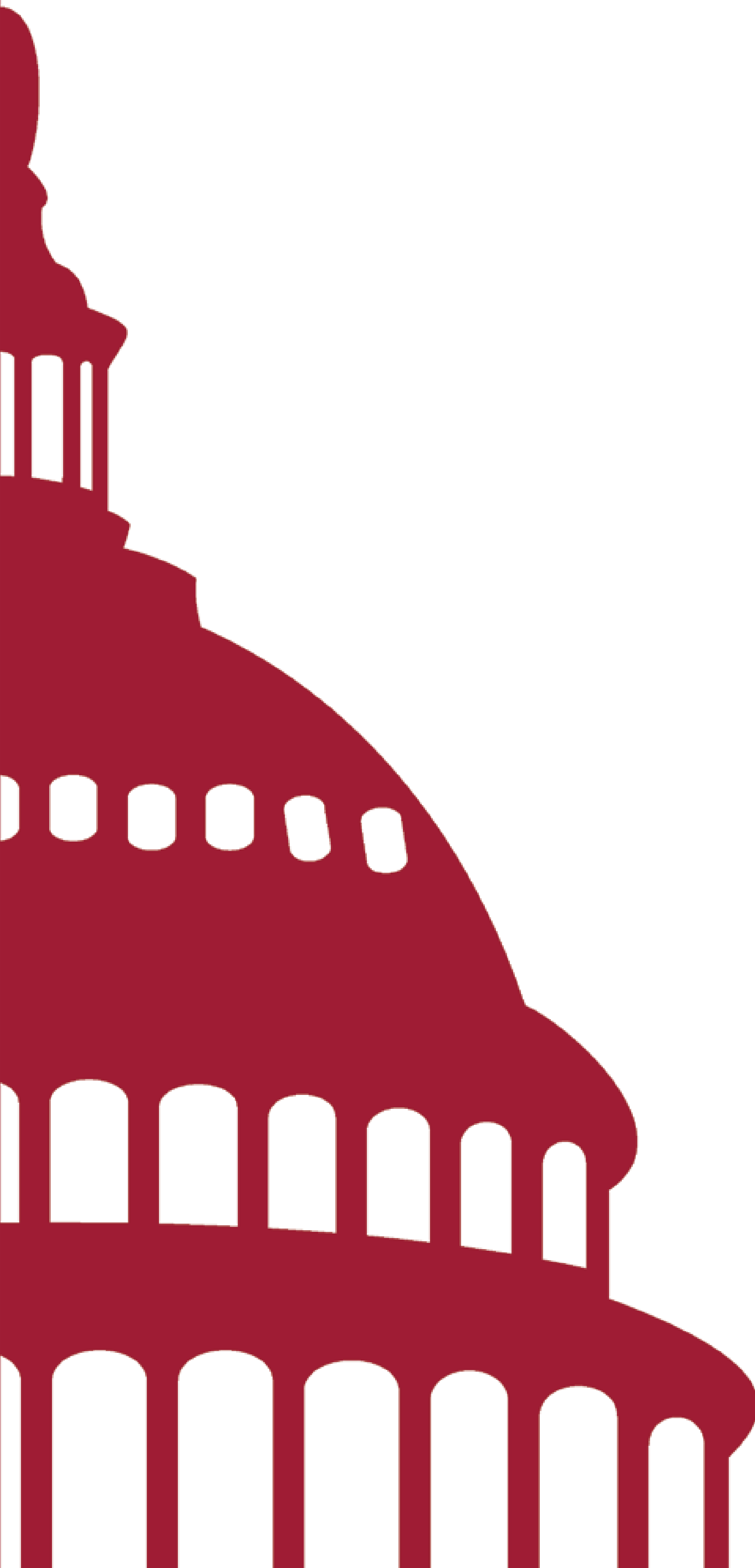
U.S. GOVERNMENT SERVICES CONTRACTING, PART 2:

Requirements Determination

A discussion of the nature of government services contracting requirements determination.



By Gregory A. Garrett and Tom Reid

One of the most critical challenges facing U.S government departments and agencies today is the need for the timely and cost-effective acquisition and delivery of a wide range of professional services to support the needs of our nation. Within the Office of Management and Budget exists the Office of Federal Procurement Policy, which has promoted policies to improve the government's acquisition of services for more than 30 years. By memorandum, the Office of Federal Procurement Policy has established annual goals for government departments and agencies to apply performance-based services acquisition methods on 40 percent (as measured in dollars) of eligible service contract actions (including contracts, task orders, modifications, and options) valued over $25,000 since 2006. Likewise, the Department of Defense has a similar performance-based services acquisition goal of 50 percent.

This article provides a discussion of the nature of government services contracting requirements determination by examining the following key aspects:

- Establishing an integrated project team to determine requirements,
- Describing the nature of the services challenges/needs,
- Conducting market research to identify potential services solutions, and
- Drafting a statement of objectives (SOO) for the services required.

The Requirements Determination Process for Services

While the *Federal Acquisition Regulation* (*FAR*) and its related supplements do generally state how a government agency should develop its purchasing requirements, pursuant to FAR Part 11, "Describing Agency Needs," it is primarily focused on acquiring products and does not offer a structured process approach with proven tools and techniques to obtain quality services.

FIGURE 1 on page 36 illustrates the requirements determination process for services, which includes three critical elements:

- Key inputs,
- Proven tools and techniques, and
- Desired outputs.

Key Inputs

The following are key inputs for the r equirements determination process for acquiring services.

Services Acquisition Policies

The government has several key services acquisition policies that must be observed, including:

- Promote full and open competition to the maximum extent practicable;
- Specify services needs based on market research;
- Only include restrictive provisions when required by the needs of the agency;
- Limit the use of time and material, cost-plus-award-fee, and non-competitive contracts;
- Acquire commercial services, pursuant to FAR Part 12, "Commercial Item Acquisition," to the maximum extent practicable;
- State service requirements in terms of performance as much as possible; and
- Require small businesses to perform all contracts valued greater than $3,000, up to $150,000.

Multifunctional Team

The composition of the services acquisition team will vary based on the size, complexity, urgency, and other agency factors. However, in most cases support will be needed from representatives of the following functional organizations within the respective government agency, including:

- Purchasing/contract management,
- Cost/pricing,
- Budget/financial management,
- Technical/engineering,
- Program management,
- Legal, and
- The Small Business Administration.

End-User/Customer Representative

It is vital to obtain one or more customer representatives to ensure the services acquisition is focused on the customer's real needs.

Industry Input/Exchange

It is critical for the government buyer to fully understand the nature and range of services available via information exchange with industry, preferably with "best-in-class" companies.

Previous Service Contracts

It is equally important to draw upon the best practices of recent and similar services contracts by the agency or other government agencies.

Proven Tools and Techniques

The following are proven-effective tools and techniques for determining requirements when acquiring professional services.

Integrated Project Team (IPT)

Because of the mission-based and program-based focus of services acquisition that has resulted from acquisition reform and mandates for performance-based services acquisition, many more types of people play a role in acquisition teams today. In addition to contracting staff, for example, are those from the program, financial, user, and even legal offices. All of these skills and more can be required to create a true performance-based approach to an agency's needs. It is important to recognize that an IPT is not a "training ground"; it is a field of operation for a team of people who are among the best in their fields and who have been trained in services acquisition. The number of members in an IPT varies, but composition of the IPT from the numerous government functional areas is a critical success factor in performance-based services acquisition.

It is important for the members of the IPT to understand what their roles and responsibilities are. Regardless of its representation, the IPT is responsible for ensuring that the services acquisition:

- Satisfies legal and regulatory requirements,
- Has performance and investment objectives consistent with the agency's strategic goals,
- Successfully meets the agency's needs and intended results, and
- Remains on schedule and within budget.

Successful IPTs typically have a number of features, including:

- Shared leadership roles,
- Individual as well as mutual accountability,
- Collective work-products,
- Performance measures related to the collective work-products, and
- Other ingredients.[1]

The *FAR* says it most simply: "Participants in the acquisition process should work together as a team and should be empowered to make decisions within their area of responsibility."[2] Clearly defined levels of empowerment are critical to success.

In developing the services acquisition strategy, the key tools the IPT should use are consensus and compromise, without losing sight of the three key questions:

1 | What do I need?

2 | When do I need it?

3 | How do I know it's good when I get it?

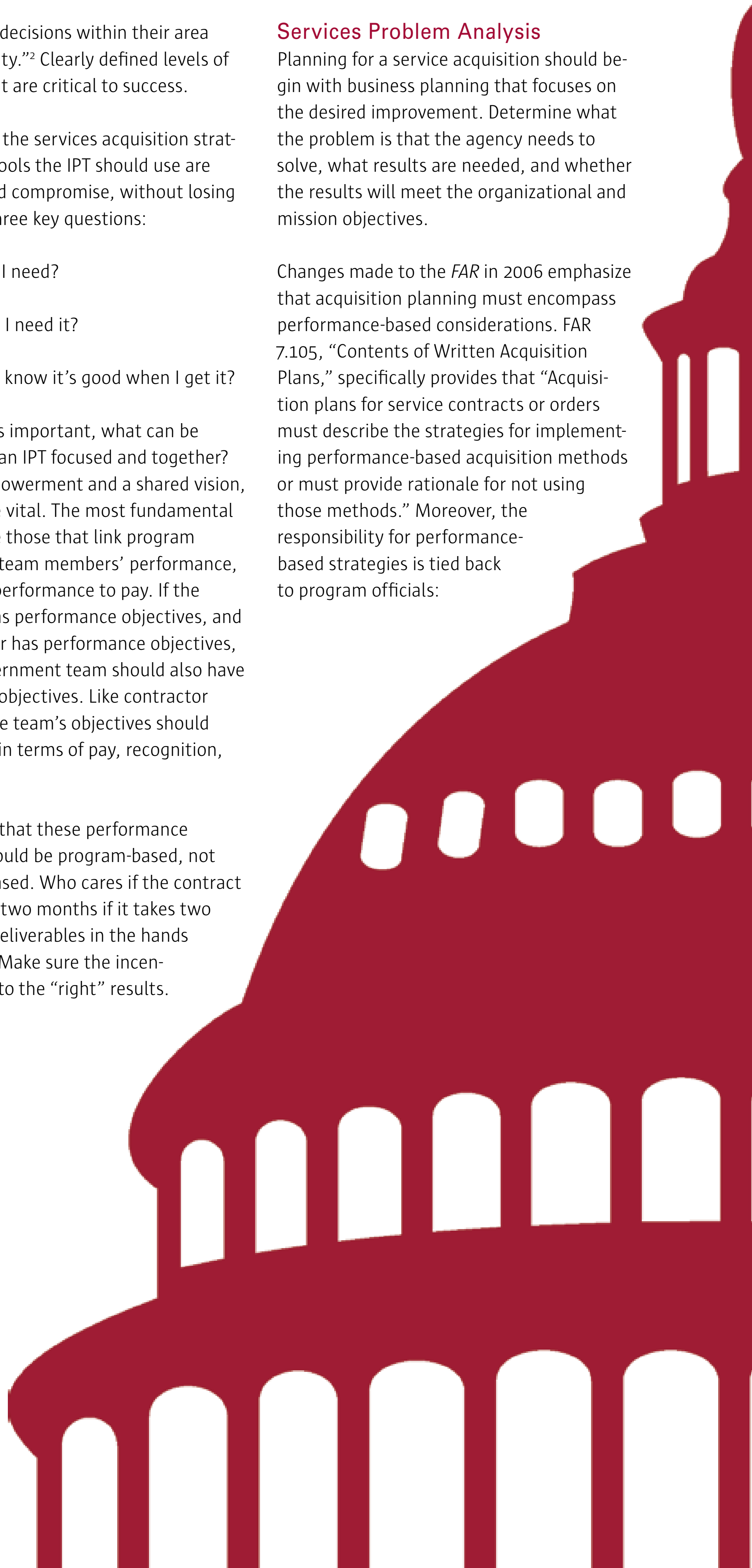
If continuity is important, what can be done to keep an IPT focused and together? Added to empowerment and a shared vision, incentives are vital. The most fundamental incentives are those that link program missions and team members' performance, and then tie performance to pay. If the acquisition has performance objectives, and the contractor has performance objectives, then the government team should also have performance objectives. Like contractor incentives, the team's objectives should carry a value in terms of pay, recognition, and awards.

Keep in mind that these performance objectives should be program-based, not acquisition-based. Who cares if the contract is awarded in two months if it takes two years to get deliverables in the hands of the users? Make sure the incentives are tied to the "right" results.

Services Problem Analysis

Planning for a service acquisition should begin with business planning that focuses on the desired improvement. Determine what the problem is that the agency needs to solve, what results are needed, and whether the results will meet the organizational and mission objectives.

Changes made to the *FAR* in 2006 emphasize that acquisition planning must encompass performance-based considerations. FAR 7.105, "Contents of Written Acquisition Plans," specifically provides that "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, the responsibility for performance-based strategies is tied back to program officials:



Key Inputs

- Services acquisition policies
- Multifunctional team
- End-user/customer representatives
- Industry input/exchange
- Previous services contracts

Proven Tools and Techniques

- Integrated project team
- Services problem analysis
- Market research methods:
  - Cross-Agency Surveys,
  - Industry Conferences,
  - One-on-one industry meetings
- Best practices and previous contracts review
- Statement of objectives
- Services results analysis matrix

Desired Outputs

- Integrated project team established
- Market research conducted
- Industry input received
- Statement of objectives developed

FIGURE 1. REQUIREMENTS DETERMINATION PROCESS FOR SERVICES

> Agency program officials are responsible for accurately describing the need to be filled, or program 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.[3]

Once the acquisition is linked to the agency's mission needs, the thoughts of the team should turn to what, specifically, are the desired results (outcomes) of contract performance? Is it a lower level of defaults on federal loans, a reduction in benefit processing time, broader dissemination of federal information, reduction in the average time it takes to get relief checks to victims, etc.? What is the ultimate intended result of the contract and how does it relate to the agency's strategic plan?[4]

These answers can normally be found not with an exhaustive analysis, but through facilitated work sessions with program staff, customers, and stakeholders. By taking the process away from a review of papers or an examination of the status quo, greater innovation and insight is possible. Once aired, those thoughts need to be captured in the SOO.

Note also that, to do this well, the IPT will need to plan to seek information from the private sector during market research. Industry benchmarks and best practices from the "best in class" may help sharpen the IPT's focus on what the performance objectives should be.[5]

Market Research Methods

In the past, it was not unusual for technical staff to conduct market research about marketplace offerings while contracting staff conducted market research more focused on industry practices and pricing. A better approach is for the entire IPT to be a part of the market research effort. This enables the members of the IPT to share an understanding and knowledge of the marketplace—an important factor in the development of the acquisition strategy—and a common understanding of what features, schedules, terms, and conditions are essential.

Cross-Agency Surveys/Collaboration

While many are familiar with examining private sector sources and solutions as part of market research, looking to the public sector is not as common a practice. Yet it makes a great deal of sense on several levels.

First, there is an increased interest in cross-agency cooperation and collaboration. If the need is for help desk support, for example, many federal agencies have "solved" that problem and could potentially provide services through an interagency agreement or through an existing multiple-award contract vehicle. Alternatively, it could be that to provide seamless services to the public, two or more agencies need to team together to acquire a solution.

Second, agencies with similar needs may be able to provide lessons learned and best

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practices to each other.[6] Government agencies need to improve their cross-department/agency communications so they are each aware of what other agencies are doing and who is conducting public sector market research into specific service areas. Thus, it is important for the IPT to talk to their counterparts in other agencies. Taking the time to do so may help avert problems that could otherwise arise in the acquisition.[7]

Industry Conferences

With regard to the more traditional private sector market research, it is important to be knowledgeable about commercial offerings, capabilities, and practices before structuring the acquisition in any detail. This is one of the more significant changes brought about by acquisition reform.

Some of the traditional ways to do this include issuing "sources sought" type notices at **FedBizOps.gov** or **www.fbo.gov** conducting "industry days," issuing requests for information, and holding pre-solicitation conferences. But it is also okay to simply pick up the phone and call private sector company representatives.

Contact with vendors and suppliers for the purpose of market research is now encouraged. In fact, FAR 15.201(a) specifically promotes the exchange of information "among all interested parties, from the earliest identification of a requirement through receipt of proposals." The limitations that apply (once a procurement is underway) are that the prospective contractors be treated fairly and impartially and that standards of procurement integrity[8] be maintained. But the real key is to begin market research before procurement is underway.

Requirements Determination

- **Review previous services contracts.**
- **Ensure senior management involvement and support.**
- **Form an integrated project team (IPT).**
- **Define roles and responsibilities of IPT members.**
- **Develop rules of conduct for IPT members.**
- **Empower team members to look for innovative solutions to services needs.**
- **Identify stakeholders and engage end-user/customer in requirements determination.**
- **Develop and maintain the knowledge base over the project life.**
- **"Incent" the team: establish a link between the program's mission and team members' performance.**
- **Link services acquisition to mission and performance objectives.**
- **Define (at a high level) the desired service outcomes.**

One-on-One Meetings with Industry

While many may not realize it, one-on-one meetings with industry leaders are not only permissible,[9] but are more effective than pre-solicitation or pre-proposal conferences. Note that when market research is conducted before a solicitation or performance work statement is drafted, the rules are different. FAR 15.201(f) provides, for example: "General information about agency mission needs and future requirements may be disclosed at any time." Since the requirements have not (or should not have) been defined, disclosure of procurement-sensitive information is not an issue. It is effective to focus on commercial and industry best practices, performance metrics and measurements, innovative delivery methods for the required services, and incentive programs which providers have found particularly effective. This type of market research can expand the range of potential solutions, change the very nature of the acquisition, establish the performance-based approach, and represent the agency's best step on the way to an improved partnership with industry.[10]

Best Practices and Previous Contracts Review

FAR Part 10 requires that as part of market research, the IPT should go to

for Services: Best Practices

- **Decide what constitutes services success.**
- **Determine the current level of services performance.**
- **Take a team approach to conduct market research.**
- **Spend time learning from industry.**
- **Talk to industry before structuring the services acquisition.**
- **Conduct one-on-one meetings with industry.**
- **Document market research.**
- **Write the services performance objectives into the statement of objectives.**
- **Make sure the government and the contractor share services objectives.**
- **Develop a Services Requirements Analysis Matrix.**

www.contractdirectory.gov to see if there is an existing services contract available to meet agency requirements. FAR Part 10 also requires that a written market research report be placed in the contract file. The amount of research, given the time and expense, should be commensurate with the size of the acquisition.

Statement of Objectives (SOO)

The SOO approach is described briefly in the Department of Defense *Handbook for Preparation of Statement of Work (SOW)*, Section 5, which states:

> The SOO is a government-prepared document incorporated into the [request for proposal] that states the overall solicitation objectives. It can be used in those solicitations where the intent is to provide the maximum flexibility to each offeror to propose an innovative development approach.[11]

The SOO is a very short document (e.g., under 10 pages) that provides the basic, high-level objectives of the acquisition. It is provided in the solicitation in lieu of a government-written statement of work or performance work statement.[12] The *FAR* now provides that the SOO shall include "at a minimum" the following:

- Purpose;
- Scope or mission;
- Period and place of performance;
- Background;
- Performance objectives (i.e., required results); and
- Any operating constraints.

A short description of scope in the SOO helps the competitors get a grasp on the size and range of the services needed. For example, the scope statement of the Veterans Benefits Administration (VBA), an organizational element of the U.S. Department of Veterans Affairs (VA), reads as follows:

> The purpose of this [task order] is to provide the full range of loan servicing support. This includes such activities as customer management, paying taxes and insurance, default management, accounting, foreclosure, bankruptcy, etc., as well as future actions associated with loan servicing. This statement of objectives reflects current VA policies and practices, allowing offerors to propose and price a solution to known requirements. It is anticipated that specific loan servicing requirements and resulting objectives will change over the life of this order. This will result in VA modifying this order to incorporate in-scope changes.[13]

The task of the IPT was to "decide what problem needs solving." The basis for that analysis was information in the agency's strategic and annual performance plans,

Services Results Analysis Matrix

Desired Outcomes	Required Service	Performance Standard	Acceptable Quality Level	Monitoring Method	Incentives/ Disincentives

FIGURE 2. SERVICES RESULTS ANALYSIS MATRIX

program authorization documents, budget documents, and discussions with project owners and stakeholders. That information constitutes the core of the SOO.

In the case of the VBA, for example, the acquisition's performance objectives were set forth in this opening statement:

> VA expects to improve its current loan servicing operations through this task order in several ways. Primary among these is to increase the number and value of saleable loans. In addition, VA wants to be assured that all payments for such items as taxes and insurance are always paid on time. As part of these activities, the VA also has an objective to improve information technology information exchange and VA's access to automated information on an as required basis to have the information to meet customer needs and auditors' requirements.[14]

Services Results Analysis Matrix

As the information is developed, the IPT should begin capturing the information in a results analysis. The Department of Treasury guide, *Performance-Based Service Contracting*, illustrates a six-column approach (see **FIGURE 2**, above), also known as the "Services Results Analysis Matrix," with the following:

- *Desired outcomes:* What do we want to accomplish as the end result of this contract?
- *Required service:* What task must be accomplished to give us the desired result?[15]
- *Performance standard:* What should the standards for completeness, reliability, accuracy, timeliness, customer satisfaction, quality, and/or cost be?
- *Acceptable quality level:* How much error will be accepted?
- *Monitoring method:* How will progress be monitored?
- *Incentives/disincentives for meeting or not meeting the performance standards:* What will be the benefits or punishments of meeting or not meeting the standards?

In addition, the Treasury guide also provides templates for help desk, seat management, systems integration, software development, and system design/business process reengineering services.

The Department of Defense approach is very similar to the Services Results Analysis Matrix: the desired outcomes, performance objectives, performance standards, and acceptable quality levels which have been developed during the analytical process are documented in a "Performance Requirements Summary" (PRS). The PRS matrix has five columns:

- Performance objective,
- Performance standard,
- Acceptable quality level,
- Monitoring method, and
- Incentive.[16]

Desired Outputs

The desired outputs of the first phase of requirements determination for services contracts should include:

- An IPT is established by the government agency acquiring needed services;
- Appropriate market research is conducted by the acquiring agency;
- Industry input/feedback is provided to and received by members of the acquiring agency IPT to help them determine their requirements;
- A SOO is developed by the IPT, based upon the market research and industry input; and
- A Services Results Analysis Matrix is developed.

Summary

In this article, we have provided a process-oriented discussion of the nature of U.S. government services contracting requirements determination. In this first phase of U.S. government services contracting, we have presented a requirements determination process for services, which includes: key inputs, proven tools and techniques, and desired outputs. Plus, we have shared numerous requirements determination best practices for services contracts. Mastering the art and science of services contracting is vital to both federal government agencies and industry. **CM**

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Send comments about this article to cm@ncmahq.org.

ENDNOTES

1. Gregory A. Garrett, *Performance-Based Acquisition: Pathways to Excellence* (Ashburn, VA: NCMA, 2006).
2. FAR 1.102(a).
3. FAR 7.105.
4. Note that these are questions that a former solicitation, or someone else's solicitation, cannot answer. This is one of the tough tasks that the IPT must face.
5. *See Seven Steps to Performance-Based Services Acquisition, Revised Edition*; Office of Federal Procurement Policy (2007).
6. *See* **www.contractdirectory.gov**.
7. *See Seven Steps, op cit*.
8. *See* FAR 3.104.
9. *See* FAR 15.201(c)(4).
10. *See* Garrett, at note 1.
11. *Handbook for Preparation of Statement of Work*, Department of Defense (2001): Section 5.
12. *Ibid.*
13. *Seven Steps*, *see* note 5.
14. *Ibid.*
15. Note: Be careful this doesn't become a "how" statement.
16. *See Guidebook for Performance-Based Service Acquisition*, Department of Defense (2000).