



2015

Department of Energy
Acquisition and Project Management Workshop
"Federal Stewardship—Providing the Value Proposition"

Aligning Contract Incentives

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Aligning Contract Incentives

- The Deputy Secretary issued December 2012 memo: *“Aligning Contract Incentives”*
- The purpose of the memo:
 - Align Contractor Incentives with taxpayer interests
 - Hold each party to the contract responsible for its actions
- Ultimately the policy was designed to improve contractor accountability through the use of profit/fee



Aligning Contract Incentives

- Emphasizes the need to:
 - Define the scope
 - Establish clear performance requirements
 - Allocate risk of poor performance to the contractor



Aligning Contract Incentives

- The policy memo represents sound contracting practices to be utilized on all contracts
- The FAR states ***“The objective is to negotiate a contract type and price (or estimated cost and fee) that will result in reasonable contractor risk and provide the contractor with the greatest incentive for efficient and economical performance.”***
- FAR 16.103(c) states, ***“...contracting officers should avoid protracted use of a cost-reimbursement or time-and-materials contract after experience provides a basis for firmer pricing.”***



Aligning Contract Incentives

- FAR 16.103(d)(1)(ii) requires discussion of “...*additional risks and the burden to manage the contract type selected (e.g., when a cost-reimbursement contract is selected, the Government incurs additional cost risks, and the Government has the additional burden of managing the contractor’s costs).*”
- FAR 16.103(d)(1)(iv) For **other than a firm-fixed-price** contract, at a minimum the documentation should include
 - (A) An **analysis of why the use of other than a firm-fixed-price** contract (e.g., cost reimbursement, time and materials, labor hour) **is appropriate**.



Aligning Contract Incentives

- The Department has a long history of using cost reimbursement contracts to accomplish its mission
- Other agencies use:
 - Firm-Fixed-Price
 - Fixed Unit Rate
 - Cost type
 - ID/IQ



Aligning Contract Incentives

- Contractor Allocation of Talent

Contract	Talent Allocation	Why
Firm-Fixed-Price	Top Talent	Greatest Profit/Loss Potential
Cost Reimbursement	Lesser Talent	Principle Risk is Loss of Fee
Restructured Contract with no Consequences for Poor Performance (Reset Button)	Least Talented Team	Industry Learns the Customer is Unsophisticated: Not Even Fee at Risk



Aligning Contract Incentives

- Firm-fixed-price contracts should be the default when entering into a new acquisition
- Cost-reimbursement is still suitable when uncertainties exist
- When using a cost-type contract we can still use concepts such as:
 - Hard cost caps;
 - Cost sharing (bounded or unbounded);
 - Provisional fee



Aligning Contract Incentives

- How do we move forward towards fixed-price contracts?
 - Better requirements definition/work scope
 - Clear, concise, easily understood and measurable
 - May need to seek assistance in development of the requirement (i.e., Army Corps of Engineers, engineering support contracts)
 - Shorter periods of performance
 - Longer = more uncertainty, less clarity, budget dynamics
 - Break up work into smaller, more manageable performance driven contracts
 - Provides for accurate and reliable contractor developed cost estimate and schedules



Aligning Contract Incentives

- Moving forward (continued)
 - Focus on scope to be completed (not just portions of the effort)
 - Site characterization needs to be sufficiently mature
 - Look to immediately fix-price efforts such as infrastructure/facility support functions and remediation activities such as moving earth, digging wells, pouring concrete, and in general all commercially available activities
 - Establish performance measures that are outcome oriented (objective, measurable, etc.)



Aligning Contract Incentives

- Moving forward (continued)
 - Document performance. Record in detail for the contract file
 - Meaningful past performance is critical. Must have timely, detailed input into the Contractor Performance Assessment Reporting System (CPARS)
 - Fee determinations for capital asset projects in excess of \$750M must be briefed to the Acquisition Executive by the Fee Determining Official



Aligning Contract Incentives

- A two-pronged approach is used by the Office of Contract Management to assist the programs in the implementation of the policy
 - Pre award activities
 - Sit on IPTs. Challenge ourselves as to why we can't implement the policy to its fullest. Identify obstacles that are in the way to determine how to overcome them if possible



Aligning Contract Incentives

- Post award activities
 - Award Fee Plans (i.e., PEMP) must be as objective and measurable
 - Incentivize actions completed...not delivery of reports;
 - Balance between cost and schedule;
 - Focus on the critical few;
 - Fee must be commensurate with benefit received; and
 - Use provisional fee until end state of the contract is achieved



Aligning Contract Incentives

- Post award activities (continued)
 - Major milestones or events (significant negotiation, option exercise, etc.)
 - Ask ourselves questions:
 - Does the contract incorporate the principles of the 2012 policy memo?
 - Can we break up the contract?
 - Can we incorporate more defined contract line items or incorporate hybrid features in to the contract?
 - Procurement Management Reviews assess how the sites are doing with regard to the policy memo



Aligning Contract Incentives

- The journey since 2012
 - Western Area Power Administration on this path for nearly 10 years now. The culture changed
 - Sodium Bearing Waste Treatment Plant under the Idaho clean up contract incorporated a hard cost cap
 - Separations Process Research Unit (SPRU) contains a hard cost cap
 - Hanford Occupational Health Services contract is a \$98.7M fixed-price-award-fee (FPAF) contract
 - K-33 in Oak Ridge was a fixed-price demolition of a building



Aligning Contract Incentives

- The journey (continued)
 - Moab site clean-up task order awarded under the Office of Environment Management (EM) multiple award ID/IQ contract includes fixed unit rates
 - Paducah Deactivation is a hybrid contract using fixed-price and cost reimbursable CLINs and implemented first use of provisional fee (clawback)
 - 222 S-Lab for the Office of River Protection upon award will be a fixed-price-award fee contract with a cost reimbursable fixed labor rate CLIN for surge capability
 - Office of Science IT services contains both fixed-price and ID/IQ line items. 75% of the effort is fixed-price



Aligning Contract Incentives

- The journey (continued)
 - EM's TRU Waste Processing Center (TWPC) Category II nuclear facility support RFP contains FFP CLINs
 - Headquarters Procurement Operations Guard Services contract will be a hybrid firm-fixed-price with a cost reimbursable CLIN for surge capability
 - EM issued a fixed-price RFP with an ID/IQ line item for infrastructure services at Portsmouth and Paducah



Aligning Contract Incentives

- Going forward...
 - We must continue to challenge ourselves
 - We must issue contracts that make sense...“One size **DOES NOT** fit all”
 - We must be agile and explore new concepts. Listen to industry while continuing to advance the policy of aligning contract incentives



Questions?



2015

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Contract Management Trends

David Leotta

Office of Contract Management

Office of Acquisition and Procurement Management



Overview

- Procurement Management Review (PMR)
 - Benefits
 - Meritorious Process, Procedures, or Best Practice
- Business Clearance
 - What's Hot – What's Not

or

“Hot N Cold”



Peer Review

- Participants **gain valuable insight** into how other offices deal with contracting and financial assistance issues.
- Most importantly they **exchange ideas** with their peers and **bring back new perspectives** that should **improve the operations** of their own office.



Why Conduct Peer Reviews?

Meaningful
Oversight

➡ **Independent** assessment of key aspects of the operation with strong emphasis on the organization and procurement **management**

Reality Checks

➡ Organizations have a bias for **optimistic** rather than **realistic** views

Breaks Down Barriers

➡ Organizations are slow to look **outside** for solutions or help; peers from other sites provide experience and expertise



Why Conduct Peer Reviews?

Ensures Progress

➡ Preparing for reviews **focuses** the organization on current status and future plans

Builds Credibility

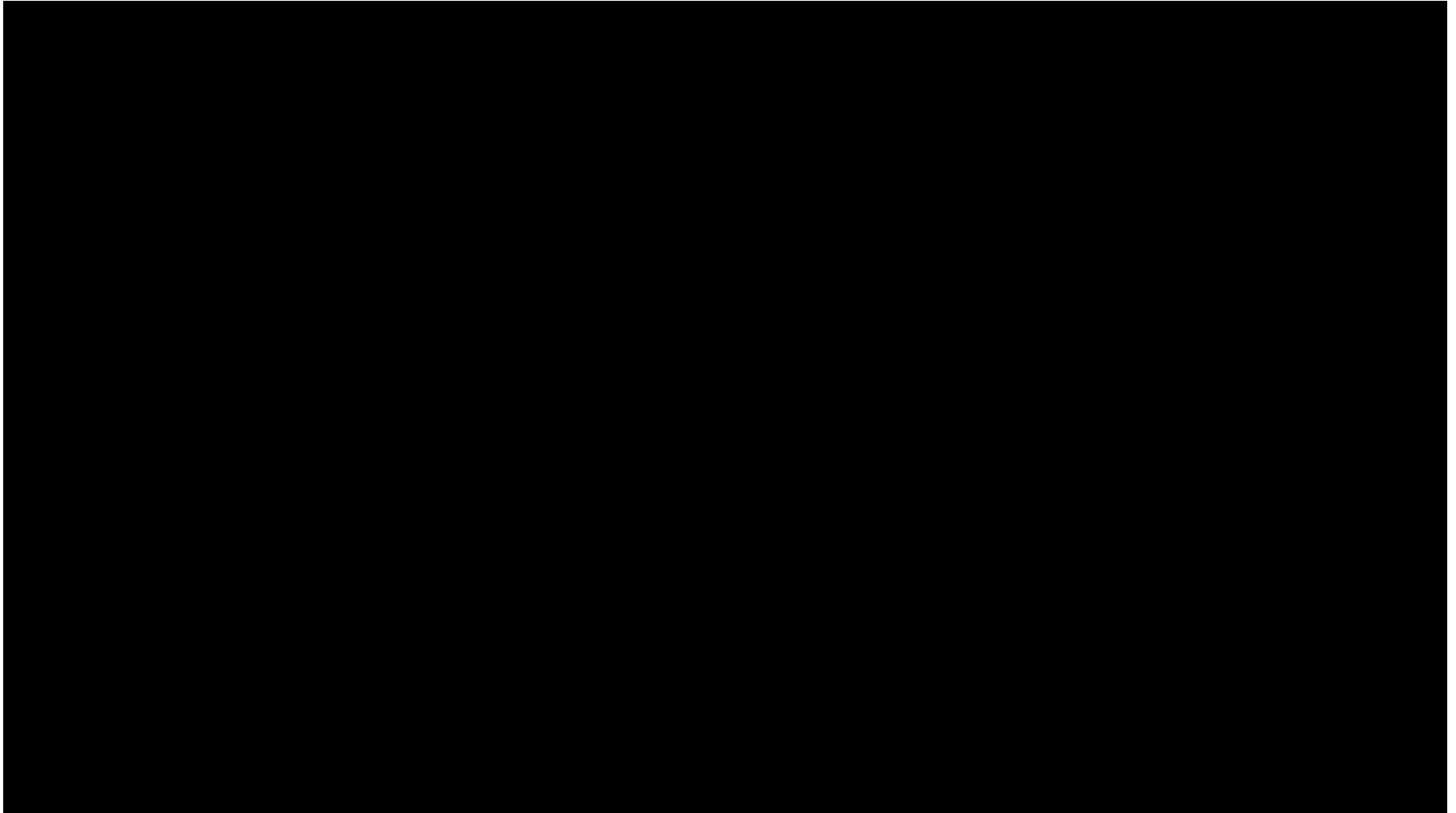
➡ A successful review usually signals to all stakeholders that the organization is **on track** (reassessed at next Peer Review)

Shares Lessons Learned

➡ Procurement organizations and reviewers learn from each other



Conference Calls...



https://youtu.be/DYu_bGbZiiQ

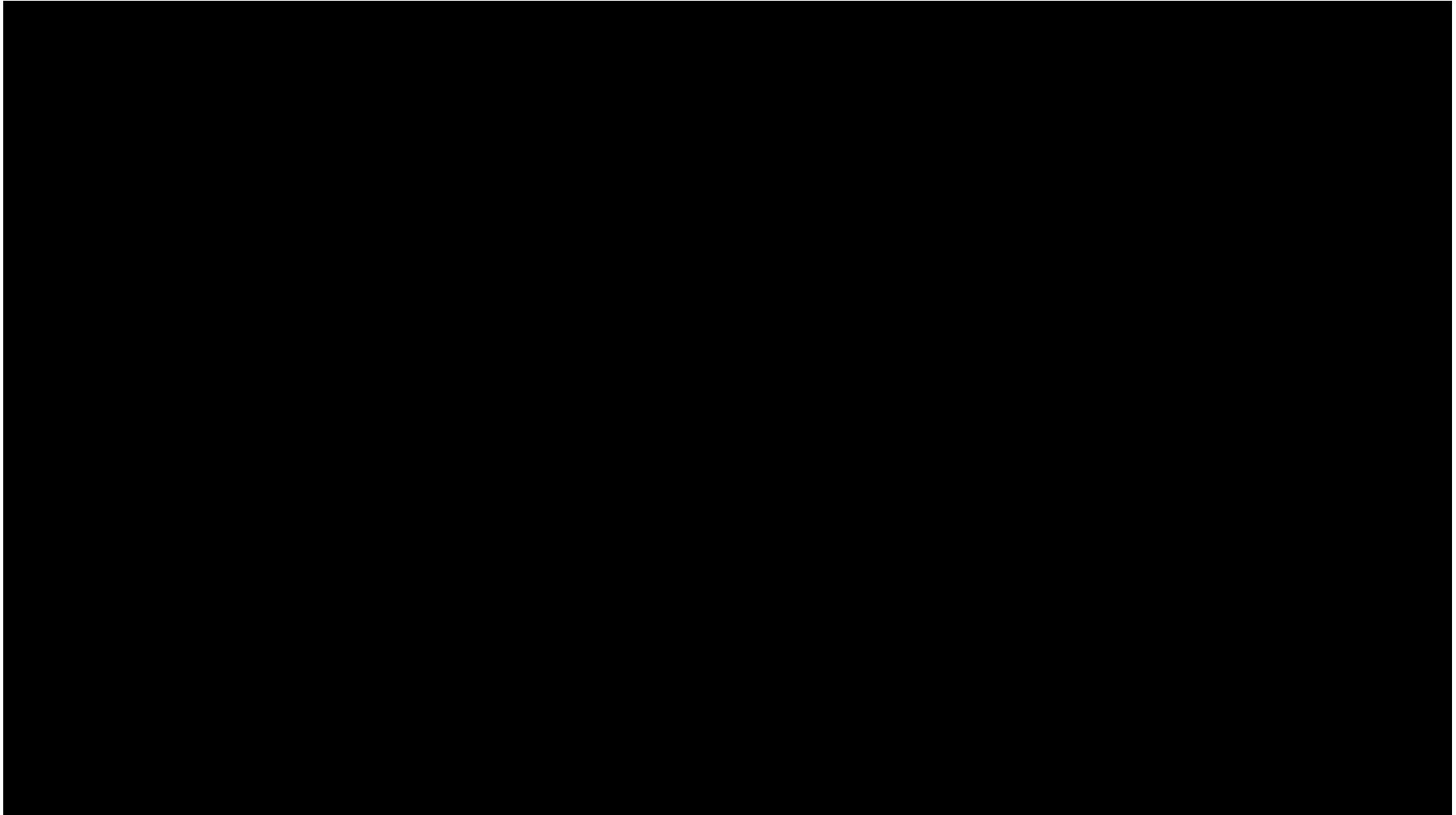


Procurement Management Review

- Positive feedback from participants
 - “...**developed professional working relationships** with both the contracting staff at Richland and the PMR team.”
 - “I **highly recommend** that the Site Procurement Director participate in a PMR 6-12 months before his/her own site is scheduled ...”
 - “In my experience, both as a participant and as one who was reviewed, the process was uncontentious, non-adversarial, and a **completely positive experience**”
 - “...the main point I took back was **how well the teams worked together.**”
 - “... major impact for me was the **opportunity to network** with my peers and HQ staff.”



Typical Interviews



<https://youtu.be/wwf8uVx2tyM>



Meritorious Processes, Procedures or Best Practices

- 33 processes identified over 11 PMRs
 - Organizational structure
 - Databases
 - Creative uses of commercial software
 - SharePoint usage
 - Employee recognition or incentive programs
 - Tools
 - Guides
 - Programs



WAPA Adobe Pro



STRIPES Supporting Document Upload

Adobe Contract File Index White Paper

Date: August 2013

Step by Step Instructions

WESTERN AREA POWER ADMINISTRATION POST AWARD CONTRACT ADMINISTRATION INDEX		
Contract Number: _____		
Contractor Name/POC: _____		
	Required	N/A
AWARD DOCUMENTS		
100. Contract/Award	See STRIPES	
101. Modifications and Backup Documentation	See STRIPES	
102. Task/Delivery Order Log		
103. ACO Appointment Letter		
104. COR Appointment Letter and Distribution (DOE O 541.1B)		
105. Property Administrator Appointment Letter		
POST AWARD DOCUMENTS		
106. Federal Procurement Data System (FPDS) Report (FAR 4.602)	See STRIPES	
107. Contract Distribution (WAM 4.2)		
108. Award Synopsis and Notifications (FAR 5.301, 13.106-3(c) and (d), and 15.504)		
109. Office of Federal Contract Compliance Programs Notification (Construction >\$10K FAR 22.804-2(c))		
110. Post Award Notices (15.503(b) and 14.409-1(a)(1)(i))		
111. Post Award Request/Responses for Award Information (FAR 13.106-3(d))		
112. Post-Award Debriefings (FAR 15.506 and 15.508)		
113. Protests and Related Correspondence and Memos		
114. Post-Award Conferences/Pre Construction Conference/Meetings (FAR 42.503 and 38.212)		
115. Notice to Proceed (FAR 38.213-4(e) and 52.211-10)		
116. Submittal Data		
117. Performance and Payment Bonds w/Bond Checklist Review and Insurance Certificate		
118. Vouchers/Invoices/Invoice Log		
119. Subcontracting Reports gSRS or SF294/295 Submissions		
120. Audits		
121. CO Consent to Subcontract		
122. Inspection and Acceptance/QASP (FAR 46.102)		
123. Contractor Notification of Limitation of Funds		
124. Assignment of Claims (FAR 32.8)		
125. Labor Compliance Checks (FAR 22.406-7)		
126. Payroll Reviews and Physical Location of Files (FAR 22.406-8)		
127. Disputes/Claims		
128. Liquidated Damages Assessments (FAR 11.5 and 38.206)		
129. Cure/Show Cause Notices (FAR 49.402-3(d) and 49.607)		
130. Termination for Convenience/Default		
131. Interim (annual) / Final CPARS (FAR 42.1502) and/or FAPIIS Performance Evaluation if required (FAR 42.1503(f)) (DOE Acq. Guide Ch. 42.15)		
132. Miscellaneous Correspondence		
133. Closeout Documentation Checklist		
134. Other:		
Contract Specialist: _____		
Contracting Officer: _____		
COR/Technical POC: _____		
COR/Technical POC E-mail: _____		
COR/Technical POC Phone: _____		

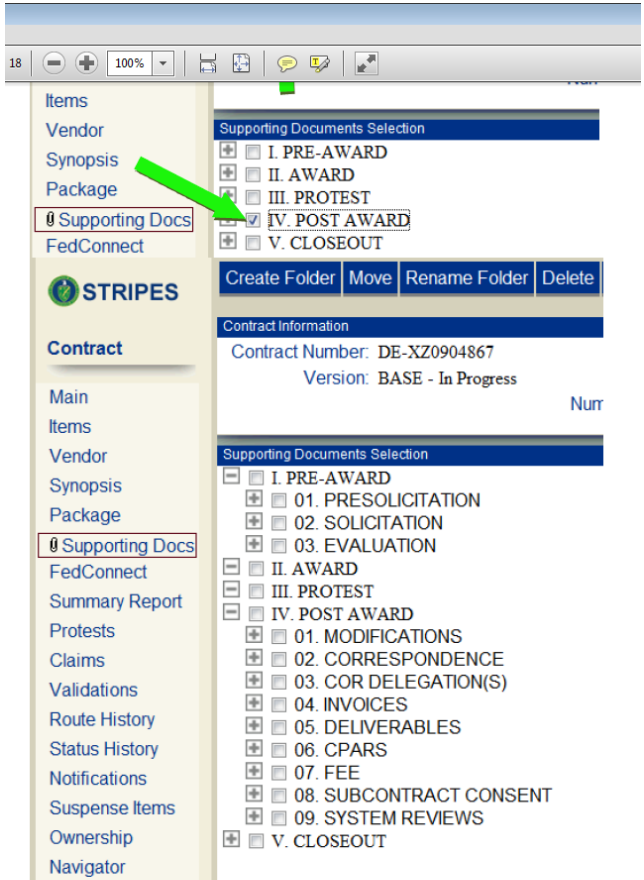


RL File Structure

**Department of Energy
Richland Operations Office
Procurement Division Procedure**

**CONTENTS OF
CONTRACT FILES AND
STRIPES FOLDER
STRUCTURE**

Number: PRO-029
Effective Date: April 1, 2014
Point of Contact: Jodi Manley



6. Repeat Step 5 until the full folder structure has been created.



...and others

Electronic
Contract File

Contract
Management
Seminar

Subcontract
Consent Review

ACT

Matrixes

GOLD
Program

ACMP
Mailbox

Solutions Available to You

Small
Business

Mentoring

Report
Tracking

PRC

Online
Data

Dashboards

FAAST


Leveraging
SharePoint

Customer
Service



Solutions for you...

- Identified processes distributed annually to HCAs and PDs
 - “Procurement Management Review (PMR) Best Practices FY 2012-2013”
 - “Procurement Management Review (PMR) Best Practices FY 2014”

**Department of Energy**
Washington, DC 20585
December 2, 2014

MEMORANDUM FOR HEADS OF CONTRACTING ACTIVITIES (HCA)

FROM: *David Leotta*
DAVID LEOTTA
ACTING DIRECTOR
OFFICE OF CONTRACT MANAGEMENT
OFFICE OF ACQUISITION AND
PROJECT MANAGEMENT

SUBJECT: Procurement Management Review (PMR) Best Practices FY 2014

The Office of Contract Management conducted independent reviews of the following procurement functions in FY 2014: Chicago Operations Office, Argonne National Laboratory, Fermi National Laboratory, the Strategic Petroleum Reserve Office and the Richland Operations Office. These reviews assessed the effectiveness of the contracting function, analyzed and assisted in any problem areas, and identified noteworthy and best practices that may be beneficial to all contracting organizations. The ultimate objective of the review was to enhance the performance of the acquisition workforce in contributing to the success of the Department.

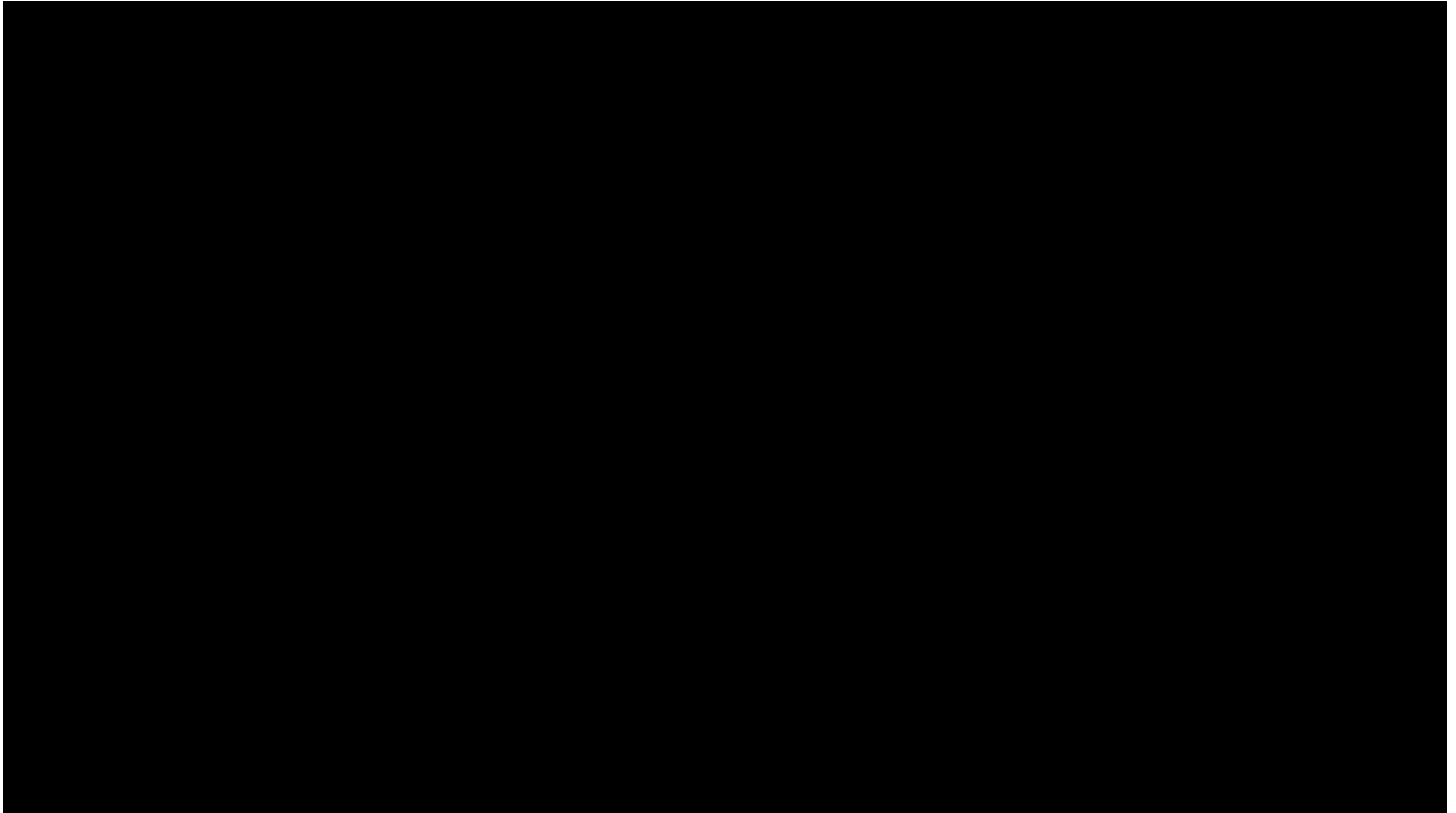
As a result of that review, the PMR team identified several best practices or noteworthy procedures. The goal was to identify specific processes that work and create ideas, options and insights for others. These practices highlight policies, procedures and/or systems showing promise of improving contract management and operations. The attached practices were gathered from the organization's response to the PMR question: **What meritorious process, procedures, and best practices are being used and/or under development?**

I encourage you to contact the points of contact listed in the attached document and incorporate these noteworthy practices into your operations where feasible.

Meritorious Process, Procedures, or Best Practice	POC
Bridging Partnerships The RL Procurement Office has a robust small business program, partnering with other Hanford site organizations. The Small Business Council which includes Richland Operations (RL), Office of River Protection (ORP), and Pacific Northwest National Laboratory (PNNL) fosters outreach to small businesses. Specifically, the annual "Bridging Partnerships" 2-day event which familiarizes small businesses with the Hanford site is notable.	Richland Operations Office (RL) Name: Sally Sieracki Email: Sally.Sieracki@rl.doe.gov
Chicago Office of Acquisition and Assistance Dashboard A customized Dashboard utilizing iPortal via Integrated Data Warehouse (IDW) is available to all CH-ACQ personnel (with some restrictions due to need). In lieu of running numerous separate reports, the Dashboard combines extracted data from STRIPES, PADS, FAADS, STARS and FPDS-NG which provides current status on all procurement and financial assistance actions. This provides management updates of the actual progress being made, along with any road blocks, if encountered. The Home Page (i.e., Dashboard) reports include items such as buyer workloads, subject to availability of funds requisitions, milestone plans, PALT, period of performance reports, etc. The ease with which this meaningful management data can now be accessed enables managers, and team leaders to track workloads and ensure financial assistance, Contracts and Closeouts are administered timely. All actions are tracked for their entire life cycle (i.e., cradle to grave). An example of the Dashboard's useful functionality is its accurate tracking of progress of closeout actions. This data resulted in an effective closeout plan for expired awards; the plan is ongoing and has resulted in the closeout of thousands of retired actions thereby freeing up monies via deductive modifications. Significant and notable progress was made in closeouts. The office attributes the progress to management attention and the improved visibility of meaningful closeout related metrics via the Dashboard.	Chicago Office of Acquisition and Assistance (CH-ACQ) Name: Cynthia Anderson Email: Cynthia.Anderson@science.doe.gov



Hot N Cold



<https://youtu.be/1upZz3a-7iM>



Contract Management Trends

What's Hot

**True PWS:
defining the "end
state"**

**Incentivize Key
Results**

IDIQs

What's Not

**Broad, Vague
"PWS" or SOW**

**Incentives for
Activity**

**"Task
Assignment"
Contracts**



Contract Management Trends

**What's
Hot**

**Hybrid
Contracting**

Parallel Reviews

**Integration of
Project &
Contract
Management**

**What's
Not**

**Single Contract
Types**

**Serial / Linear
Reviews**

**We're
acquisition.
Leave us alone.**



Contract Management Trends

**What's
Hot**

**Early
Communication**

**Early
Collaboration**

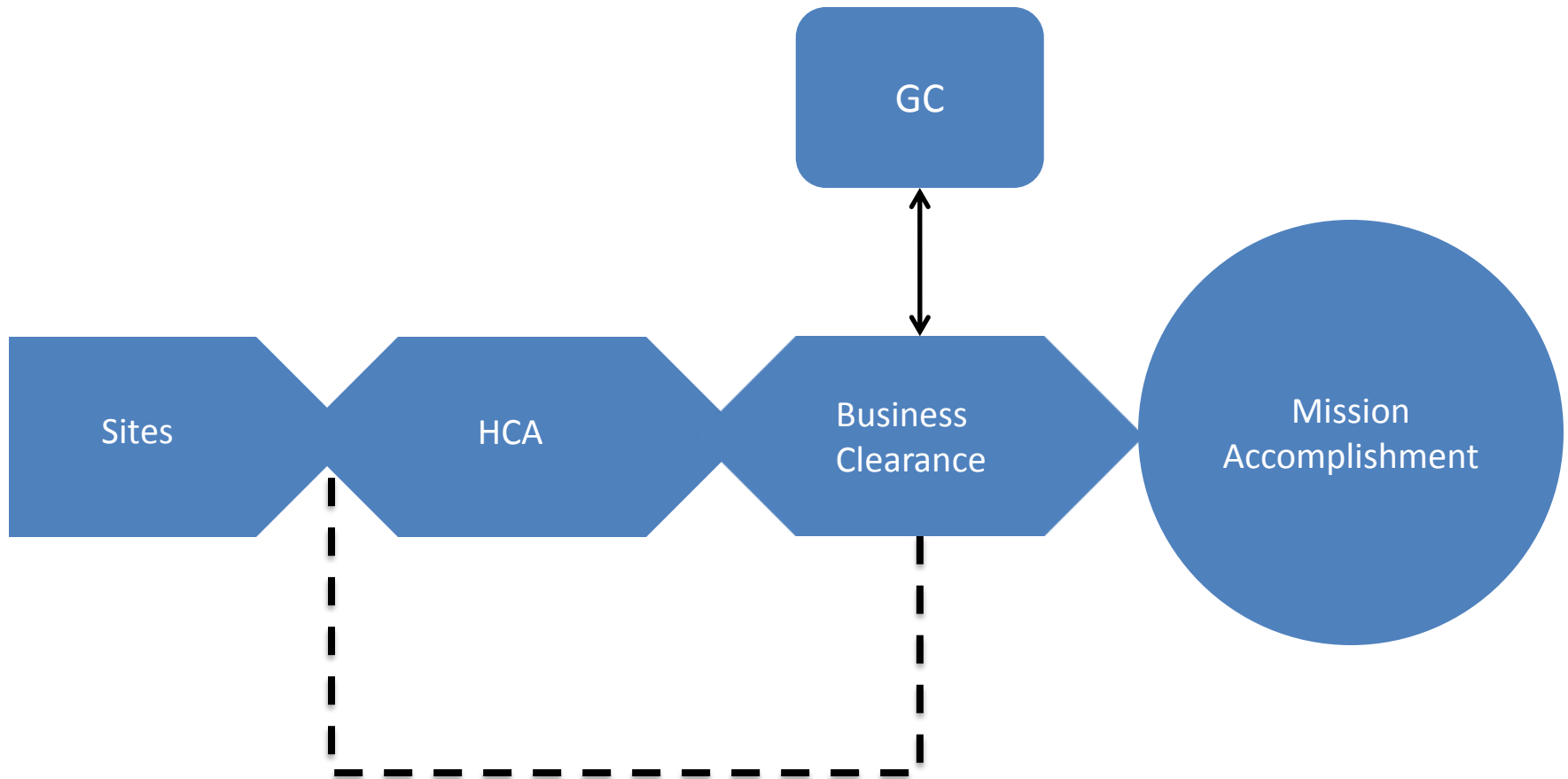
**Incremental
Review**

**What's
Not**

Awkward Silence



Linear



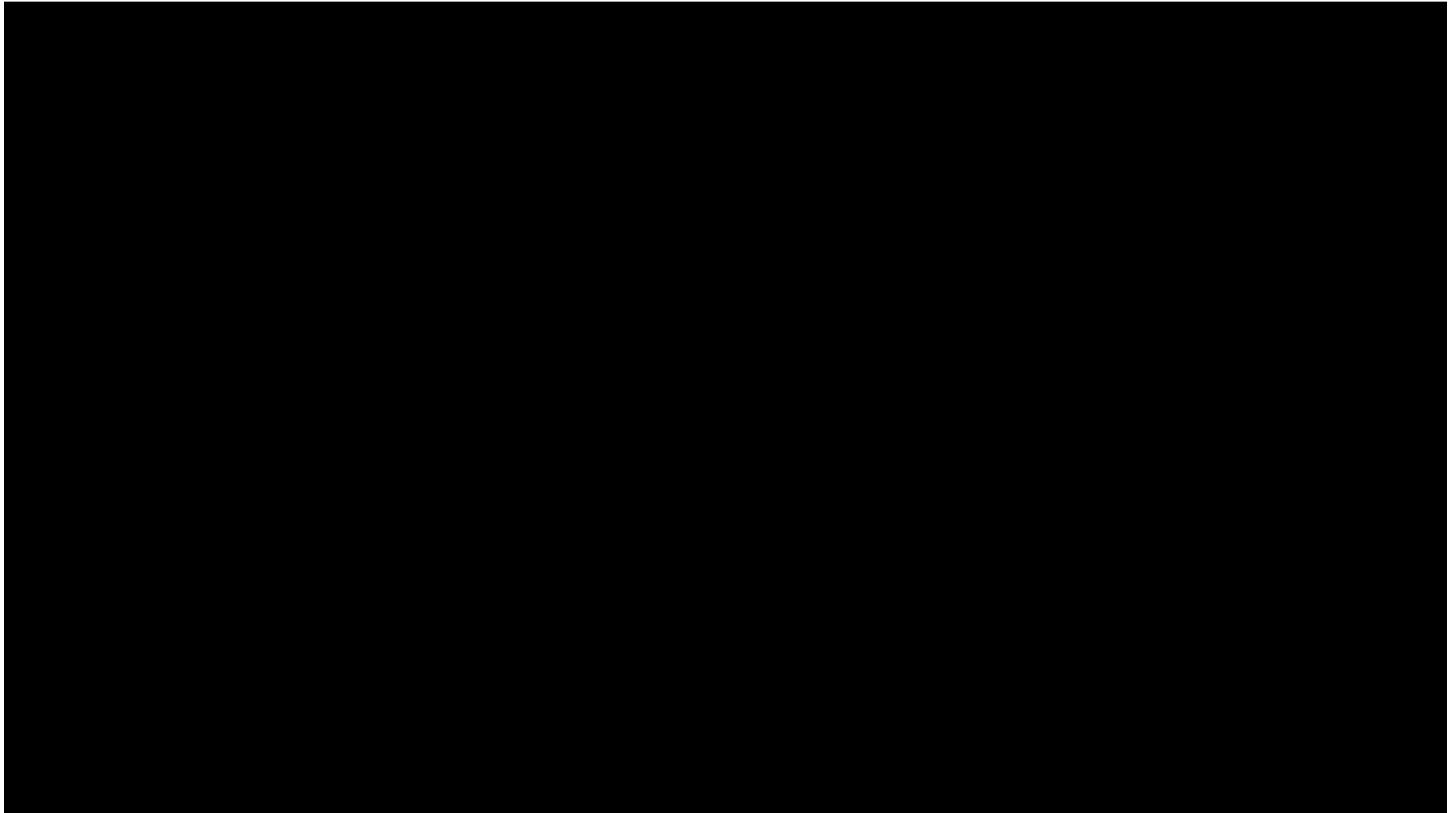


Collaboration





In the end it's all about teamwork...



<https://youtu.be/1qzzYrCTKuk>



Benjamin.Zaslow@hq.doe.gov

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