

Leslie Blackmon, OUSD(AR)
email: Leslie.Blackmon@osd.mil
(703) 614-3882

Performance-Based Payments

Business Managers Conference

12 June 2001

What are Performance Based Payments (PBP's)?

- A fixed-price contract financing method
- Payments based upon successful event accomplishment
- *Not* partial payments for completed items
- Fully recoverable in the event of termination

Potential Advantages

- Enhanced focus on technical achievements & the program schedule
 - payments are tied to true, measurable progress
- Reduced administration/oversight costs
 - for both Government and contractor
- Improved cash flow
 - 90% of price vs 75% of incurred cost
- Broadened contractor participation
 - accounting systems no longer an issue

What Is My Authority To Use PBPs?

- **Statute**
- **Regulation**
- **Policy**

Statutory Authority

- 10 U.S.C. 2307(b)
 - “Whenever practicable, payments...shall be made on any of the following bases:
 - (1) Performance measured by objective, quantifiable methods such as delivery of acceptable items, work measurement, or statistical process controls.
 - (2) Accomplishment of events defined in the program management plan.
 - (3) Other quantifiable measures of results.”

Regulatory Implementation

- FAR Subpart 32.10
 - “Performance-based payments are the preferred Government financing method when the contracting officer finds them practical, and the contractor agrees to their use.” (emphasis added)
- FAR Part 52
 - 52.232-28 Invitation to Propose Performance-Based Payments
 - 52.232-32 Performance-Based Payments

POLICY

- USD(AT&L) Policy Statement (11/13/2000)
 - For FY 2002: at least 25% of all fixed-price contracts over \$2M must use PBP financing.
 - By FY 2005: PBPs should be the most prevalent form of financing for all fixed-price contracts.

Users Guide to Performance Based Payments

- USD(AT&L) approved on 22 January 2001
- Available on-line at:
<http://www.acq.osd.mil/ar/>
- Distance learning module under development as part of Continuous Learning Initiative
 - to be available both on-line and on CD
 - two versions: overview and in depth

Practical Aspects of **Implementation**

Some Preliminaries

- PBPs are financing payments
 - Can't be mixed with cost-based progress payments (FAR 32.1003)
 - Can be applied on a contract wide or line item basis. (FAR 32.1004)
 - Within one CLIN, only one type of financing shall be used.
 - Are not acceptance (DD250) substitutes
 - Can't be used with UCAs (but see FAR case 2000-007)
 - Can't be used in sealed bidding (FAR Part 14) situations

Steps to Getting Started

- Contract scope must be stable.
- Govt & Contractor must agree on using PBPs.
- Select and define “trigger” events
 - determine type of event
 - Severable: stand-alone, does not depend upon another event for completion or
 - Cumulative: dependent upon completion of another event
 - events must reflect meaningful effort or action by the contractor
- Agree on event valuations

Steps to Getting Started (cont'd)

- Establish measures/metrics for determining success
- Work out event payment process with on-site approval IPT member.
 - Meet with DFAS team member for familiarization.
- Document events/payment schedule in the contract
 - see Appendix E of Users PBP Guide for a “best practices” example of a summary form

Paying PBPs

- Contractor requests for financing can include multiple events, but only one request can be submitted per month.
- Need to have a liquidation plan (amounts or rates)
- Having DFAS team member “On-board” is important.
- In event of termination, whatever has not been earned thru partial or complete performance (i.e., been liquidated) must be returned to government.

PBP Strategies for Success

- Generally stable programs are best candidates.
- PBPs focus on measurable technical and schedule performance.
- Frequent payment events are preferred, generating stable contractor cash flow.
- Events should be defined with built-in flexibility allowing payment if a small amount of effort remains.
- Use Appendix E of Users Guide to document PBPs in contract.

PBP Strategies for Success

(cont'd)

- Offers benefits for both government and industry, but careful planning is essential.
- Collaborative teaming leads to clear understanding of key program events and the financing process.
- Remember, PBP is a financing solution, not partial or final acceptance.

Summary

- PBP's benefit
 - the program
 - the industry partner
- It has strong top-level support
- Specific goals for its use have been set
 - by 2002, 25% of all fixed price contracts
 - by 2005, the predominant form of FP financing
- It's a better way of doing business...so

JUST DO IT!