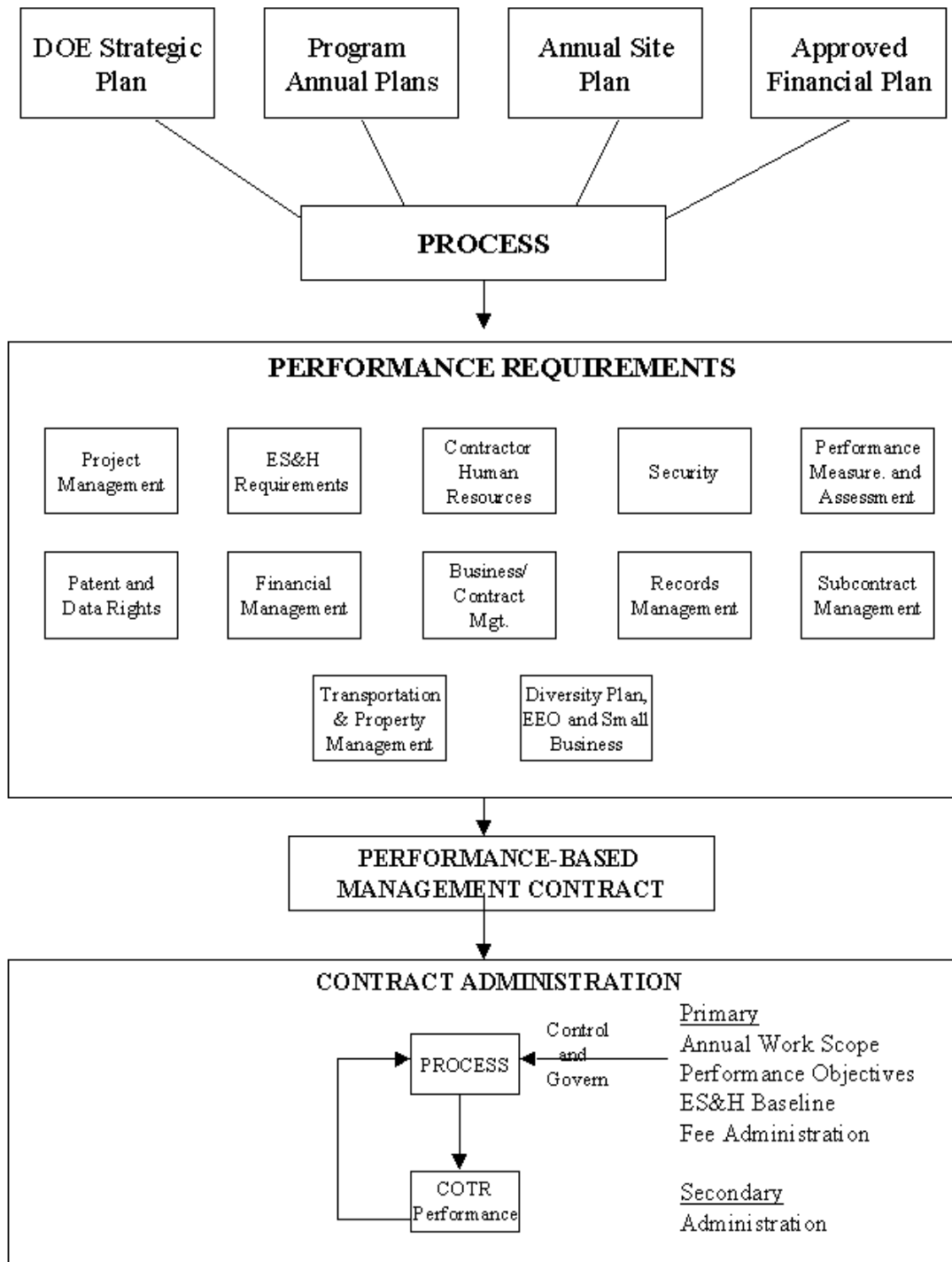
- General description of processes;
- Major roles and responsibilities; and
- References for more detailed information in the FAR, Department of Energy Acquisition Regulation (DEAR), DOE Directives and major documents which provide requirements and guidance for the execution and administration of the Department’s PBMCS.

WHAT OTHER REFERENCES APPEAR IN THIS REFERENCE BOOK?

The chapters also reference laws, regulations, Acquisition Letters (ALs), guides, handbooks, and other publications to lead readers to more in-depth guidance on the administration of these contracts.

The references are available electronically from the Internet Web Sites listed in Appendix B and you should use them in their complete context for specific guidance.

**Figure 1.1 Performance-Based Management Contract
Administration Flow Chart**





Remember!

This Reference Book is a tool to lead you to policy and guidance in a number of different areas. It intentionally summarizes the referenced source materials mentioned above and in the following chapters. Every attempt has been made to ensure accuracy. However, the actual detailed requirements are contained in the various referenced source materials. We highly encourage those involved in contract administration to review the source materials identified as relevant to the particular matters at issue. In the event of any perceived inconsistency between this document and the source materials, the reader should follow the guidance provided in the source materials.

ARE ALL OF THE ROLES AND RESPONSIBILITIES LISTED IN THIS REFERENCE BOOK EXPLICITLY SET FORTH IN THE REFERENCES?

No! Some of the roles and responsibilities delineated in the following chapters are not directly mentioned in the cited references. The need for these roles and responsibilities arise as a logical consequence of the types of tasks and risks involved which need to be managed in administering the contract and are noted with an asterisk. These functions, roles, and responsibilities can be performed by the COR, attorneys, or the Chief Financial Officer (CFO) just to name a few. Often only the contracting officer (CO) is mentioned directly in the clause. However,

FAR 1.602-2(c) requires and expects COs to request and consider the advice of

“specialists in audit, law, engineering, transportation, and other fields, as appropriate.”

Such roles could be performed by someone, who is formally designated in writing by the CO such as the COR, or such roles could be performed informally on an as-needed basis.

It is also recognized that roles and responsibilities vary slightly among Field Elements based on their unique infrastructure; and in most instances the DOE Operations/Field Office Manager is also the Head of the Contracting Activity (HCA). Readers should continue to use local guidance for other roles and responsibilities which are not specifically addressed in Departmental guidance and clauses, but which make good business sense.

The following chapters, however, do not:

- Address the CO’s role to include applicable clauses in the contract, or
- Address the role of the contractor to successfully perform the contract.

These roles are considered to be so fundamental as not to need mentioning in this Reference Book.

WHAT ARE POINTS OF CONTACT FOR THIS REFERENCE BOOK?

This Reference Book will be updated by the Office of Contract and Resource

Management (MA-53) as new requirements and flexibilities evolve, or as significant changes occur. If you have any questions, comments, or suggestions on how to make this Reference Book more helpful, please contact:

editor@pr.doe.gov

The information provided in this book is not intended to limit or circumscribe the role and involvement of counsel in contract administration matters. Although relatively few FAR and DEAR clauses specifically prescribe roles and responsibilities for counsel, in actuality numerous contract administration decisions have legal implications or may raise legal issues. Contracting officers and program officials are encouraged to work with counsel to identify matters where the advice of counsel would help to ensure that the legal implications of proposed actions are fully explored before final decisions are made.