

NAVAL POSTGRADUATE SCHOOL

Monterey, California



THESIS

**AWARD TERM INCENTIVE: HOW IT MIGHT BE
IMPLEMENTED AT U.S. NAVAL PROCUREMENT
ACTIVITIES**

by

James M. Lowther

December 2001

Thesis Advisor:
Associate Advisor:

Ron Tudor
James M. Barnard

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James M. Lowther
Lieutenant Commander, United States Navy
B.A., University of St. Thomas, 1988

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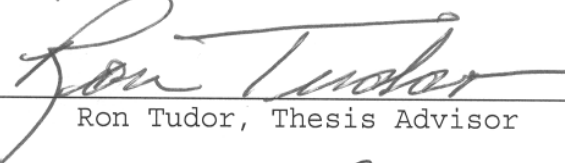
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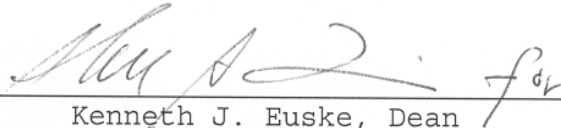
Approved by:



Ron Tudor, Thesis Advisor



James M. Barnard, Associate Advisor



Kenneth J. Euske, Dean
Graduate School of Business and Public Policy

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ABSTRACT

In this day of acquisition reform, Government contracting officers are continually urged to “think out of the box” for ways to deliver better contracting products and services to customers. Award term incentive, a variation of the award fee incentive described in FAR 16.405-2, was first used in Government contracting in 1997. It has been used in those situations where a long-term business relationship is seen as being advantageous to both the contractor and the Government. The purpose of this thesis is to evaluate the critical issues associated with establishing strategic long-term purchasing relationships between U.S. Naval procurement activities and their suppliers through the use of the award term incentive. The thesis considers the elements of the award term incentive in order to identify the barriers to successfully implementing this best commercial practice. The methodology employed to gather data was a survey distributed to Navy contracting activities. The survey data was analyzed to identify the key issues of effectively utilizing the award term incentive. The thesis concludes with recommendations for implementing the use of award term at Naval procurement activities.

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I. INTRODUCTION

A. PREFACE

The use of best commercial practices in Department of Defense (DOD) acquisitions received heightened attention in 2000. In November 2000, Dr. Gansler, Under Secretary of Defense for Acquisition and Technology released a memorandum outlining the results of a price-based acquisition (PBA) study conducted earlier in the year. Dr. Gansler stated that:

PBA is one of a number of strategies that we are pursuing to move towards greater access to commercial technologies, products, and processes, as well as to achieve far greater efficiency and effectiveness from our traditional defense suppliers. [Ref. 1]

The study group made a number of recommendations for employing best commercial practices to DOD acquisitions. These recommendations included:

- 1. Require Operational Users to State What They are Willing to Pay for an Acquired Capability in the Operational Requirements Document (ORD)**

The intent of this requirement is to ensure that program estimates are updated to reflect changing requirements and to establish operational user accountability for the total price of the requirement. This ensures that DOD acquisition monies are efficiently distributed.

- 2. Use Value-Based Pricing to Determine Price Reasonableness**

This pricing technique determines price reasonableness based on the quantifiable benefit or utility that a user

derives from consuming a product or service. This measurement is independent of the actual cost of producing or providing the product or service.

3. Investigate Performance-Based Payments

Linking a contractor's payments to critical aspects of technical and schedule performance prior to contract award, instead of basing the payments on cost, allows the payments to be a sort of earned value management system. Forcing the contractor and Government to develop meaningful criteria early in the acquisition process results in pulse points, or performance indicators, that can be used throughout the life of the program.

4. Consider Developing Incentive-Term Contracts

This incentive provides the contractor with the opportunity to earn additional contract length for good contract performance. The additional periods of performance are the incentive, rather than award fees.

In January 2001, Dr. Gansler signed out the Guidebook for Performance-Based Services Acquisition (PBSA) in the DOD. The thrust of this document is that since acquisition of service is becoming a bigger component of DOD procurements, DOD should strive to adopt best commercial practices. Doing this allows DOD to reach world-class commercial suppliers, gain greater access to technological innovations, maximize competition and obtain best value while achieving greater savings and efficiencies.

The goals of the guidebook are:

- To promote performance-based strategies for services acquisitions throughout the Department of Defense.

- To educate the acquisition workforce and highlight the key elements of performance-based services acquisition.
- To encourage innovative business practices within the DOD acquisition process.
- To increase awareness that performance-based services acquisitions require participation from all stakeholders (the users, acquisition workforce personnel and industry) to ensure the requirement is adequately satisfied. [Ref. 2]

Contracting areas that would benefit from the use of innovative business practices are discussed in the guidebook. Such areas include:

- Developing performance-based work statements.
- Contractor performance management.
- Source Selection.
- Incentives.
- Contract Administration. [Ref. 2]

Under incentives, the award term incentive is discussed in detail. Award term is looked at as a means for establishing strategic purchasing relationships within the DOD procurement environment. As long as the contractor meets the established standards, the contract is extended up to the maximum number of terms identified in the contract [Ref. 3].

The fact that the award term incentive is mentioned in both of Dr. Gansler's documents suggests that it is a topic worthy of additional research. Although award term

arrangements are relatively new, the Air Force has already utilized this incentive in a number of its contracts and other Services are beginning to consider its use. In this chapter, the research objectives, questions and methodology are identified. Research scope, limitations and benefits are also described.

B. RESEARCH OBJECTIVE

This research evaluates the critical issues associated with establishing strategic long-term purchasing relationships between U.S. Naval procurement activities and their suppliers through the use of the award term incentive. It also considers the elements of the award term incentive – contractors, nature of the buy, legal issues and acquisition professional skill mix – in order to identify barriers to successful implementation.

C. RESEARCH QUESTIONS

Research conducted on the award term incentive concentrates on one primary and three secondary research questions.

1. Primary Research Question

The primary research question is: What are the primary factors involved in the decision to utilize the award term incentive at U.S. Naval procurement activities, and what are the issues involved in the effective application of this incentive?

2. Secondary Research Questions

- What is the background and history of the award term incentive?
- What are the advantages and disadvantages of the award term incentive?

- What are the key issues involved with the Government's attempt to implement the award term incentive?

D. SCOPE AND ORGANIZATION

The scope of this thesis includes: (1) A review of the history and regulations regarding the use of award term in Government procurement; (2) An examination of current contracts utilizing award term in DOD procurement; (3) Presentation of issues and concerns associated with utilizing award term at a representative U.S. Naval procurement activity; (4) Analysis of conditions required to be met in order to successfully use award term; and (5) Review the benefits associated with using award term.

This research is broken out into five chapters: (1) Introduction of the topic; (2) Background information on the award term incentive; (3) The Navy's use of award term; (4) Analysis of the information gathered with a survey; and (5) Conclusions and recommendations for further study.

E. METHODOLOGY

The methodology used in this thesis research consists of several steps. First, a comprehensive literature review of books, magazine articles, CD-ROM systems, Government reports, Internet based materials and other library information resources was conducted. Second, data was collected on award term usage via a survey. The survey was conducted online with the assistance of the Naval Postgraduate School (NPS) Office of Strategic Planning, Educational Assessment and Institutional Research (SPEAR). The purpose of the 16-question survey was to assess current awareness of the award term incentive and to capture any concerns or issues present with contracting officers at

U.S. Naval commands. The survey consisted of a mix of multiple-choice and fill-in-the-blank questions. The survey was sent out to seventy commands and a response rate of 26% was achieved. The last step involved conducting interviews, either in person or by telephone, with acquisition professionals at U.S. Naval procurement activities. Interviewees were selected based on responses received from the survey. The purpose of the interviews was to allow for follow-up questions to survey responses.

F. BENEFITS OF THE RESEARCH

This thesis is intended to primarily benefit U.S. Naval procurement activities, in regards to implementing the use of the award term incentive. By analyzing the issues associated with the award term incentive, this research will provide guidance for utilizing this type of contract incentive.

II. BACKGROUND

A. AWARD TERM - CONTRACTING'S NEWEST INCENTIVE

Under acquisition reform, Government contracting officers are continually urged to "think out of the box" for ways to deliver better contracting products and services to customers. Award term incentive, a variation of the award fee incentive described in Federal Acquisition Regulations (FAR) 16.405-2, was first used in Government contracting in 1997 even though it was not expressly stated in the FAR as an authorized incentive [Ref. 4]. It rewards a contractor's good performance by extending the contract period without competition.

The award term process is almost identical to award fee procedures [Ref. 5]. The Award Term Review Board (ATRB) uses an Award Term Plan to rate contractor performance and makes a recommendation to a Term Determining Official (TDO) [Ref. 5]. The TDO makes the final decision on the contractor's score for the period. The contractor's performance period may be extended or reduced based on the contractor's cumulative score. If the contractor earns an award term, it is entitled to the extension as long as the Government has a continuing need for the service and funds are available. As is the case with award fee contracts, a cost benefit analysis should be performed to show that the expected benefits justify the expenditure of time, money and manpower in monitoring contractor performance.

There are two basic approaches used in evaluating contractor performance [Ref. 6]. The first is the "Pass-

Fail" method. The TDO rates performance during an evaluation period as "excellent", "acceptable" or "unacceptable" overall. The contractor receives feedback during the evaluation period, and an award term is earned if performance is rated "excellent" overall. The second approach is the "incremental point scoring" method. Here, the TDO awards performance points periodically. The contractor accumulates points during the evaluation period until an award term is earned or the period expires. Both approaches can be very subjective in nature; however, award term contracting is most effective when the performance metrics chosen are objective goals [Ref. 6].

B. AWARD TERM DEFINITIONS

1. Award Term

An award term is used to extend the contract period of performance. The contractor earns the award term by rendering excellent service. An award term is not an option. An option is exercised as a unilateral right of the Government. An award term entitles a contractor to an extension as long as the Government has a continuing need for the service and funds are available.

An award term incentive requires three contractual elements:

- A contract line item for each prospective award term.
- An award term clause that describes the terms of the incentive.
- An award term plan that describes the incentive criteria.

2. Award Term Clause

An award term clause describes the rights and obligations of the Government and the contractor under the incentive. Appendix A contains an example of an award term clause.

3. Award Term Plan

The award term plan lays out the Government's objectives, performance criteria, performance standards and length of the award term performance evaluation periods. Appendix B contains a generic example of an award term plan.

4. Award Term Review Board (ATRB)

Common responsibilities of the award term board are:

Review the Performance Monitor's evaluation of the contractor's performance, consider all information from pertinent sources, prepare interim performance reports and arrive at the earned award term points recommendation to be presented to the Term Determining Official. The ATRB will also recommend changes to the award term plan. An assessment of the contractor's performance will be done on a yearly basis. [Ref. 5]

5. Award Term Review Board Chairperson

Common responsibilities of the ATRB chairperson are:

Chairs the meetings of the ATRB and appoints the non-mandatory members of the board and the Performance Monitors. The ATRB chairperson briefs the Term Determining Official on recommended earned term amounts and the contractor's overall performance and recommends award term plan changes. [Ref. 5]

6. Award Term Review Board Recorder

The ATRB Recorder coordinates the administrative actions required by the Term Determining Official, the ATRB and the Performance Monitors.

7. Contracting Officer

Common responsibilities of the contracting officer include:

The liaison between contractor and Government personnel. Subsequent to the Term Determining Official's decision, the contracting officer evaluates the award term points available and modifies the contract period of performance, if necessary, to reflect the decision. [Ref. 5]

8. Performance Monitors

Common responsibilities of performance monitors are:

Maintain written records of the contractor's performance in their assigned evaluation areas so that a fair and accurate evaluation is obtained. Monitors prepare interim and end-of-period evaluation reports as directed by the ATRB. [Ref. 5]

9. Strategic Partnerships

A strategic partnership is defined as:

An agreement between a buyer and a supplier that involves a commitment over an extended time period, and includes the sharing of information along with a sharing of the risks and reward of the relationship. [Ref. 7]

10. Term Determining Official (TDO)

The Term Determining Official:

Approves the award term plan and any significant changes to it. The TDO reviews the recommendations of the ATRB, considers all

pertinent data and determines the earned award term points for each evaluation period. The TD0 appoints the ATRB chairperson. [Ref. 5]

C. COMMERCIAL USAGE

The award term incentive is an attempt to incorporate commercial best business practices into Government contracting. Private companies develop long-term relationships with suppliers of their choosing. The success of the relationship depends on the supplier's ability to perform. As long as the supplier is able to perform satisfactorily, the relationship continues. If performance becomes unacceptable, a private company is free to take its business elsewhere. This is award term contracting in its purest form. The use of the award term incentive provides a similar approach in Government contracting.

D. REGULATORY ISSUES

DOD acquisition has been the subject of numerous commissions calling for reform to streamline the process, cut costs and maintain or improve mission capability. Some of the recommendations include:

- Emulation of private sector buying practices (1983 Grace Commission).
- Decreased use of military specifications (Mil specs) and increased use of commercial products (1983 Grace Commission and 1986 Packard Commission).
- Use of commercial style competition rather than price-based competition (1970 Fitzhugh Commission and 1986 Packard Commission). [Ref. 8]

The Federal Acquisition Streamlining Act (FASA) of 1994 and the Federal Acquisition Reform Act (FARA) of 1996 were enacted to enable DOD to develop ways to reduce costs. FARA requires compliance with 41 U.S.C 404, which states that government-wide procurement policies, regulations and procedures must promote economy, efficiency and effectiveness in the procurement of property and services by the executive branch of the Federal Government [Ref. 8].

The 1970 Fitzhugh Commission and the 1986 Packard Commission call for the use of best commercial practices whenever possible.

Best commercial practices are those practices that have proved to be successful by the commercial sector as evidenced by quantifiable cost reductions or gains in competitive advantage that can be replicated. [Ref. 8]

DOD's use of commercial purchasing practices in response to the acquisition reform initiatives was limited through the mid-1990s. Research conducted by the Air Force Institute of Technology (AFIT), "suggests that using commercial practices and removing regulatory obstacles enhances the potential for reducing costs [Ref. 8]." It follows then that if DOD implements the use of commercial best practices, the Government may achieve significant savings in DOD acquisition programs.

The use of the award term incentive is an attempt to employ a commercial idea within the framework of the rules that govern Government contracting. The commercial sector recognizes that the best way to motivate a firm to provide excellent service is to offer the prospect of additional sales. This can be done without contractual terms and

conditions in the commercial world. The Government cannot do this. The Government's competition rules, like the Competition in Contracting Act (CICA), "require agencies to take an express and formal approach to applying commercial ideas. This requires careful planning, design and administration [Ref. 8]."

Incentives described in the FAR include fixed price incentives, firm fixed price with award fees, cost plus incentive fee and cost plus award fee. Each of these incentives promises to reward excellent performance with additional profit or fee. Award term incentive is different because it does not promise additional profit or fee, but instead it offers additional sales as its incentive. This is a long-term incentive that is much more attractive to many contractors than the prospect of short term gains. In that respect, award term incentive is much closer to a commercial incentive than any of the incentives covered in the FAR.

As stated earlier, award term incentives are not discussed in the FAR. Proponents of award term argue that since award term is an incentive and not a contract type, its use is covered under FAR 1.102-4(e):

If a policy or procedure, or a particular strategy or practice, is in the best interest of the Government and is not specifically addressed in the FAR, nor prohibited by law (statute or case law), Executive order or other regulation, Government members of the Team should not assume it is prohibited. Rather, absence of direction should be interpreted as permitting the Team to innovate and use sound business judgment that is otherwise consistent with law and within the limits of their authority. Contracting officers should take the lead in encouraging business

process innovations and ensuring that business decisions are sound. [Ref. 9]

Opponents of the award term incentive argue that a contract that includes an award term incentive is in fact a new "type" of contract. Since they consider it a new contract type, opponents cite FAR 16.102(b) to support their position:

Contract types not described in this regulation shall not be used, except as a deviation under Subpart 1.4. [Ref. 9]

Since award term is considered by opponents to be a contract type, FAR 1.102-4(e) would not give the Contracting Officer the authority to utilize it. Its use would be further limited because of the FAR 16.105 requirement to add the FAR 52.101 "solicitation provision" to solicitations:

Type of Contract (APR 84) The Government contemplates award of a _____[Contracting Officer insert specific type of contract] contract resulting from this solicitation. [Ref. 9]

Additional arguments against the use of the award term incentive are that its use would violate the requirements of CICA and/or the Anti-Deficiency Act (ADA). Supporters contend that award term use is consistent with CICA because the same rules that apply to the exercise of options apply to award terms. As long as the request for proposal (RFP) states the maximum length of the contract, including all prospective award terms, includes separate line items for each prospective award term and requires each prospective award term to be priced, CICA requirements are being met.

These conditions in the RFP will help prevent buy-in from the contractor. ADA requirements are met as long as the contract states that the Government's obligation with regard to the award term extensions is conditioned upon the availability of funds and that no work is permitted to commence during any award term extension before funds are made available.

Since the use of award term is a relatively recent event, judicial challenges to the use or implementation of the award term incentive have not occurred. A search of the Lexis-Nexis database yielded no court cases and no GAO protests were found. Protests and court cases will be expected in the next couple of years, as the first contracts utilizing the award term come to the end of the base contract agreements and get into the award term periods.

E. AWARD TERM USE IN THE GOVERNMENT

The use of the award term incentive would be beneficial in those situations where:

- There is a requirement for services that extends more than five years, either for a definite period or indefinitely.
- Contractor performance above a minimum standard would be beneficial and desirable.
- The desired level of performance is attainable, but difficult to achieve.
- The advantages of establishing a long-term, strategic partnership outweigh the disadvantages.

DOD began using the award term incentive in 1997. The first service to utilize this tool was the Air Force. The Air Force Materiel Command, based out of Wright-Patterson AFB, believes in the award term concept so much that it set

up a separate award term operating cell. A recommendation to include the award term incentive in the AFFARS has also been submitted. Examples of how the award term incentive has been used includes:

- Air Force acquisition of simulation services where the contractor maintains ownership of the system. Contractor maintains system concurrency with the aircraft and provides logistical support for the system. Base contract is for seven years with the possibility of earning eight annual award terms, for a potential contract length of 15 years. Earned award term periods may be lost based on contractor performance.
- Air Force acquisition of network services. The contractor provides network service that links together distributed mission training to provide partners with the capability to conduct team training. Service includes daily operations and support. Base contract is for five years with the possibility of earning 11 annual award terms, for a potential contract length of 16 years. Base years and earned award term periods may be lost based on contractor performance.
- Air Force acquisition of aircraft engine overhaul and repair services. Contractor is responsible for scheduled overhaul maintenance and for diagnoses and repair. Base contract is for seven years with the possibility of earning eight annual award terms, for a potential contract length of 15 years. Base years and earned award term periods may be lost based on contractor performance.
- Navy acquisition for engineering services for Fixed Surveillance Systems. Contractor provides SPAWAR PMW-181 with technical and engineering services to support design, development, integration, logistics, life cycle support and training for Fixed Surveillance Sensor Systems. Base contract is five years with the possibility of earning 10 annual award terms, for a potential contract length of 15 years. [Ref. 10]

- Navy acquisition for port services in Yokohama, Japan. Contractor provided services include: stevedoring, long shoring and allied services. Base contract is for one year with the possibility of earning five annual award terms, for a potential contract length of six years.
- GSA acquisition of information technology support services under the Millennia Lite program. Contractor-provided services include: engineering and manufacturing, testing and validation, reliability and maintainability, reverse engineering and statistical analysis. Base contract is for three years with the possibility of earning 10 annual award terms, for a potential contract length of 13 years. [Ref. 11]
- NASA acquisition of institutional services at the NASA Goddard Space Flight Center's Wallops Flight Facility, Wallops Island, VA. Contractor provides janitorial service, security, fire protection and grounds maintenance. Base contract is for four years with the possibility of earning six annual award terms, for a potential contract length of 10 years. [Ref. 12]

None of the examples above are into the award terms as of yet.

F. CHAPTER SUMMARY

The award term incentive is such a new tool that performance information of the administration phase is not yet available. However, the incentive seems to appeal to a contractor's desire for additional time (and additional sales) on the performance of a contract. Given the rules that bind Government contracting, it is a significant step toward commercial practices. Conversely, questions remain in some contracting activities about the legality of the award term incentive.

This chapter gave a brief overview of the award term concept and some of the legal issues that surround this

incentive. Examples of contracts that have already been awarded utilizing the award term incentive were also provided. The next chapter will take a closer look at advantages and disadvantages of the award term concept and how this tool can be used in Navy procurement.

III. NAVY'S USE OF AWARD TERM

A. INTRODUCTION

Chapter II gave a brief summary of what the award term incentive is and how it has been used in DOD procurement. This chapter delves into the issues associated with the use of the award term incentive - what are advantages and disadvantages of its use. This chapter also discusses the factors that may drive the decision to utilize award terms and how the Navy can effectively incorporate award terms into its contracts. Finally, the chapter looks at how the award term evaluation process can flow in a Navy procurement office.

B. ISSUES ASSOCIATED WITH USE OF AWARD TERM

1. Award Term Benefits

Why is award term such an attractive option? A study conducted by J. Ronald Fox in 1968 showed that companies take actions to:

- Expand company operations.
 - Increase future business. **
 - Enhance company image and reputation. **
 - Benefit its non-defense business.
 - Minimize loss of skilled personnel. **
 - Broaden the allocation base for fixed costs. **
- [Ref. 13]

Although there are a number of other methods for incentivizing contractors for excellent performance, they are limited to rewards of money. This gives the company increased profits in the short-run, however, it does very little to address the six needs listed above. Award term

incentives give a company additional business in addition to additional money. The new business gained satisfies four of the six needs (annotated with **). In that light, additional business is much more valuable than short-term profit; keeping highly skilled personnel gainfully employed is very desirable, especially if the pool of talent in the market is small. By using award term incentives, the Government sets up a long-term business relationship comparable to what commercial industry does with strategic purchasing relationships.

These long-term business relationships are beneficial because they provide incentive for contractors to increase investment in new machinery, technology and equipment. Having a stable source of business for an extended period of time, with the added possibility of getting an extension of the performance period, a contractor's risk is reduced. With risk lowered, a contractor is more willing to expend the funds required to acquire improved equipment and technology; this can lead to a higher quality product or service and lower prices for the Government. This is a great example of a win-win situation.

Long-term business relationships also reduce acquisition costs for both parties - the time and money that goes into successfully negotiating a new contract is substantial. As an example of using award terms, as long as the Government is satisfied with contract performance, extending a contract from five to 15 years would potentially save a lot in acquisition costs (for both sides).

Award term contracts, if they are to be effective, will also improve communications between the Government and the contractor. In order for this type of contract to succeed, constant feedback on contract performance needs to be provided by the Government to the contractor. This feedback is what the contractor will use to adjust its performance of the contract. Properly used, the feedback should improve performance and increase the likelihood of earning an award term. Of course feedback needs to be useful information that can be used in the contractor's analysis of its operation. Saying that performance is "acceptable" is not sufficient. The importance of choosing the correct standards to evaluate contractor performance is apparent in this feedback phase.

2. Potential Award Term Disadvantages

The obvious disadvantage of using the award term incentive is that the monitoring and feedback necessary for award term contracting consumes resources (manpower, time and money). The contracting officer must decide:

- Who will observe contractor performance?
- What will be observed?
- When will observations take place?
- Where will observations be made?
- How will observations be made?

These decisions must be carefully thought out. Making the correct decisions in this early stage sets the foundation for the Government getting the performance that it desires. Resources must be strategically utilized to effectively monitor contractor performance. A good

monitoring program generates the information required to provide effective feedback to the contractor.

The requirement to provide frequent feedback to the contractor makes the process of monitoring contractor performance an extremely time-sensitive event. If feedback is not provided back to the contractor in time to influence performance (if necessary), then the feedback is useless; the purpose of award term contracting is defeated in this situation.

Another perceived disadvantage of award term contracting is the high level of analysis, planning and negotiation that is required. Both parties need to have a clear understanding of what the requirements are. Metrics must be carefully chosen - they must be effective measures of performance. This in-depth analysis and careful selection of metrics again uses up valuable resources.

The goal of award term contracting is to establish long-term business relationships similar to what are seen in the commercial sector. However, a potential disadvantage of the long-term relationship is the likelihood of conducting business at less than an arm's length basis. The longer the Government works with a contractor, the greater the chance that standards will be relaxed and deficiencies will be overlooked.

Long-term business relationships can also make the Government marketplace seem less attractive to potential suppliers. Long-term relationships with one firm might knock other contractors from the marketplace or prevent others from even attempting to enter. This can lead to less competition, which has the potential to hurt the

Government in the future (higher prices or lower quality service/products).

Another requirement when utilizing award term contracting is that all contract performance periods must be pre-priced [Ref. 5]. This is because the Government is prohibited by CICA from negotiating the prices after the contract has been signed. Boards of Contract Appeals look at a lack of pre-pricing as a sole source contract action, which requires a Justification and Approval (J&A), in accordance with CICA. If it is determined by the J&A approval authority that price competition is available, the J&A would most likely be disapproved. With that in mind, if a contract has ten possible award terms that can be earned, each one of those award terms must be pre-priced before the contract is signed. That can be a scary proposition for a potential contractor. Few contractors may be able to reliably predict accurate prices ten years in advance.

C. FACTORS AFFECTING THE DECISION TO USE AWARD TERM

A contract utilizing award terms is involved in a continuous process that rewards good performance, incentivizes a contractor to improve unsatisfactory performance and records the Government's evaluation of a contractor's performance. Using award terms gives the Government the opportunity to evaluate a contractor's performance and, if necessary, input changes in the award term plan to accurately depict changes in Government priorities.

The award term incentive might also be appropriate in those instances when key elements of performance cannot be

objectively or quantitatively measured. The incentive can be (and has been) used with any type of contract vehicle (e.g. FFP, FPIF, CPIF). While it can be used in a wide variety of procurement actions, the incentive is particularly suited for the procurement of services, where it is difficult to objectively define what is really required and what is good effort. Before entering into a contract with award terms, the Government should consider the following factors:

1. Contractor Motivation

Using award terms motivates a contractor to allocate resources into the areas that are critical to a program's success. However, the award term plan must clearly identify the specific areas of performance that are most important to the Government. The areas of performance must be limited in number and carefully chosen. Too many performance areas will pull the contractor in too many different directions, possibly resulting in unsatisfactory performance. Poorly chosen performance areas will not give the Government an accurate reading of actual performance.

2. Administrative Issues

The benefits received from using an award term in a contract have to outweigh the additional costs of properly administering the contract. The use of award term incentives places a big administrative burden on the Government and the contractor. Costs to consider when conducting the cost-benefit analysis include Government man-hours and materials required to monitor the contractor's performance and perform the actual award term review board, contractor man-hours and materials required

to document their performance and make presentations to the award term review board, and appropriate training for Government and contractor personnel. Due to the requirement for continuous performance monitoring, this labor-heavy endeavor can quickly drain the Government's labor resource pool. In this era of the shrinking workforce, the use of the award term incentive must be carefully thought out.

3. Market Situation

A thorough understanding of the market is critical to the decision to use award terms. Communications with industry must be conducted to determine whether the use of award terms is appropriate. Points to consider include: properly defining performance levels to be rewarded, contract types to be utilized, contract length, contractor investment requirements and determining fair and reasonable prices (especially for the award terms).

The use of the award term incentive should be considered primarily for competitive acquisitions. Not much is gained for the Government with the use of award terms in sole source situations. If there is no fear of business going elsewhere, there is not much motivation for a contractor to perform above average for additional time on a contract.

The proper use of award terms sets the foundation for a win-win situation. Its use signals that quality contractor performance will lead to a continued business relationship as long as the Government requirement continues to exist and funds are available. While any type of contract type can be utilized with the award term

incentive, it seems that the Indefinite Delivery/Indefinite Quantity (IDIQ) contracts work best with award terms. The use of IDIQ contracts allows the award terms to be added without having to commit future fiscal year monies before they are appropriated.

D. AWARD TERM PLAN

The award term strategy for a contract is outlined in the award term plan. The plan lays out the way to properly implement the award term clauses of the contract [Ref 5]. The plan also details the methodology for evaluating the contractor's performance during the evaluation periods. Appendix B contains an example of a generic award term plan. The objectives of the award term plan are:

- Create a plan that is workable and has a high chance for success.
- Create an effective communication channel between the Government and the contractor, especially in regards to evaluation procedures.
- Give the contractor insight to what areas of performance are most important to the Government. This allows the contractor to allocate resources in a most efficient manner.

Points to consider when developing an award term plan should include the following:

1. Identify Personnel Involved with the Award Term Incentive and Detail Their Responsibilities

In order to avoid the need for administrative changes when individual members transfer out, identify the TDO and ATRB members by title/position only.

2. Document Evaluation Periods

Contract performance is split into evaluation periods. These evaluation periods can end on specific dates or

milestones. When milestones are used, the evaluation periods shall end either at milestone completion or at the estimated milestone completion date. Evaluation periods can also be established by duration with start and end dates. Evaluation periods need not be equal in length.

When setting evaluation periods, choosing the correct length for them is extremely important. Evaluation periods that are too short do not give the contractor enough time to improve identified areas of weakness. Short evaluation periods become an administrative burden and lead to rushed evaluations. Lengthy evaluation periods can hinder effective communications between the Government and the contractor, diminishing the Government's ability to influence the contractor's performance. Choosing the correct evaluation length is crucial to ensuring that effective communications occur between the Government and the contractor. Successful use of evaluation periods in the past has centered on periods approximately six months or one year in length. However, the correct length for any given contract should be determined based on the specific work that is being performed.

3. Identify and Explain the Grading System Used for Evaluation Periods. Also List the Weighting Scale That will be Used (if Necessary)

The Government and the contractor need to understand the criteria and its measurement in evaluating contract performance. An important step in this process is defining the grades, categories of performance and evaluation criteria. Each of these areas should be specific to the goals of the contract. Clearly defined and understandable criteria help the TDO ensure that the final determination

is based on preset objectives and not subjective opinions. This is especially important with a service-type requirement where, despite the best efforts of the negotiating parties, performance is largely based on subjective opinions.

Grades can be of any variety; the key is to clearly define them. Three grade (Unsatisfactory, Satisfactory, Excellent) and five grade (Unsatisfactory, Satisfactory, Good, Very Good, Excellent) systems are common examples of the ranges that can be used. The range of grade points that can be assigned to each grade should be clearly documented in the award term plan. Final performance scores are calculated by summing the weighted grade points (if weighting is used) earned in each performance category.

Categories of performance are tailored to the individual acquisition; there is no standard set of categories to be used in any procurement. The categories chosen should reflect what is important to the Government. Some of the more common categories that can be used include cost, quality and schedule. The relative importance of each category depends on the needs of the acquisition.

The evaluation criteria used to grade each category of performance must be clearly stated in the award term plan. The criteria should provide the contractor with the motivation to try to improve performance. If the criteria is not properly defined in the award term plan, confusion will exist and evaluations will not provide proper feedback to the contractor.

As contract performance progresses from one evaluation period to the next, the relative importance of specific

performance criteria may change [Ref 5]. One way to address this situation is to use percentage weightings to indicate the relative priorities assigned to the various categories of performance. When documenting this in the award term plan, make sure that the total assigned weights total 100.

Properly defining the grading system is important to the success of the contract. Whatever evaluation format is chosen, both sides need to understand the implication of its use. Agreement and understanding of the evaluation system at the beginning of the contract avoids claims from the contractor during or at the end of performance. Since the Government's award term decision is disputable under the Contract Disputes Act, the Government must be able to defend its evaluation process and show that it has conducted the evaluations in the manner specified in the contract.

4. Document the Evaluation Process

The evaluation process must be considered when the award term plan is drafted. This critical process determines what portions of the contractor's performance are evaluated and how they are evaluated. This function must be clearly understood; training on it needs to be conducted for all personnel involved. Topics that need to be addressed include:

- What is the award term incentive?
- What is being evaluated under this contract?
- What techniques will be used in gathering information/data (e.g. samples, observations, interview, surveys)?
- What is the frequency of data collection?

- Standards of conduct.

There are two types of evaluations that need to be explained:

a. Interim Evaluations

The interim evaluation is the vehicle that ensures that effective, continual communication is conducted between the Government and the contractor. This communication provides the information the contractor needs to understand the Government's rating of performance and pinpoints the areas that need improvement. Formal interim evaluations conducted during an evaluation period should identify both strengths and weaknesses in overall performance during a given period. Figure 1 outlines what this process might look like:

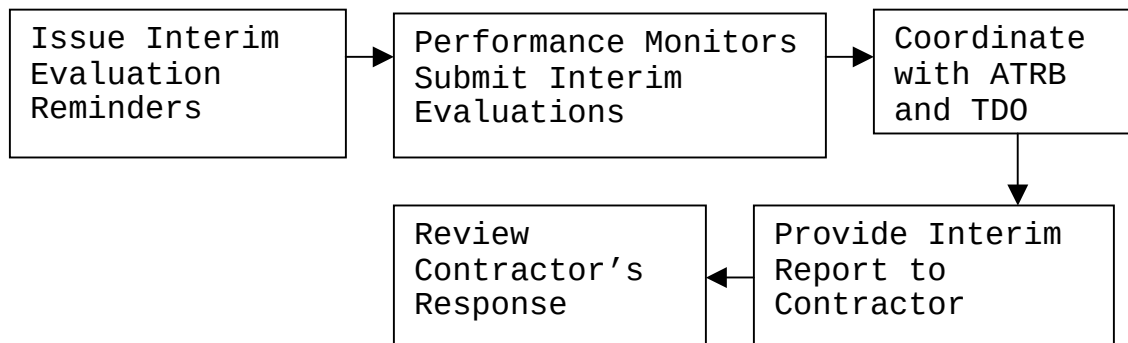


Figure 1. Interim Evaluation Process[From Ref. 5]

The ATRB Recorder issues reminders to the Performance Monitors to submit their interim evaluations before the mid-point of the evaluation periods. Performance Monitors look at the overall performance of the contractor and note areas that need improvement and areas of strength. The ATRB Recorder consolidates all the Performance Monitor evaluations into one report and

presents it to the ATRB. Minutes of the mid-term evaluation board should be documented and the TDO should see the report prior to sending the report to the contractor.

The mid-term evaluation sent to the contractor should address strengths and weaknesses of performance noted during the current evaluation period. The report should not contain any point ratings. The purpose of this report is to give the contractor an idea of the areas that need improvement; with enough time to affect the changes prior to the TDO's point determination. Additional reports can be sent to the contractor during the course of an evaluation period; however, the documents should be sent through the contracting officer to the contractor. The contractor's response, including any plans for improving performance, should be studied and used in follow-on evaluations.

b. End-of-Period Evaluations

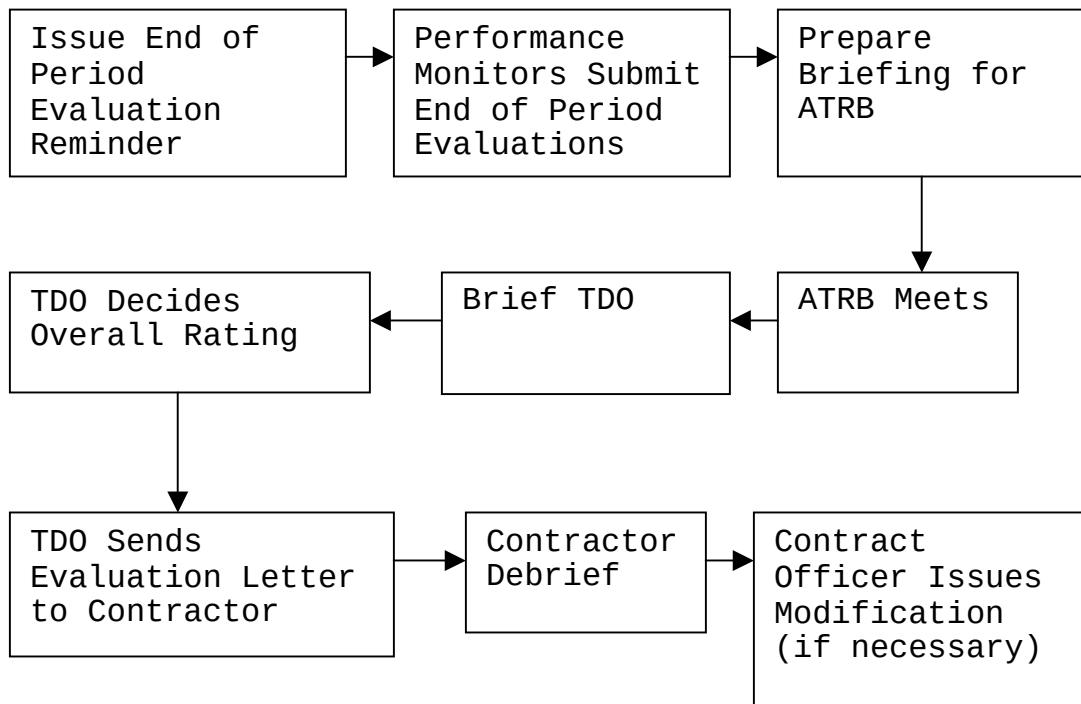


Figure 2. End-of-Period Evaluation Process[From Ref.5]

Figure 2 shows the flow of information for the end-of-period evaluation process. The ATRB Recorder issues reminders to the Performance Monitors to submit their evaluations before the end of the evaluation period. Once received, the ATRB Recorder condenses the evaluations into a summary evaluation, which is presented to the ATRB. This summary can also be provided to the contractor, to give the contractor an opportunity to review and comment on the performance evaluation. If provided to the contractor, the summary should not contain any actual ratings or grades. At this time, the contractor may submit a self-assessment of its performance during the evaluation period. The ATRB

uses the summary evaluation, the contractor's self-assessment and other information deemed pertinent to make an award term points determination to the TDO.

The ATRB Chairman briefs the TDO on recommendations of awarded points and any changes that need to be made to the award term plan. This briefing covers strengths and weaknesses in the contractor's performance during the evaluation period. To enhance continuous communication between the Government and the contractor, the contractor may be present at this briefing; however, the contractor should have no say in making the final decision. If the contractor is not present at the TDO briefing, a debriefing for the contractor is appropriate.

After the TDO decides on an overall rating, the contractor is notified of the determination. A favorable report does not necessarily mean that an additional award term is awarded at this point. As discussed earlier, if the "incremental point scoring" method is utilized, the points awarded may not be enough to warrant the additional award term. As an example, assume a contract is awarded with an award term clause with a base period of six years and a contract maximum of ten years. Also assume that base years and earned award term periods may be lost based on contractor performance, up to a minimum contract length of four years. The award term plan specifies that +100 points have to be earned for an additional year of contract term and -100 points have to be earned to lose a year. The award term plan also sets the amount of points available during any evaluation period to be +/-100 points. Table 1,

below, is a possible representation of performance during the first five evaluation periods of the contract:

Evaluation Period	Points Earned	Total Points	Award Term Earned?	Points Carried Over
1	80	80	No	80
2	75	155	Yes	55
3	-20	35	No	35
4	85	120	Yes	20
5	65	85	No	85

Table 1. Evaluation Points Scoring Example

Once the amount of points accumulated by the contractor exceeds 100, the Government issues a contract modification to extend the contract term. Likewise, if the amount of points accumulated exceeds -100, then the Government decreases the contract term.

5. Identify the Process for Changing the Award Term Plan

Any changes to the award term plan should be coordinated with the ATRB and sent to the TDO for approval. After the changes are approved by the TDO, the contracting officer notifies the contractor in writing of the changes. Unilateral changes to award term plans are allowable as long as the contractor is provided written notification from the contracting officer before the start of the evaluation period. To make changes during a current

evaluation period, a mutual agreement between the Government and the contractor is required. In the interest of developing and nurturing the strategic partnership, unilateral changes to the award term plan should be kept to a minimum. Issues that call for changes to the award term plan include:

- Changes in ATRB membership.
- Adjustments to weighting scales.
- Changes to evaluation criteria.

E. CHAPTER SUMMARY

This chapter looked at the issues involved with the use of the award term incentive – both advantages and disadvantages. Some of the decision factors to utilize this incentive were also analyzed, notably contractor motivation, administrative issues and the market situation. Finally, the award term plan was analyzed in detail to give the reader an understanding of what is involved in setting up the use of this incentive.

The next chapter will analyze the results of the survey that was conducted in support of this research. The focus of the survey was to gauge the Navy's awareness of the award term incentive and to see if the issues raised in the survey match the issues found in the literature review.

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IV. ANALYSIS

A. INTRODUCTION

The preceding chapters provide background information on the award term concept: the definition, the use of the award term incentive and the issues that surround this new acquisition tool. In this chapter, responses to the survey are analyzed to answer the primary question and the three secondary research questions. Majority opinions/inputs, as well as some minority opinions, for each of the survey questions are presented. The online survey, conducted from 10 September 2001 to 9 October 2001, was developed with assistance from the NPS Office of Strategic Planning, Educational Assessment and Institutional Research (SPEAR). Each survey response was assigned a number (e.g. Survey One) to prevent association of any information or quote with a specific individual or command.

B. OVERVIEW OF DATA COLLECTED

1. Please enter your command name. (Optional)
2. Please enter your name and position title. (Optional)
3. Please enter your phone number and e-mail address. (Optional)
4. Has your command awarded a contract that utilizes an award term incentive? a. Yes b. No
5. If the answer to Question #4 is "No", are you aware of the award term incentive? a. Yes b. No
6. What product/service was procured?
7. What type of contract was utilized? (Check all that apply) a. FFP b. FPIF c. FPIS d. CPFF e. CPIF f. IDIQ
8. What period of time does the contract cover, including the award term periods (Example: four base years plus six award terms, for a total of ten years)?
9. What type of training has been provided to your procurement personnel regarding the award term incentive?
10. Have you experienced any problems utilizing the award term incentive? If so, what were they?
11. List 2-5 factors that drove the decision to utilize the award term incentive.
12. List 2-5 major issues involved with properly implementing the award term incentive.
13. List 2-5 advantages you see for utilizing the award term incentive.
14. List 2-5 disadvantages you see for utilizing the award term incentive.
15. If your organization does not use the award term incentive in its contracts, why not (Example: lack of training, legal concerns, etc.)?
16. Other comments? Thank you for your time!

Table 2. Survey Questions

As Table 2 shows, the survey was comprised of sixteen questions, with the first three questions designed to collect information on the respondents. The questions, a mix of multiple choice and fill-in-the-blank types, were sent out via e-mail to seventy commands. Commands that had a high probability of having a contracting organization were chosen to receive the survey. Responses received totaled twenty-seven, representing eighteen commands, for a command response rate of 26%.

The two most basic questions in the survey were structured to gauge knowledge of and use of the award term incentive. Knowledge of the award term incentive is important because if there is no knowledge, then there is no way that it can be used. Since the award term incentive is a relatively new concept, the number of commands with knowledge of the incentive was expected to be low; even though the concept has been discussed in recent DOD writings and professional journals (e.g. *Contract Management*). It was not known to what extent Government acquisition professionals are able to stay current with acquisition trends. Figure 3 shows that Government contracting officers do keep up with the current trends and ideas - 83% of the survey respondents were aware of the award term incentive.

Commands Aware of Award Term Incentive

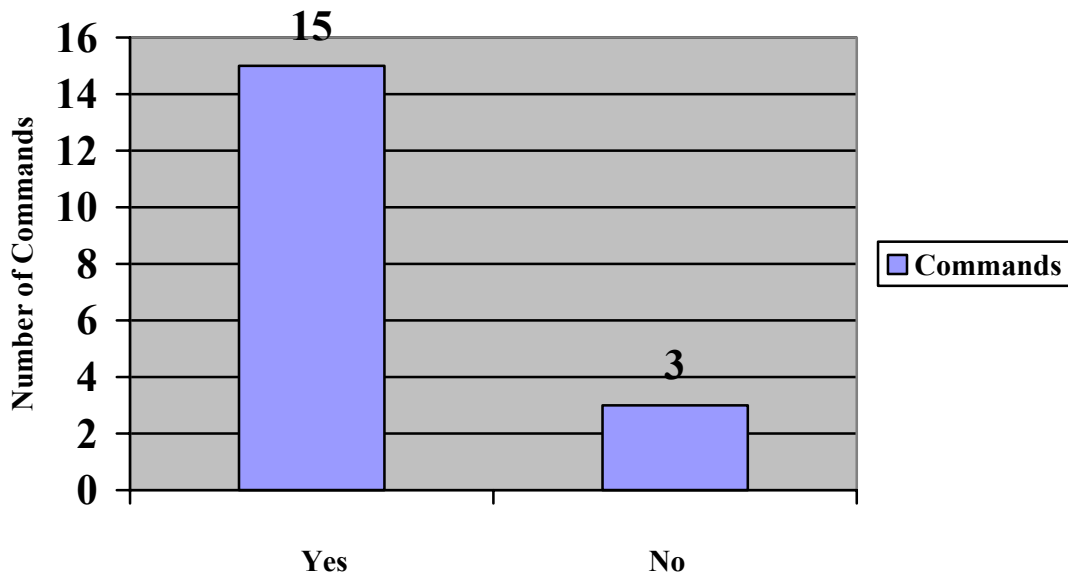


Figure 3. Commands Aware of Award Term Incentive

The number of commands that actually used the award term incentive was expected to be relatively low. Discussion of the concept just started showing up in writings in 2000, so Navy usage was not predicted to be especially high. The survey results validated that assumption, showing that only three of the eighteen commands that responded have actually used the award term incentive (see Figure 4). Additional surveys stated that contracts utilizing the incentive were in the pipeline; however, those responses were from organizations that already used the incentive.

With the basic questions of awareness and use of the award term incentive answered, the focus of the next sections is to analyze the issues, problems, advantages and

disadvantages that were listed by the respondents. What has been procured using the award term incentive will also be looked at to see if a pattern of use is established for other commands to follow.

Commands That Used Award Term Incentive

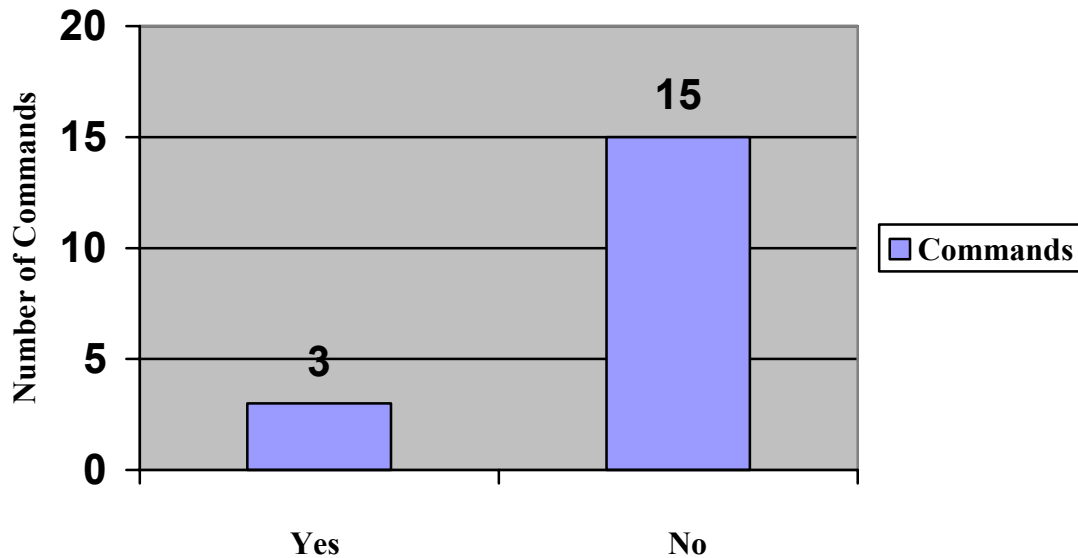


Figure 4. Commands That Used The Award Term Incentive

C. ANALYSIS

1. What is Being Procured and How is it Being Procured?

Three commands responded that the award term incentive was being utilized in some of their contracts. All of the contracts involved services, including:

- Program management.
- Logistics management.
- Engineering.
- Financial management.
- Port Handling services.
- Warehousing services.

- Delivery services.

The scopes of the contracts vary considerably. In one case, the management of fasteners was chosen as a test case to measure the effectiveness of the award term incentive. It is a newly awarded, small contract providing warehousing, quality assurance, delivery, troubleshooting and some technical research. If this test case works out, the intent is to use the incentive in other contracts. The specific comment is as follows:

Survey Nine:

So given the nature of the other services required above and beyond just providing fasteners, there is a huge service component of this contract. Therefore, since much of the services can be tracked and measured, it made perfect sense to use a term contract.

That award term incentive is being used in the procurement of services is not surprising; all contracts utilizing the award term incentive awarded to date have been for procuring services. In the initial survey responses, the procurement of fasteners (Survey Nine) was the first instance of using the incentive to procure a commodity item. Follow-up, however, showed the acquisition was in fact more of a service contract.

The survey found that the award term incentive was primarily used in IDIQ contracts (two of the three commands used IDIQs) although firm fixed-price contracts also used it. This follows the research conclusion that the incentive functions best with the IDIQ type contract because it does not require committing future fiscal year funds before the money is appropriated.

Understandably, lengths of the contracts vary. The contracts from the survey all had a base year and then possible award terms ranging from three to ten years. One of the contracts added option years to the mix. Award terms generally were in the three to four year range. This relatively short length of time is probably because the incentive is still new and Government contracting officers want to see how the incentive works before committing to additional years.

2. What Type of Training has been Provided to Your Procurement Personnel?

The majority opinion in regards to training is that little or no training is provided on the subject. Some of the comments include:

Survey Fifteen:

Award term training was a one-hour training session conducted by the Small Business specialist.

Survey Fourteen:

No formal training has been provided. Have seen briefings talking about it.

Despite the lack of training, contracting personnel are learning about the incentive through other resources. One survey respondent commented that despite the lack of command training, he has been exposed to the incentive via Defense Acquisition University (DAU) classes and professional publications like *Contract Management*. Several respondents also reported attending award term seminars conducted by Mr. Vernon J. Edwards, a specialist in Federal contracting who has written numerous articles on

the subject. Knowledge of the award term incentive is slowly making its way into Navy procurement activities; however, a more aggressive training program needs to be adopted to use it more widely.

3. Have Any Problems been Experienced Utilizing the Award Term Incentive?

There has been insufficient contract administration time to determine if there are any problems associated with the use of the award term incentive. One respondent did raise the legal issue that was discussed earlier:

Survey One:

Local counsel does not feel that award term contracts are compatible with the FAR and has therefore disallowed its use at this activity.

This one individual's narrow interpretation of a FAR paragraph, despite the support of the Under Secretary of Defense for Acquisition and Technology, prevents a command from utilizing a commercial best practice tool. At the same time, another command that reports to the same SYSCOM uses the incentive in one of its contracts. This is a good example of conflicting views of the incentive.

Another interesting comment offered to this question revolved around knowledge and training:

Survey Twenty-Three:

This is the first contract with award term incentives for us. Since the concept is new, it was very hard for us to have the requiring activity understand it. Performance-Based Services Acquisition (PBSA) concepts have not been familiar to the requiring activities (commands vice contracting offices). Since we have not trained well in this new concept, it is

hard for us to answer all of their questions.

Before the award term incentive will be widely used and accepted, the knowledge has to be in the contracting workforce. The knowledge is not just for the benefit of the contracting personnel, but also for the requiring activities and the contractors. If the Government contracting officer cannot adequately explain the incentive, no one is going to want to use it. Proper training is a must.

4. What are the Key Factors in Deciding to use the Award Term Incentive?

The factor most cited by the survey respondents was the desire to incentivize strong contractor performance. That thought showed up in every response. The next most-popular response was the need to develop a long-term relationship with a quality contractor. These factors fall in line with the procurement of services.

Survey Twenty-Three:

Management direction to increase the number of PBSA contracts was a driving factor in the decision to utilize the award term incentive (USD AT&L direction that DOD establishes, at a minimum, that 50% of service acquisitions, measured in both dollars and actions, are to be performance-based by year 2005). The award term incentive is the most understandable concept to the customers (extending the term is similar to option exercise).

If a quality contractor provides excellent service, why should the service be re-competed at the end of a three-year period? The costs and risks associated with putting out a new RFP for the services do not make good

business sense. Industry would not do that. If the Government is to truly adopt commercial best practices, it should have the opportunity to continue dealing with that contractor on a long-term basis.

Survey Seven:

Award term incentive incentivizes the contractor to provide quality service at reasonable prices. Allows a program manager to keep an incumbent if he is happy with performance and price. Allows the contractor to understand our business and help us improve our business practices. Allows the contractor to make long-term commitments with their subcontractors.

The benefits of a long-term relationship affect more than just the Government and the contractor. The relationship allows the contractor to foster long-term relationships with its subcontractors. The ripple effect of a relationship fostered by the award term incentive is felt far down the supply chain.

One respondent expressed cynicism for the use of the incentive:

Survey Eight:

The award term incentive is an acquisition buzzword that people wanted to state has been implemented at their command.

Certainly, some commands might award a token contract utilizing the award term incentive just to be able to say that the incentive was tried. If the Government truly wants to adopt best commercial practices, this temptation must be resisted. Effective training is essential to breaking down any cynicism.

5. What are the Major Issues with Properly Implementing the Use of the Award Term Incentive?

Communication was the issue that appeared on most of the surveys. The importance of constant, effective communications was stressed in many of the survey responses. As presented in the literature review in regards to the award term incentive, good communication is the foundation for successful contract execution.

Survey Twenty-Five:

On-going communication between the Government and the contractor on performance is required. If the contractor's performance is not going well, the Government must demonstrate the commitment to follow through with not awarding additional terms (use the hammer).

In addition to effective communication, the need to properly anticipate the workload requirements of award term utilization was raised as an issue. In this era of downsizing, taking on additional responsibilities with fewer people is an area of concern for some of the commands.

Survey Six:

The administration time required to properly implement interim evaluations, end of year evaluations and monitor reports is a major concern.

Survey Eight added:

Workload considerations, economic conditions and numerous other variables raise serious questions about the utility and variability of the award term incentive. Administrative burden of conducting award term determinations will be big.

6. What are the Advantages of Utilizing the Award Term Incentive?

An advantage that contradicts the issue of the extra administration time that is required with the use of the award term incentive is the time saved by not having to conduct follow-on procurement for recurring services.

Survey Two:

Reduced man-hours based on no need to do follow-on procurement for recurring services.

Survey Three:

Saving the administrative cost and time associated with new acquisitions.

Survey Six:

Should save the Government time and money (for re-competes of professional support services contract every five years, time is usually lost when the services transition to a new contractor).

If time is added to one portion of the acquisition process (e.g. contractor performance evaluations), but time is saved on another portion of the acquisition process (e.g. re-competes for services), is there a real problem? Acquisition is all about tradeoffs and the use of the award term incentive is no exception.

Other advantages mentioned include incentivizing good performers, establishing long-term relationships with world-class contractors, allowing the contractor to maintain a stable workforce and fostering improved communications and teamwork between the Government and the

contractor. Survey Thirteen summed up the advantages of the award term incentive:

Businesses want "repeat business". Award term contracts provide excellent incentives - in many cases, this is probably a better incentive than an extra percent or two of award fee. Potentially provides a tremendous reduction in administrative expenses associated with planning, soliciting, evaluating and awarding contracts, since a single "expenditure" of the contract award process can support a program for many years (e.g. potentially up to 15 years).

7. What are the Disadvantages of Utilizing the Award Term Incentive?

Accurately forecasting Government requirements and award term pricing in the out-years is a major concern for the survey respondents.

Survey Six:

The ability to accurately forecast Government requirements for such a long period of performance is a disadvantage. Are our forecasts for the out-years going to be meaningful, fair and reasonable?

Survey Fifteen added:

Significant changes occur over time that just cannot be anticipated both in terms of the requirements and services provided. Assurance of a fair and reasonable price over the long run is paramount.

Even if the uneasiness of forecasting prices and requirements far into the future is overcome, there is still the contractor's unfamiliarity with the award term that must to be addressed. For example, ensuring that the award term review board is involved in the process and

evaluates performance in accordance with the provisions set forth in the contract is important to the contractor. However, as Survey Nine points out:

For contractors who have had award fees in the past that are usually paid each year, this is an income stream. Where a term incentive contract has no income, there will be no benefits realized until the end of the contract. If the need goes away prior to exercising any of the award terms, the terms are lost and the contractor gets nothing. If I was a vendor and I had a relatively guaranteed income as compared to a potential term extension, I think that the Government might see some reluctance on my part for using award terms.

Although contractors are accustomed to this type of relationship in the commercial world, it is a new idea in the Government sector. Old mindsets must be broken for this incentive to generate the desired results. Once again, effective training plays a significant part in contractor education.

8. If Your Organization does not Use the Award Term Incentive, Why Not?

Answers to this question mirror issues already discussed. Issues mentioned the most include:

- Legal issues.
- Lack of understanding and training
- Too new of a tool to use.

The newness of the concept leaves people unsure of the real benefits of its use. Survey 15 expressed one such concern:

This is not considered advantageous when all the factors are considered. It requires close monitoring and/or much more detailed research to

implement and still have an expectation that prices will remain competitive in the long-run, especially considering both internal organizational changes and external influences.

Survey 22 also expressed some doubts as to the incentive's real value:

A tool that may be of marginal value in support services contracts. I believe that the best-value source selection, encompassing evaluation of past performance, incentivizes contractors to the extent necessary.

Survey 3 echoed this feeling:

A properly structured competitive proposal evaluation, which gave appropriate weight to past performance, should theoretically be able to reward good performance without the concomitant inflexibility and difficulties associated with the award term vehicle.

9. Where to Go with the Award Term Incentive

The results of the survey confirm what has already been written on the award term incentive. No new issues, advantages or disadvantages of its use were uncovered. The survey did show that some uncertainties exist as to the use and worth of the award term incentive. However, survey respondents understand the value of establishing long-term relationships with contractors, especially when contracting for services. Lack of knowledge and training are the biggest hurdles that must be overcome for the Navy to effectively utilize this incentive.

Before tackling the knowledge and training issues, the Navy needs to make a decision. Does the Navy want to use the award term incentive in its contracts? In his memo of

November 2000, Dr. Gansler listed the award term incentive as one of the price-based acquisition techniques recommended to move towards greater access to commercial technologies, products and processes [Ref. 1]. The Office of the Assistant Secretary of the Navy for Research, Development and Acquisition (DON RD&A) needs to make a determination of the legality of the award term incentive. It does not make sense to have one command under a SYSCOM not use the incentive because of the legal concerns while another command under the same SYSCOM uses it. The legal issue should be resolved at the top of the chain. If the incentive is deemed legal, then DON RD&A should prepare and submit the language for a FAR/DFARS entry detailing the use of the award term incentive. If the Navy is serious about acquisition reform, the leadership must become involved and drive the issue.

Once the legal issue is settled, the next step is to develop training for the contracting commands, contractors and users. Each of the groups needs to have an understanding of the incentive. Government contracting officers and contractors need in-depth knowledge; however, the users also need to understand how the incentive affects their relationships in the procurement of services. The Air Force is a good source of information for developing training requirements. Having set up an office at the Air Force Materiel Command that deals exclusively with award term issues, the knowledge there would be invaluable in setting up a Navy training program. The National Contract Management Association (NCMA) is another good source of training information. Having already developed a fast response seminar on the topic (which has already been given

to some Navy commands), it can provide additional seminars. Web-based tutorials can also be developed and placed on websites such as the Department of the Navy's acquisition website, www.acq-ref.navy.mil, or the Naval Supply Systems Command (NAVSUP) website, www.navsup.navy.mil. Effective training gives all parties concerned a level of comfort in using the incentive. Once the training is in place, the next step is to actually use the incentive in contracts.

The first contracts using the award term incentive should be basic procurements - just enough to get contracting personnel (Government and contractor) exposed to the use of the incentive. As people get more comfortable with using the incentive, procurements of a more ambitious scope can be attempted. From the readings and the survey, the incentive works best in the procurement of services; so these types of contracts should be the first to use the incentive. As familiarity and skill in using the incentive increases, other uses can be explored.

Protests have not yet been an issue with the award term incentive. That can change as the first contracts to utilize the incentive begin to approach the award terms. The acquisition reform offices at DON RD&A and NAVSUP will have to work with the Air Force award term office and monitor the Air Force contracts that first used the incentive. As issues are brought up with those contracts, lessons learned from the contracts can be used in future Navy contracts.

If DOD really wants to pursue commercial best practices and have the PBSA and PBA initiatives gain

momentum, the use of the award term incentive must succeed. As Survey Twenty-Three stated it:

Award term incentive is the most understandable initiative to customers and contractors.

If an initiative that is so close to existing contracting vehicles (e.g. award-fee and options) cannot succeed, how can the more ambitious initiatives that are proposed in Dr. Gansler's memo of November 2000 hope to be incorporated into Government contracting? The answer is that with direction from the Navy's acquisition leadership, training and careful planning, the award term incentive will be a success.

D. CHAPTER SUMMARY

Information collected from the on-line survey was analyzed to measure the Navy's awareness of the award term incentive and to gauge its willingness to utilize the incentive. Survey responses show that knowledge of the incentive is high, but confusion as to its legality and use exist. Actions that the Navy can take to clear up the issues surrounding the incentive and promote its use were discussed.

The final chapter focuses on the conclusions and recommendations developed during this research. The primary and secondary research questions are summarized and reviewed, and areas for further research are proposed.

V. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS AND RECOMMENDATIONS

This research was undertaken to determine the Navy's awareness of the award term incentive. The purpose of the research was to identify the factors and issues integral to the successful implementation of the award term incentive in Navy contracts. From the research, a number of points can be made:

1. The Navy is Aware of the Award Term Incentive

The results of the survey show that Navy contracting officers are aware of the award term incentive. This shows that Navy contracting professionals keep up with the current trends in Government contracting. The exposure to the new trends and ideas comes from various sources: command training, DAU courses, professional organizations (e.g. NCMA) and professional journals/magazines (e.g. Contract Management). It is important for contracting officers to stay abreast of the changes, especially with today's pressure to move towards commercial best practices. It is equally important that the Navy leadership allow its contracting professionals the time to keep their contracting skills up-to-date.

2. The Legality of Award Term is Still a Question at Navy Commands

Survey results show that legal issues prevent some commands from using the award term incentive. That does not make sense given the Under Secretary of Defense for Acquisition and Technology's endorsement of its use. Navy leadership must reiterate that the use of the award term

incentive as a best commercial practice is encouraged. Take the decision to use the award term incentive away from the individual command legal officers and give it to the contracting officers. Each contracting officer should have the award term incentive available for use. It is not effective in every situation; however, that should be for the contracting officer to decide, not the legal officer.

3. Improve Training and Use Award Term Incentive in Contracts

There is no question that award term training needs to improve; there are many issues relating to setting up the incentive and monitoring contract performance that need to be explained. The award term incentive is so similar to existing tools (e.g. options and award fee) that it should be relatively simple to develop a good training program. If the Navy is serious about acquisition reform, one of the Navy acquisition reform offices should take up the effort to develop a comprehensive training plan for Navy contracting officers. DON RD&A's Acquisition Reform Office has a mission to:

Lead the Department of the Navy in continuously improving acquisition processes essential to delivering better products and services to the Warfighter in a smarter, cheaper, faster fashion. [Ref. 14]

NAVSUP's Acquisition Reform Office has a mission to:

Advocate and facilitate activities necessary to accomplish the cultural and process changes needed to affect the acquisition reform goals of reducing acquisition costs, reducing process lead times, and improving product/service availability, performance and reliability. [Ref. 15]

Developing a useful training guide for award term applies to either of those mission statements. One of the acquisition reform offices should take the lead on this, not only for award term, but also for all the other initiatives that are being pushed. This action is in the scope of the mission statements, plus it provides a valuable service to the subordinate commands. The acquisition reform offices do not have to do this alone. Contact the Air Force for lessons learned from Air Force contracts. They can contact the NCMA to see how it developed its Fast Response Seminar on the award term incentive. Talk to the Navy commands that have already used the incentive in contracts. There is a lot of information on the topic available; someone needs to tap into that information. An acquisition reform office is a logical choice.

Once the training is in place, the next step is to actually use the incentive in a contract. Pick some contracts that are a good fit for the award term incentive and use them as test cases. The test cases can be small contracts; the key is to use the incentive and see how it works for the command. If the test cases do not work out, use the lessons learned to improve the use of the incentive in another contract. If after using the incentive the feeling is that the incentive does not work for the command, do not use the incentive in follow-on contracts. It is important to try these new initiatives; it is the only way to find out if they work for the command.

4. Award Term Remains Untested in Claims and Protests

Insufficient contract administration time exists to determine if there are any problems related to the use of the award term incentive. As previously stated, acquisition reform offices at DON RD&A and NAVSUP need to monitor the Air Force contracts for protests and claims as those contracts begin to approach the award term periods. As lessons are learned from those contracts, training programs can be updated to allow the knowledge to be incorporated into upcoming Navy contracts. The few Navy commands that have used the award term incentive can also feed the lessons learned from their contracts to the acquisition reform offices. This feedback to a centralized location is ideal for distributing the information to all Navy contracting commands.

B. SUMMARY AND REVIEW OF RESEARCH QUESTIONS

- 1. What are the Primary Factors Involved in the Decision to Utilize the Award Term Incentive at U.S. Naval Procurement Activities, and what are the Issues Involved in the Effective Application of this incentive?**

The two major factors involved in the decision to utilize the award term incentive are the desire to foster long-term relationships with world-class suppliers and the need to incentivize strong contractor performance. Award term is as close as the Government can get to the commercial best practice of working with whomever it wants. Using award term gives the Government the opportunity to develop relationships with these world-class suppliers by offering extended lengths of contract performance in return for outstanding contract support.

The main issues involved in the decision to utilize the award term incentive are training, choosing evaluation

criteria and communication. A proper training program erases many of the uncertainties that surround the award term incentive. Training will help with choosing the correct evaluation criteria. Choosing the correct evaluation criteria gives the contractor an idea of what is important to the Government in the performance of the contract. The right evaluation criteria gives the contractor direction and will give the Government the service it desires. Training also helps establish the importance of frequent communication between the Government and the contractor. Communication is a critical component to making the award term incentive an effective tool. Failure to communicate leads to misunderstandings during performance evaluations, which eventually degrades contract performance.

2. What is the Background and History of the Award Term Incentive?

Award term is a relatively new concept that was first used by the Air Force in 1997. It is described as a variation of the award fee incentive and is also similar to options. This tool has received attention recently, after it was touted as a method for utilizing commercial best practices in Government contracting. Mentioned in a November 2000 Under Secretary of Defense for Acquisition and Technology memorandum and the December 2000 Guidebook for Performance-Based Services Acquisition in the DOD, articles on award term have been appearing in contracting publications and websites. While not used widely in the Navy at this time, it is expected that more contracts will utilize this tool as awareness of the incentive increases.

3. What are the Advantages and Disadvantages of the Award Term Incentive?

Advantages of using the award term incentive include:

- Saves time and money by not requiring frequent re-procurement costs for recurring services.
- Good way to incentivize good performers with additional business.
- Using a commercial best practice attracts world-class suppliers to Government contracting.

The biggest advantages revolve around attracting the best suppliers with the lure of long-term business arrangements. A benefit of engaging in long-term relationships is that the re-procurement costs for recurring services are significantly decreased for both the Government and the contractor – a definite win-win situation.

Some disadvantages related to the use of award term exist:

- Pricing of award terms in the out-years.
- Unfamiliarity with award term incentive.

Pricing of the award terms years in advance is a major issue for contractors. There is no foolproof way of predicting what prices will be ten years in the future. Starting with shorter contract timelines when first using the incentive is one way to approach the problem, but then the advantage of not having the frequent re-procurement costs is diminished. Communication is the key to this problem. The benefits of a long-term relationship outweigh the uncertainty of future prices. If both parties are serious about nurturing a relationship, the price issue can be resolved to the satisfaction of both sides.

Unfamiliarity with the incentive will go away as the tool is used. Testing the incentive in small contracts will help identify the problems and make its use in additional contracts easier. Watching how other commands use the tool will also provide insight and understanding.

4. What are the Key Issues Involved with the Government's Attempt to Implement the Award Term Incentive?

Training and communication are the two major issues involved with successfully implementing the award term incentive. One of the Navy's acquisition reform offices must take the lead on developing an effective award term training program. Good training sets the foundation for successful implementation of the tool in Navy contracting. By doing this, the acquisition reform office can set precedence for developing training programs for the other best commercial practices that are being touted (e.g. evolutionary development strategy, share-in-savings contracts and fixed-price variable outcome (FPVO) contracts).

Communication is also important to the success of the incentive. Effective communication provides the direction the contractor needs to provide the desired support. Two-way communication provides a means for defusing potential problems early in the process. It is mandatory in a good long-term relationship.

C. SUGGESTED AREAS FOR FURTHER RESEARCH

A goal of this research was to gauge award term incentive level-of-knowledge in Navy procurement organizations. The knowledge is out there, but the use of

the incentive is still in the infancy stage. Areas for future studies include:

- Conduct a follow-up survey of Navy procurement activities to measure usage of the award term incentive; compare those results to the usage rate in 2001.
- Conduct research on the Air Force contracts that first used the award term incentive as they operate in the award term periods. Determine how claims and protests affect the use of the incentive in follow-on contracts.
- Conduct a cost-benefit analysis to determine if the re-procurement costs saved using the award term incentive outweigh the costs incurred by having to evaluate contractor performance during the life of the contract.
- Analyze award term training programs that are being used by Navy procurement commands. Determine whether a centralized training program for commercial best practices would better serve Navy contracting officers.

APPENDIX A. SAMPLE AWARD TERM CLAUSE [FROM REF. 8]

(a) The initial _____ year [contract term or ordering period] may be extended or reduced, on the basis of contractor performance, resulting in a(n) [contract term or ordering period] lasting a minimum of _____ years from the date of contract award to a maximum of _____ years from the date of contract award.

(b) Monitoring of Performance. The contractor's performance against the measures of merit will be continually monitored by the Performance Monitors whose findings are reported to the Award Term Review Board (ATRB). The ATRB recommends award term points to the Term Determining Official (TDO) who makes the final decision of the award term points based on the contractor's performance during the award term evaluation period.

(c) Award Term Plan. The evaluation criteria and associated grades are specified in the award term plan. The evaluation periods with the associated award term extensions/reductions and performance criteria with associated award term times are also specified in the award term plan.

(d) Modification of Award Term Plan. Unilateral changes may be made to the Award Term Plan if the contractor is provided written notification by the PCO before the start of the upcoming evaluation period. Changes affecting the current evaluation must be by bilateral agreement.

(e) Self-evaluation. The contractor will submit to the Contracting Officer (CO) within _____ working days after the end of each award term evaluation period, a brief written self-evaluation of its performance for that period. This self-evaluation shall not exceed _____ pages. This self-evaluation [will or may] be considered in the ATRB's evaluation of the contractor's performance during this period.

(f) Award Term Extension. The contract-ordering period may be unilaterally modified to reflect the TDO decision. The total contract-ordering period including extensions under this clause will not exceed _____ years. If at any time the ordering period or contract term has _____ years or less remaining, the operation of the award term feature will cease and the ordering period will not extend beyond the term set at that time.

(g) Award term determinations and the methodology for determining award term are unilateral decisions made solely at the discretion of the Government.

APPENDIX B. SAMPLE AWARD TERM PLAN [FROM REF. 5]

A. INTRODUCTION

a. This award term plan is the basis for the [title of program] evaluation of the contractor's performance and for presenting an assessment of that performance to the Term Determining Official (TDO). Evaluation for term points will begin at the start of the contract. An adjustment to the award term will not result in a contract ordering period of less than [minimum contract term] or greater than [maximum contract term] from the award of the contract. This plan describes the specific criteria and procedures to be used to assess the contractor's performance and to determine the amount of award term points earned. Actual award term determinations and the methodology for determining the award term are unilateral decisions made solely at the discretion of the Government.

b. Any contract term extensions earned will be reflected in unilateral contract modifications based upon points earned as determined by the TDO. The award term earned will be determined by the TDO based upon review of the contractor's performance against the criteria set forth in this plan. The TDO may unilaterally change this plan prior to the beginning of an evaluation period. Changes to this plan that are applicable to a current evaluation period will be incorporated by mutual consent of both parties.

B. ORGANIZATION

The award term organization consists of the Term Determining Official (TDO); an Award Term Review Board

(ATRB) which consists of a chairperson, the Contracting Officer, a recorder, other functional area participants, and advisor members; and the Performance Monitors. The TD0, ATRB members, and Performance Monitors are listed in Annex 1.

C. RESPONSIBILITIES

a. Term Determining Official. The TD0 approves the award term plan and any changes. The TD0 reviews the recommendation(s) of the ATRB, considers all pertinent data, and determines the earned award term points for each evaluation period. The TD0 appoints the ATRB Chairperson.

b. Award Term Review Board. ATRB members review performance monitors' evaluation of the contractor's performance, consider all information from pertinent sources, and arrive at an earned award term points recommendation to be presented to the TD0. The ATRB may also recommend changes to this plan.

c. ATRB Recorder. The ATRB recorder is responsible for coordinating the administrative actions required by the Performance Monitors, the ATRB and the TD0.

d. Contracting Officer. The CO is the liaison between contractor and Government personnel. The CO modifies the contract ordering period if necessary to reflect the decision.

e. Performance Monitors. Performance Monitors maintain written records of the contractor's performance in their assigned evaluation area(s) so that a fair and accurate evaluation is obtained. Monitors prepare interim and end-of-period evaluation reports as directed by the ATRB.

D. AWARD TERM PROCESSES

a. Available Award Term Points. The earned award term points will be based on the contractor's performance during each evaluation period. The available points for each evaluation period are shown in Annex 2. An accumulation of positive [insert number of points] points is required for a one year extension and an accumulation of negative [insert number of points] results in a decrease in the contract ordering period of one year.

b. Evaluation Criteria. If the CO does not provide specific notice in writing to the contractor of changes to the evaluation criteria prior to the start of an evaluation period, the same criteria from the preceding period will be used in the subsequent evaluation period. Any changes to evaluation criteria will be made by revising Annex 3 and notifying the contractor.

c. Interim Evaluation Process. The ATRB Recorder notifies each ATRB member and Performance Monitors [insert number of days] calendar days before the midpoint of the evaluation period. Performance Monitors submit their evaluation reports to the ATRB [insert number of days] calendar days after this notification. The ATRB Chairperson determines the interim evaluation results and notifies the contractor of the strengths and weaknesses for the current evaluation period. At this time, the ATRB may also recommend any changes to the award term plan for TDO approval. The CO may also issue letters at any other time when it is deemed necessary to highlight areas of Government concern.

d. End-of-Period Evaluations. The ATRB Recorder notifies each ATRB member and Performance Monitor [insert number of days] calendar days before the end of the evaluation period. Performance Monitors submit their evaluation reports to the ATRB [insert number of days] calendar days after the end of the evaluation period. The contractor presents its self-assessment. The ATRB Chairperson prepares its evaluation report and recommendation of earned award term points. The ATRB Chairperson briefs the evaluation report and recommendation to the TDO. The TDO determines the overall grade and earned award term points for the evaluation period within [insert number of days] calendar days after each evaluation period. The TDO letter informs the contractor of the earned award term points and the total cumulative points. Upon the accumulation of sufficient award term points, the CO issues a modification within [insert number of days] calendar days after the TDO's determination is made authorizing award extension or reduction reflecting the earned award term amount.

e. Contractor's Self-Assessment. The contractor's self-evaluation is submitted to the CO within [insert number of days] calendar days after the end of the evaluation period. This written assessment of the contractor's performance throughout the evaluation period may also contain any information that may be reasonably expected to assist the ATRB in evaluating the contractor's performance. The contractor's self-assessment may not exceed [insert number of pages] pages.

E. AWARD TERM PLAN CHANGE PROCEDURE

The TDO may unilaterally change this plan prior to the beginning of an evaluation period. In addition, the contractor may recommend changes to the plan no later than [insert number of days] days prior to the beginning of the new evaluation period. The contractor will be notified of changes to the plan by the CO, in writing, before the start of the affected evaluation period. Changes to this plan that are applicable to a current evaluation period will be incorporated by the mutual consent of both parties.

F. ANNEXES

1. Award Term Organization

Members

Term Determining Official: [Position Title][Office Symbol]

ATRB Chairperson: [Position Title][Office Symbol]

Award Term Review Board Members:

Deputy Program Director	[Office Symbol]
Program Manager	[Office Symbol]
Contracting Officer	[Office Symbol]
Recorder	[Office Symbol]
Legal Staff Member	[Office Symbol]
Financial Mgmt Staff Member	[Office Symbol]
Plans Staff Member	[Office Symbol]
Director of Logistics	[Office Symbol]
Director of Engineering	[Office Symbol]
Director of Configuration	[Office Symbol]

Major User Rep

[Office Symbol]

DCMA Rep

[Office Symbol]

Performance Monitors

Area of Evaluation

Performance Monitor

Program Management

[Office Symbol]

Cost and Schedule Management

[Office Symbol]

Quality Assurance

[Office Symbol]

Technology Insertion

[Office Symbol]

Subcontract Management

[Office Symbol]

2. Award Term Allocation by Evaluation Periods

The award term earned by the contractor will be determined at the completion of evaluation periods shown below. The award term points shown corresponding to each period is the maximum available award term amount that can be earned during that particular period.

Evaluation Period	From	To	Available Award Term
First			
Through			
Last Period			

NOTE: The award term arrangement will continue using the yearly evaluation period during any additional years awarded up to a maximum of [insert number of years/periods]. If at any time after the completion of the transition period, the ordering period does not extend more than [insert time required for re-compete of requirement] from the TDO decision, the operation of the award term feature will cease and the ordering period will not extend beyond the term set at that time.

+ [insert number of points] award term points = 1 year term extension

- [insert number of points] award term points = 1 year term reduction

3. Evaluation Criteria (Sample)

Program Management	25% of Total
Cost and Schedule Management	25% of Total
Quality Assurance	25% of Total
Technology Insertion	15% of Total
Subcontract Management	10% of Total

Technology Insertion: (Specific area of interest: contractor's support of technical insertion into the system, which increases mission effectiveness, "openness" of system to accept new components and to interface with other systems).

Unsatisfactory	Contractor fails to implement technical developments, which lead to degradation of training service.
Satisfactory	Contractor implements technical developments, which improve services.
Very Good	Contractor implements technical developments, which significantly improve services.
Excellent	Contractor implements leading edge technology improvements, which substantially improve services.

Subcontract Management: (Specific areas of interest: Meeting goals of small business (SB) subcontracting).

Unsatisfactory	Contractor fails to meet goals of SB subcontracting plan.
Satisfactory	Contractor meets goals of SB subcontracting plan.
Very Good	SB percentage of total contract value between goal and ____%.
Excellent	SB percentage of total contract value exceeds ____%.

4. Award Term Conversion Table

<u>Rating</u>	<u>Award Points</u>	
	One-Year Cycle	6 Month Cycle
Unsatisfactory	-100 to -1	-50 to -0.5
Satisfactory	0 to +33	0 to +16.5
Very Good	+34 to +66	+17 to +33
Excellent	+67 to +100	+33.5 to +50

5. Sequence of Events – Award Term Process

Interim Evaluation (IE) (6 months into evaluation period):

14 days prior to IE.	Recorder notifies each ATRB member and Performance Monitor.
7 days prior to IE.	Performance Monitors submit evaluation reports to ATRB.
14 days after IE.	ATR B Chairperson determines interim evaluation results and notifies contractor of strengths and weaknesses.
Normally at least 90 days prior to EOP.	ATR B may recommend any changes to Award Term Plan to TDO (time must be allowed for negotiation with contractor and possible ADR procedures).

End-of-Period (EOP) (End of 12 month evaluation period):

14 days prior to EOP.	Recorder notifies each ATRB member and Performance Monitor.
14 days after EOP.	Performance Monitors submit evaluation reports to ATRB. ATRB forwards a copy to contractor. Contractor submits self-assessment to CO.
21 days after EOP.	Performance Monitors give oral presentations of evaluations to ATRB. Contractor has opportunity to address Performance Monitor Evaluation Reports.
30 days after EOP.	ATRb briefs evaluation report and recommendation to the TD0. Contractor has opportunity to brief TD0.
45 days after EOP.	TD0 informs contractor and CO of the earned award term points.
15 days after TD0's decision.	CO issues a contract modification reflecting the earned award term points.

APPENDIX C. LIST OF ACRONYMS

1. ADA - Anti-Deficiency Act
2. AFFARS - Air Force Federal Acquisition Regulations Supplement
3. AFIT - Air Force Institute of Technology
4. ATRB - Award Term Review Board
5. CICA - Competition in Contracting Act
6. CPIF - Cost Plus Incentive Firm
7. DAU - Defense Acquisition University
8. DOD - Department of Defense
9. DON RD&A - Department of the Navy Research, Development and Acquisition
10. FAR - Federal Acquisition Regulations
11. FARA - Federal Acquisition Reform Act
12. FASA - Federal Acquisition Streamlining Act
13. FFP - Firm Fixed Price
14. FPIF - Fixed Price Incentive Firm
15. FPVO - Fixed Price Variable Outcome
16. IDIQ - Indefinite Delivery Indefinite Quantity
17. J&A - Justification and Approval
18. NAVSUP - Naval Supply Systems Command
19. NCMA - National Contract Management Association
20. NPS - Naval Postgraduate School
21. ORD - Operational Requirements Document

- 22. PBA - Price-Based Acquisition
- 23. PBSA - Performance Based Services Acquisition
- 24. RFP - Request for Proposal
- 25. SPEAR - Strategic Planning, Educational Assessment
and Institutional Research
- 26. TDO - Term Determining Official
- 27. USD - Under Secretary of Defense

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