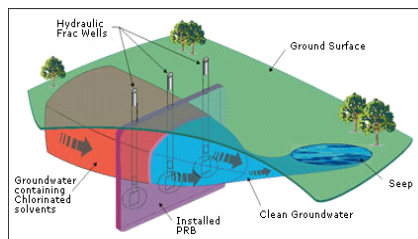




Air Force
Center for
Environmental
Excellence

Environmental Restoration Performance Based Contracting (PBC) Concept of Operations



CONOPs Delivered:

22 February 2007 (Final)

Table of Contents

TABLE OF CONTENTS.....	2
EXECUTIVE SUMMARY	3
INTRODUCTION AND VISION.....	7
PBC DOCUMENTS TO DATE.....	8
AFCEE PBC CONOPS DEVELOPMENT TO DATE	9
AFCEE’S PBC DEFINITION.....	10
STEPS AND AFCEE GUIDANCE FOR EXECUTING PBC.....	12
AFCEE CONTRACT PORTFOLIO	26
CONCLUSION	28

APPENDIXES

- Appendix A - Air Force Cleanup Program Performance-Based Management Policy
- Appendix B - Sample SOO
- Appendix C - Sample PBC Execution Schedule
- Appendix D - Sample Site Visit Checklist
- Appendix E - Air Staff Guidance (When Finalized)
- Appendix F - External PBC Links
- Appendix G - Terms and Acronyms
- Appendix H - Project Examples

Executive Summary

This document presents the Air Force Center for Environmental Excellence's (AFCEE's) position regarding Performance-Based Contracting (PBC) and outlines the Concept of Operations (CONOPs) for how AFCEE will execute PBC for the Air Force Environmental Restoration Program (ERP).

AFCEE conducted a series of workshops and focus group meetings with its internal staff, customers, and industry partners to craft this PBC implementation approach. The collaborative nature of AFCEE's CONOPs development ensured key stakeholder buy-in and position statements that reflect diverse viewpoints.

This AFCEE CONOPs complements the USAF HQ/ILEVR PBC guidance by detailing how AFCEE will execute PBCs for the Air Force ERP with specific discussion on AFCEE contracts, processes, and approaches.

The Air Force is undergoing a systematic review of its ERP and evaluating methods to implement exit strategies for sites and bases. These exit strategies can include a multitude of different approaches including privatization deals and PBCs. Historically, maximum achievable cleanup technologies and cleanup standards have driven the ERP. Now, the AF is committed to a systematic process where the AF mission or specific reuse objectives will drive the cleanup end states and, where possible, the AF will execute exit strategies such as PBCs to achieve those objectives.

AFCEE considers PBC to be a contracting approach whereby the scope of work is performed with minimal focus on process and maximum focus on results. Characteristics of PBCs include:

- Government describes the objective and performance measures but does not mandate the process to be used to meet the objectives
- Can be used with a variety of contract types (e.g., Firm Fixed Price, Cost Plus Incentive Fee); however, where appropriate, Firm Fixed Price contracts are preferred
- Focuses on sound management principles, performance metrics, comprehensive up-front planning, risk management, and performance.

The following table summarizes the steps required for successfully conducting a PBC acquisition and a brief summary of AFCEE's position for implementing those steps. It also includes an example of the time that might typically be required to complete each step. These steps, coupled with approximately 30 days for contractors to develop proposals, comprise a 6-month PBC acquisition schedule which would have to be modified for a specific project. This schedule can be accelerated for some projects, especially when there is a less complex project and/or a project with easily accessible site information.

Acquisition Element	Steps	Summary Position Statement	Sample Schedule (cal. days)
<i>Screening Projects for PBC Application</i>	<ul style="list-style-type: none"> Fully understand the project, available information, and objectives Assess prospects for “grouping” projects into single PBC awards Determine if PBC is the correct contract approach 	<p>PBC may be the right approach for projects with these characteristics:</p> <ol style="list-style-type: none"> Well characterized site(s) Clearly defined performance expectations/objectives Measurable and verifiable performance measures and standards Potential to link the payment schedule to specific performance objectives and milestone completion 	7
<i>Establishing the Project Team</i>	<ul style="list-style-type: none"> Clearly define all the roles and responsibilities of team members Include relevant stakeholders Define Project Team communication channels 	<p>The Project Team should:</p> <ol style="list-style-type: none"> Be established early Include relevant stakeholders to include the RPM/BEC, AFCEE PM, CO, and JA Work closely together to plan and execute the PBC Actively seek solutions to impediments <p>When possible, key members of the Project Team (e.g. CO/JA) should work the project from cradle to grave to avoid changing opinions/directions which can derail a PBC.</p>	7
<i>Planning the Acquisition and Acquisition Schedule</i>	<ul style="list-style-type: none"> Define suspense dates for aspects of the PBC acquisition (e.g. site visits) Evaluate appropriate contract vehicles for the project scope and acquisition approach Perform market research of contractor interest, relevant experience and project feedback; evaluate small business interest Define ground rules for handling change orders Determine appropriate acquisition approach to include pricing arrangement 	<p>PBC acquisitions are complex transactions, and AFCEE recommends investing in comprehensive upfront planning with the technical, contracting, and legal teams</p> <p>Also, AFCEE recommends consideration of small business interests in the PBC acquisition planning process.</p> <p>The Project Team must determine the right pricing arrangement for the PBC. AFCEE prefers fixed-price PBCs but understands that cost-type PBCs might be applicable in some circumstances.</p>	14
<i>Evaluating Contract Risk and Benefits and Limitations of Insurance</i>	<ul style="list-style-type: none"> Assess the performance risk for each project Evaluate options to mitigate these performance risks When applicable, determine if environmental insurance (EI) would be beneficial to the Air Force 	<p>The Air Force continues to collaborate with regulators to achieve regulatory closure (the regulatory/political risk). The Air Force transfers accountability for the technical approach to the contractor (the performance risk).</p> <p>Contractor risk may be mitigated in a number of ways including:</p> <ol style="list-style-type: none"> Availability and relevance of site information and characterization Viability of the end state Applicable use of EI <p>AFCEE's position is that EI is not typically recommended. EI should be viewed as a means to an end (e.g.; the project end-state objective) and therefore should only be utilized when it provides a tangible benefit to achieve the end-state objective.</p>	14

Acquisition Element	Steps	Summary Position Statement	Sample Schedule (cal. days)
<i>Making Project Decisions</i>	<ul style="list-style-type: none"> • Evaluate project drivers such as property reuse • Evaluate funding strategies linked to budget projections • Evaluate acquisition award approaches • Structure the PBC • Evaluate incidental design requirements 	<p>AFCEE's position is that base development or reuse planning should drive environmental programs to optimize land use for the active mission and/or property disposal. The end-state of the PBC should link to that plan.</p> <p>AFCEE recommends that the contract milestones be aligned to the known budget and period of performance. In addition, the contract should be structured to take advantage of incentives and options to meet the contract objective.</p> <p>AFCEE's position is that orders under multiple award contracts will be awarded via:</p> <ol style="list-style-type: none"> 1. Competed RFPs or 2. Fair Opportunity selection process to identify a contractor. <p>AFCEE prefers competitive PBC orders when:</p> <ol style="list-style-type: none"> 1. There is more than one viable technical approach 2. The acquisition schedule allows reasonable time for proposal development and review 3. Competition is likely to reduce cost, foster more creative solutions, or reduce the overall schedule to achieve the end-state objective. 	14
<i>Developing the Draft Statement of Objectives (SOO)</i>	<ul style="list-style-type: none"> • Define the scope reflecting end-state objectives, project goals, and listing of site(s) • Develop the project SOO to include: site background; general requirements; interim performance objectives, performance standards, acceptance criteria, payment, and milestone dates; the period of performance; incentives and options • Ensure the solicitation includes the contract points of contact and the evaluation criteria 	<p>AFCEE's position regarding PBC is that the mission drives the metrics and the end state.</p> <p>AFCEE also views that the Contractor has the responsibility for meeting the contract objective (e.g.; physical closure) while the Air Force retains the responsibility for regulatory closure. The Air Force will typically require via the SOO that the Contractor provide technical support until regulatory closure is achieved.</p> <p>The AFCEE utilizes SOOs or Performance-based SOWs for PBCs. The SOO should articulate scope, payment approach, and resources and capture those key decisions made previously including contract risk and acquisition approach.</p>	30
<i>Making Site Visit and Issuing the RFP</i>	<ul style="list-style-type: none"> • Conduct a pre-solicitation conference or a site visit • Conduct a Q&A cycle on the draft RFP with prospective offerors • Finalize the SOO and issue RFP 	<p>The Air Force has a wealth of data on its sites and our position is to share relevant information with potential offerors so they fully understand how sites are characterized and can make the best risk-based decision for their proposals.</p> <p>Site visits are an important forum for engaging all stakeholders and are recommended for most PBCs. However, site visits can be very expensive, and in cases where the scope is clear, the available data are substantial, and there is an aggressive acquisition schedule, the Project Team may decide to forgo a site visit.</p>	30

Acquisition Element	Steps	Summary Position Statement	Sample Schedule (cal. days)
<i>Evaluating Proposals and Awarding the PBC</i>	<ul style="list-style-type: none"> • Evaluate PBC proposals based on established criteria • Award the PBC 	Evaluation criteria must be established prior to the issuance of the RFP. AFCEE prefers competed best value awards for most PBCs because it recognizes that cost is only one of many factors that define project success and also encourages competition among industry.	30
<i>Implementing and Overseeing the PBC</i>	<ul style="list-style-type: none"> • Once a PBC is awarded, the Air Force must remain informed and engaged on the progress of the work • Confirm compliance with the terms of the contract • Confirm that the Air Force interests are protected • Verify that payments should be made when objectives are reached. 	<p>The Contractor has increased performance risk under a PBC and a larger amount of flexibility in implementing solutions to achieve the required objective(s).</p> <p>The Air Force retains all inherently governmental functions under a PBC to include:</p> <ol style="list-style-type: none"> 1. Lead Agency status as applicable. 2. Liability under RCRA/CERCLA for the site(s). 3. Signature authority on all AF agreements (e.g. Records of Decisions, Decision Documents, etc.) <p>Therefore, the Air Force should still conduct technical reviews and provide comments on documents and approve them for release to the regulators; however, those comments should be restricted to regulatory, factual, and legal issues and should not conflict with the terms and conditions of the PBC by directing the contractor on approach and matters of opinion.</p>	Project POP dependent

At the conclusion of this document, there is a detailed description of AFCEE's contract toolbox, point of contact information for suggested enhancements to this CONOPs, and an appendix with supplemental documents.

Introduction and Vision

This document presents the Air Force Center for Environmental Excellence's (AFCEE's) position regarding Performance-Based Contracting (PBC) and outlines the Concept of Operations (CONOPs) for how AFCEE will execute PBC for the Air Force Environmental Restoration Program (ERP).

The mission of AFCEE is to provide the Air Force with a complete range of technical and professional services in environmental and installation planning and engineering, as well as military housing construction and privatization.

AFCEE will employ PBC as a tool to help harness the innovations and creativity of the private sector; lower the risk of cost growth; accelerate cleanup or property transfer; and reduce contract oversight. In many instances, PBC provides best value to the government because of the use of exit strategies, clear and measurable objectives, and linking of payments to those performance objectives.

This CONOPs will help guide and direct AFCEE's implementation of PBC to the AF ERP. The CONOPs will ensure a clear understanding of PBC and assist AFCEE Project Managers (PMs) to apply PBC in accordance with AFCEE intent.

Although PBCs are already being implemented in AFCEE, it remains critical to have a documented statement of AFCEE's position and operating approach. Furthermore, AFCEE understands that PBC guidance documents have been under development at Air Staff and through OSD and this CONOPs is consistent with that guidance. AFCEE is not seeking to establish PBC policy through this CONOPs, only to capture and utilize the best practices for employing PBC in our business.

The Air Force is undergoing a systematic review of its ERP and evaluating methods to implement exit strategies for sites and bases. A multitude of different approaches including privatization deals and PBCs can be utilized to achieve the defined exit strategies.

Historically, maximum achievable cleanup technologies and cleanup standards have driven the ERP. **At present, though, the Air Force is committed to a systematic process where the Air Force mission or specific reuse objectives will drive the cleanup end states (and planned property transfer) and, where possible, the AF will utilize acquisition approaches such as PBCs to achieve defined exit strategies.**

PBC Documents to Date

There are several U.S. Air Force documents that discuss the execution of PBCs within the U.S. Air Force ERP. These are related but distinct documents.

1. In the context of the overall Air Force ERP, the Office of the Assistant Secretary of the Air Force issued the *Air Force Cleanup Program Performance-Based Management Policy* on 27 October 2004 (included in Appendix A). This policy requires that performance-based contracting and acquisition strategies be utilized to the greatest extent possible to focus government oversight on managing to performance objectives.
2. The U.S. Air Force HQ/ILEVR *Environmental Restoration Performance-Based Contracting Guidebook* provides an overview of the Air Force's approach for screening projects and then developing, awarding, and implementing successful PBCs for the ERP. This document has been released for comment in draft form and is planned for a Summer 2005 release.
3. This AFCEE CONOPS complements the USAF HQ/ILEVR PBC guidance by detailing how AFCEE will execute PBCs for the Air Force ERP with specific discussion on AFCEE contracts, processes, and approaches.
4. In addition, the *AFCEE PM Handbook* will soon be edited to add discussion on the intricacies of executing PBCs.

The relationships among these documents are illustrated in the Exhibit 1.

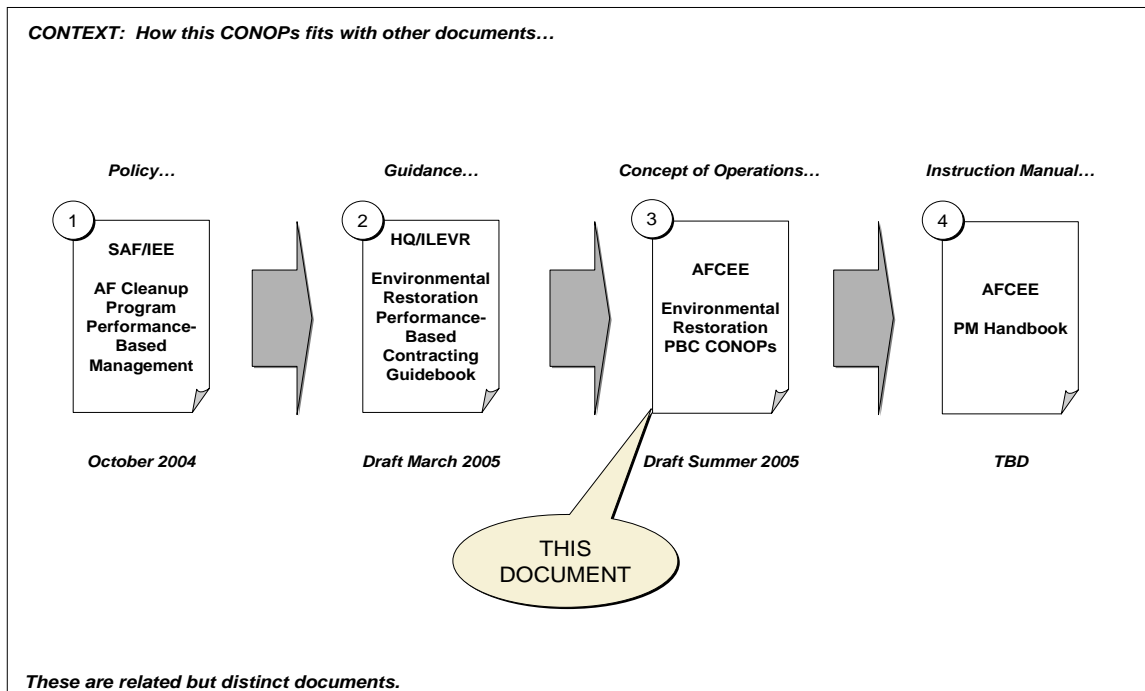


Exhibit 1
Context for the CONOPs

AFCEE PBC CONOPs Development to Date

In 2004, AFCEE recognized the growing importance of PBC and initiated a series of workshops to capture both industry and government insights to assist AFCEE in the development of the PBC strategic concept of operations. Exhibit 2 indicates the sequence and outcome of these forums.

The first workshop, conducted in August 2004, resulted in a common understanding and discussion of working definitions of terms among AFCEE staff, industry partners, and AFCEE customers. Discussions during Workshop II centered on identifying critical issues. A series of focus groups in February 2005 resulted in specific recommendations on the AFCEE position concerning:

- Insurance and risk management
- Evaluation and selection approach
- Roles and responsibilities
- Metrics to determine the desired end state
- Funding constraints and strategy.

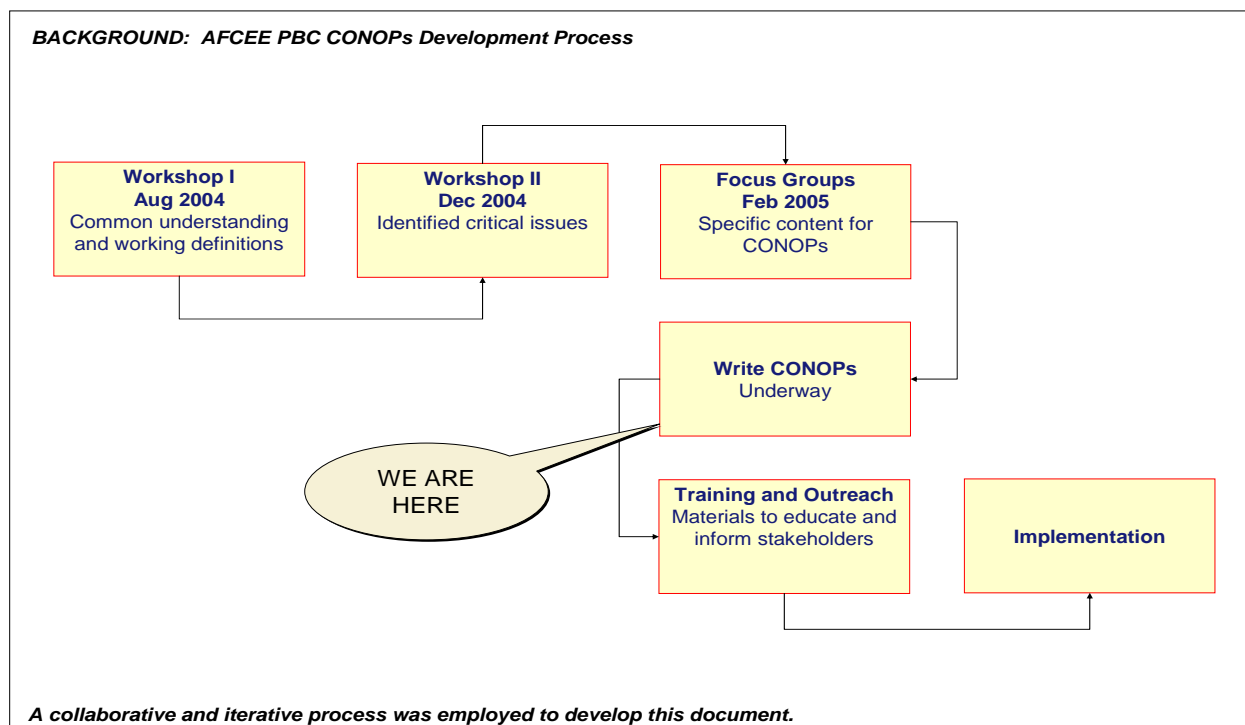


Exhibit 2
CONOPs Development Process

This CONOPs is the result of the evolutionary and collaborative process indicated above and insights provided by AFCEE's contractors, customers, and internal staff. The CONOPs reflects the position statements of AFCEE.

AFCEE's PBC Definition

As clarified in Workshop I, to ensure a common understanding of PBC, the following is AFCEE's definition of PBC in the context of executing Environmental Restoration projects:

- *PBC is a contracting approach whereby the scope of work is performed with minimal focus on process, maximum focus on results, and payments tied to objectives.*
- *Characteristics of PBCs include: Government describes the objective and performance measures but does not mandate the process to be used to meet the objectives.*
- *Can be used with a variety of contract types (e.g., Firm Fixed Price, Cost Plus Incentive Fee). Note: Firm Fixed Price preferred where appropriate.*
- *Focuses on sound management principles, performance metrics, comprehensive up-front planning, risk management, and performance baselining.*

AFCEE addresses environmental studies and cleanup under *Federal Acquisition Regulation* (FAR) Part 36 as A&E and/or construction services. In AFCEE's view, environmental PBC is not the same as PBSA as addressed in FAR part 37. However, some of the approaches addressed in FAR part 37 might be useful under these PBC efforts.

PBC is a useful contracting tool under the performance-based management (PBM) approach. PBM is an approach, or philosophy, for managing environmental cleanup projects. This approach uses communication between the stakeholders, systematic planning, and a thorough understanding of the site conditions to reach an economic site closure by focusing on the goals and the results achieved. Exhibit 3 show the components of a PBM. PBM minimizes the Air Force's environmental liability by clearly defining the problem, identifying stakeholder objectives, establishing an exit strategy, and tracking performance-based metrics toward reaching site closure.

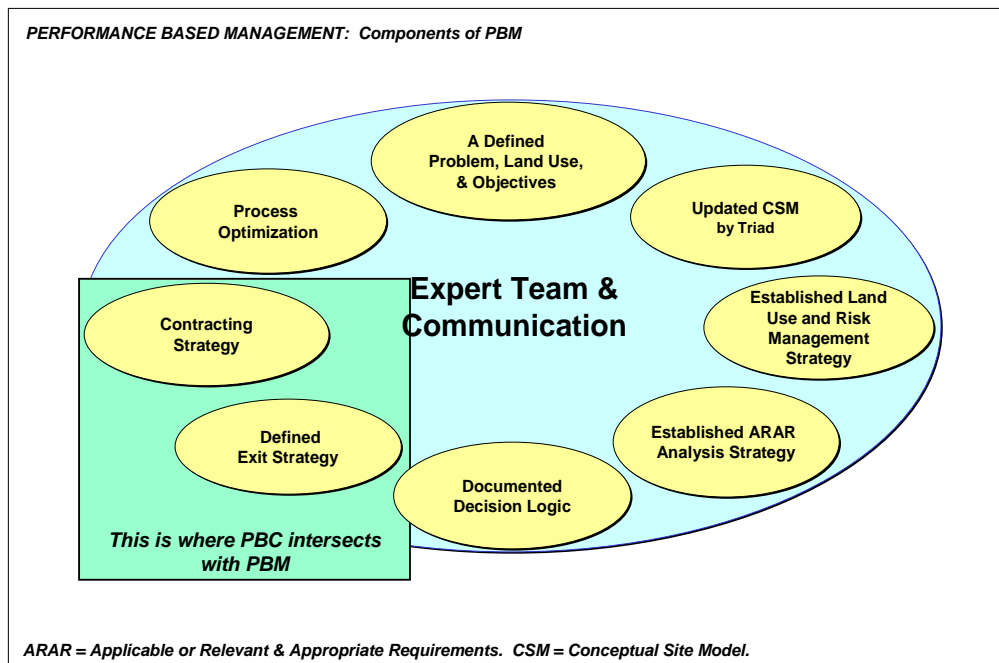


Exhibit 3
Components of PBM

It is also important to understand the Air Force ERP within the wider context of how the Air Force is managing its installations and assets via National Infrastructure Capability and Requirements Management (NICRM). The goal of NICRM is to sustain, restore, and modernize natural infrastructure to ensure operational capability. NICRM represents a new management approach that encompasses compliance-based environmental program management. The principles, concepts, and assessment tools provided by NICRM are designed to help define natural infrastructure requirements (based on mission requirements), and then focus planning, programming, and execution efforts on those management actions that can address encroachment and provide a fully capable natural infrastructure to the military commander.

Since the Air Force will manage its natural infrastructure as a group of assets for the mission, it will be increasingly important to understand the scope of a PBC in the context of the larger picture to ensure the PBC end-states and objective(s) are synchronized with the overall mission.

Steps and AFCEE Guidance for Executing PBC

PBC requires advance planning and collaborative teamwork to successfully develop and implement a contract package that contains clear and accurate interim/final objectives. It is essential to assemble a team that understands the process and the potential of executing a PBC. This may involve a shift in roles and responsibility and require key team players to assist with the upfront contracting strategy.

The development and execution of PBC has been broken into nine steps based on lessons learned from implementing past PBCs and input from the Air Force contracting, legal, environmental, and engineering communities. These steps provide high-level approaches for AFCEE staff to follow when executing contracts via PBC. Exhibit 4 illustrates these steps.

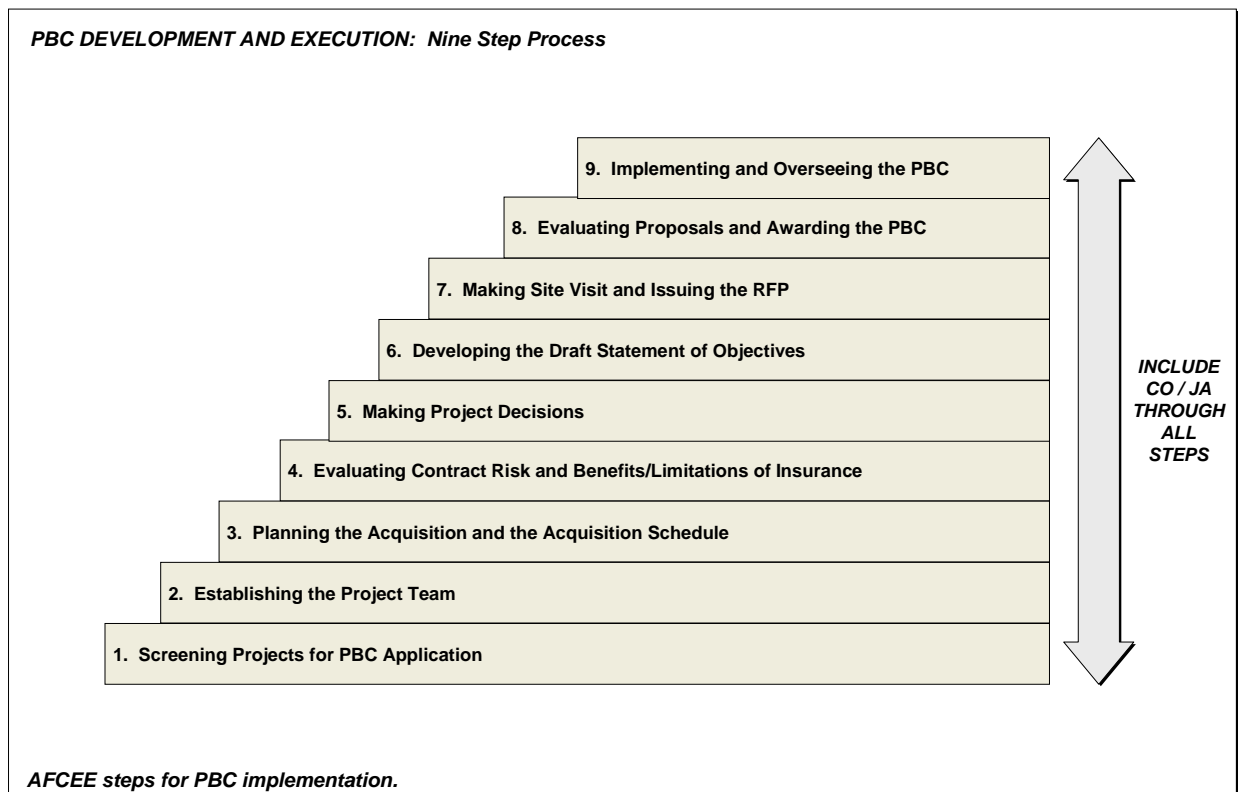


Exhibit 4
Steps for PBC Implementation

In the following nine subsections of this CONOPs, two key elements will be described. First, the basic **Tasks for Implementing** PBC will be listed. (Specific details on these tasks will be clarified in the *AFCEE PM Handbook*.) Second, AFCEE intent for how PBC should be employed will be noted as the **AFCEE Position Statement**. This information was derived from the AFCEE workshops and focus group meetings and the SAF/IEE and HQ/ILEVR policy documents.

PBCs constitute an important tool to help harness the innovations and creativity of the private sector, lower the risk of cost growth, accelerate cleanup or property transfer, and

reduce contract oversight. Nevertheless, PBC is not a panacea. It is important to keep in mind the following AFCEE position statements while following the nine steps to execute a PBC.

1. Screening Projects for PBC Application

AFCEE recognizes that PBC is only one option in its toolbox and it is not always the answer to environmental restoration needs. There are a myriad of contracting options available for restoration and property reuse or transfer.

Exhibit 5 presents a sample AFCEE decision process in selecting the right approach to meet client mission needs.

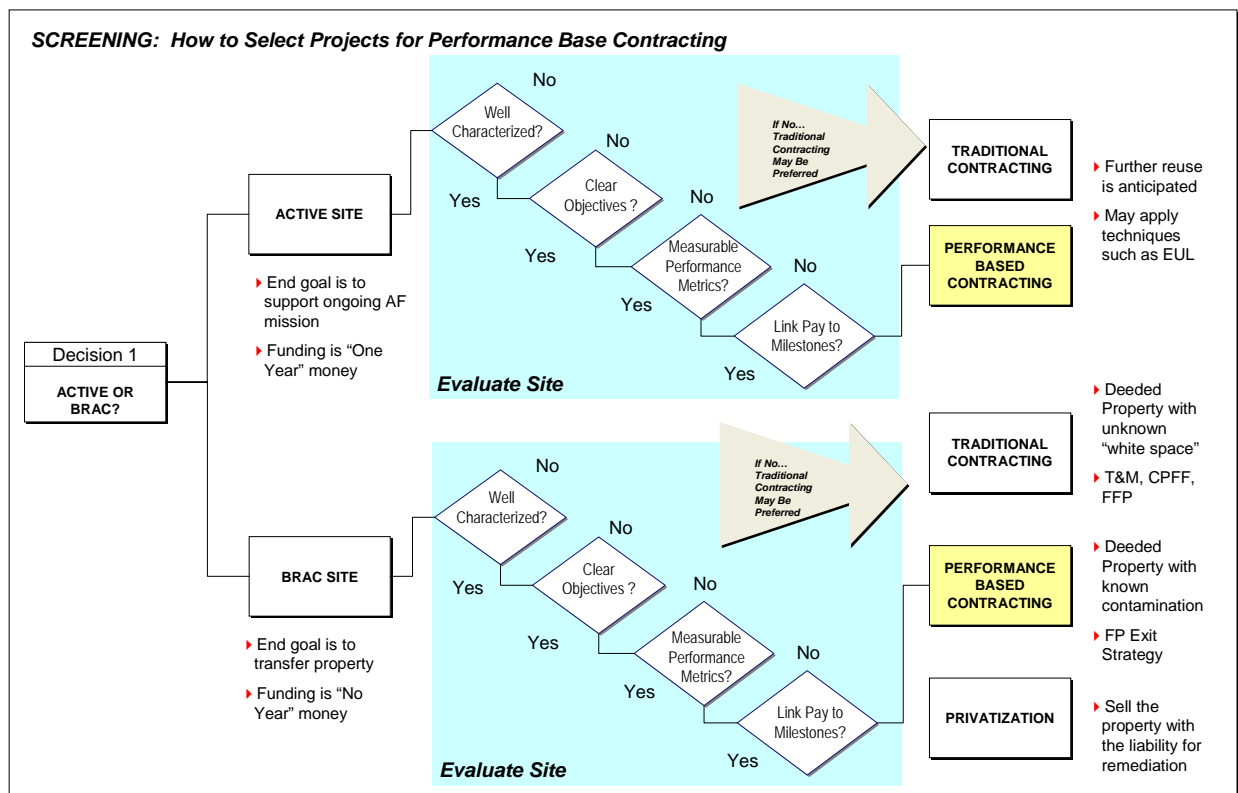


Exhibit 5
Screening Projects for PBC

Tasks for Implementing PBC:

- Fully understand the project, available information, and objectives
- Assess prospects for "grouping" projects into single PBC awards
- Determine if PBC is the correct contract mechanism.

AFCEE's Position Statement:

In general, PBC may be the right approach when the site or project has the following characteristics:

- Well characterized site(s)
- Clearly defined performance expectations/objectives
- Measurable and verifiable performance measures and standards
- Potential to link the payment schedule to specific performance objectives and milestone completion.

In general, PBC may NOT be the right approach, or at least not the right initial approach, when the site or project has the following characteristics:

- Poorly characterized site(s)
- Inordinately high risk to contractors resulting in limited competition and increased costs to the government
- Requirement for high early capital investment with uncertain return on investment
- Uncertain funding during the contract period of performance
- Lack of adequate time and/or resources to conduct substantial up-front planning.

There may be times when an AFCEE client/RPM requests that a project be executed via a PBC and the AFCEE CO/COR views the project as a poor PBC candidate. In that instance, the AFCEE will evaluate the project with the client/RPM and ensure that:

1. The client understands the rationale for AFCEE's view that the project is a poor PBC candidate or
2. The client accepts an alternate acquisition strategy for the project or
3. The project can be successfully executed via a PBC and the end state(s) are achievable.

2. Establishing the Project Team

It is important that the Project Team be established early and roles and responsibilities clarified between the Air Force and regulators as well as between the internal Air Force team members.

Tasks for Implementing PBC:

- a. Clearly define all the roles and responsibilities of team members
- b. Include relevant stakeholders
- c. Define Project Team communication channels.

AFCEE's Position Statement:

As cited in the U.S. Air Force HQ/ILEVR *Environmental Restoration Performance-Based Contracting Guidebook*, the Air Force is committed to implementing PBC to achieve cleanup goals through a more effective acquisition process. To implement an effective PBC program for the Air Force ERP, it is

important to understand the primary stakeholder roles and responsibilities through the basic environmental restoration process.

When implementing PBC, the Air Force retains responsibility for setting requirements, and in collaborating with the regulators, to achieve regulatory approval such as a signed closure letter. The contractor has full responsibility for meeting the performance objectives established in the contract. There may be exceptions to this position, for example, when an AFCEE customer specifically requests regulatory closure as the contract end-state. In that instance, the AFCEE will ensure that the end-state is reasonable, clearly defined, and achievable prior to issuing the PBC.

It is important that the Air Force Project Team understands whether a base falls under RCRA or CERCLA and the corresponding regulatory standards for the base and project. For example, on a RCRA base, the regulatory agencies establish standards which might in turn be the right Air Force end-state objective for a site.

Exhibit 6 illustrates the high level steps in environmental restoration and the key roles.

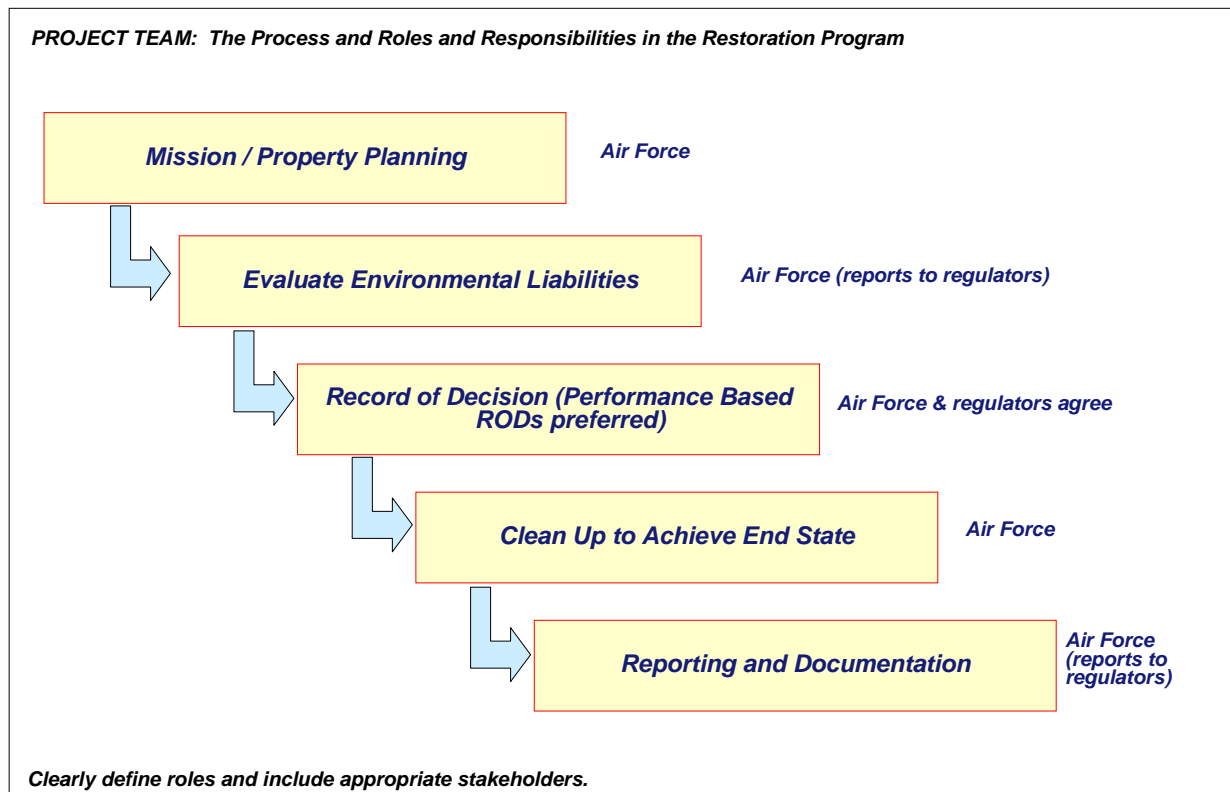


Exhibit 6
Roles and Responsibilities within the AF ERP Model

In addition, the internal Air Force Project Team must include staff who understand the site(s), end-goals, property reuse, and PBC.

Typically, the Project Team includes players performing various roles as described in Exhibit 7.

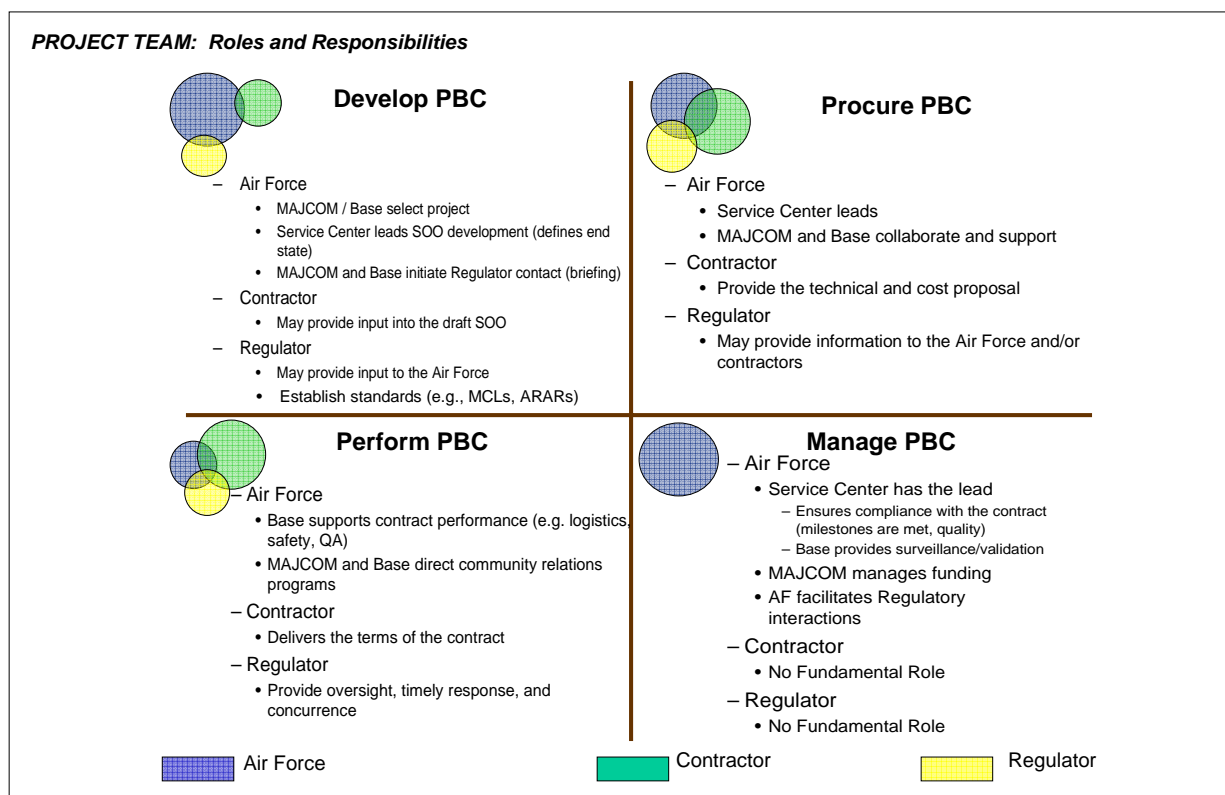


Exhibit 7
Project Team Roles and Responsibilities

AFCEE also recommends having the same Judge Advocate (JA), Contracting Officer (CO), and Contracting Officer Representative (COR) support the PBC acquisition throughout its life-cycle. This ensures consistency in approach and continuity of staff.

3. Planning the Acquisition and Acquisition Schedule

Tasks for Implementing PBC:

- Define suspense dates for aspects of the PBC acquisition (e.g., site visit for stakeholders)
- Evaluate appropriate contract vehicles
- Perform market research to include contractor interest, relevant experience, and project feedback; evaluate small business interest
- Define ground rules for handling change orders
- Determine the appropriate acquisition approach to include pricing arrangement (e.g., fixed price or cost).

AFCEE's Position Statement:

In general, AFCEE advocates the use of PBC because it offers a more streamlined, cost-effective, and faster means of conducting environmental cleanup. However, PBC acquisitions are complex transactions and AFCEE recommends investing an appropriate amount of time in the planning and preparation for PBC acquisitions. Choosing the correct contract vehicle, crafting the SOO, identifying end states and performance measures, and setting the methodology for change orders all take time to do right. (Sample SOO and acquisition schedule are included in the Appendix.)

For planning purposes, six months is the average amount of time required for a PBC acquisition. However, PBCs can be planned and awarded in less than six months, especially when there is a less complex project and/or a project with easily accessible site information.

The Project Team should develop the PBC acquisition schedule together to ensure all parties "buy into" the schedule and understand their action items. For instance, the RPM may be responsible for gathering relevant site data for distribution to potential offerors while the entire Project Team may develop the SOO.

In addition, the Project Team must determine the right pricing arrangement for the PBC. AFCEE prefers fixed-price PBCs to achieve a fixed-price exit strategy with limited potential for cost growth. Cost-type PBCs might be applicable when the scope is less certain and there are too many variables outside the control of the contractor.

4. Evaluating Contract Risk and Benefits/Limitations of Insurance
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All AFCEE contracts include some risk sharing between the Air Force and contractor. For cost-type contracts, the Air Force retains most of the contract risk, while in fixed-price PBCs, much of the performance risk is transferred from the Air Force to the contractor. FAR Part 16 discusses the Types of Contracts and is useful in establishing the contract types (e.g., cost-type contracts, fixed-price contracts) most likely to motivate contractors to perform at optimal levels for a specific project.

Tasks for Implementing PBC:

- a. Assess the performance risk for each project
- b. Evaluate options to mitigate these performance risks
- c. When applicable, evaluate EI and determine whether it would be beneficial to the Air Force given cost overrun, liability, or other claim risk.

AFCEE's Position Statement:

The Air Force continues to collaborate with regulators to achieve regulatory closure (the regulatory/political risk). The Air Force, however, transfers accountability for the technical approach to the contractor (the performance risk). Therefore, most PBCs will be executed so that the contractor has tangible and measurable contract end-states/objectives. Once the contractor achieves that standard, the Air Force engages with the regulatory community as necessary. This approach is especially relevant where site objectives are achieved (e.g., established cleanup goals) but where regulatory site closures may be difficult to achieve within the contract period of performance.

There will be exceptions to this approach, and contract packages must clearly establish the contract interim and final objectives (e.g., contract end-state).

Contractor risk may be mitigated in a number of ways including:

1. Availability and relevance of site information and characterization
2. Viability of the end-state
3. Applicable use of Environmental Insurance (EI).

AFCEE's position is that typically EI is not recommended. Nevertheless, there may be situations where risk is sufficient to consider the use of EI. For example, EI may enhance the Air Force's confidence in best value selections when the Air Force selects a lower cost bid and EI could help reduce the escalation of Air Force cost-to-complete figures on some projects.

Although EI must be evaluated for each project, AFCEE recommends:

EI Type	Considerations	Policy Notes
Cleanup Cost Cap (CCC) or Remediation Stop Loss (RSL)	May be used for fixed-price PBCs where the objectives may be difficult to obtain such as a regulatory end goal and contract price is high (>\$3M)	<ol style="list-style-type: none"> 1. Covers cost overruns for cleanup of known sites 2. Contractor is named as insured and AF should be an additional insured 3. Can reduce overall PBC cost since insurance companies assume much of the risk 4. Recommended limit is 100% over contract limit
Pollution Legal Liability (PLL)	May be used when the contractor is responsible for site re-openers (extended warranty) and coverage of white space	<ol style="list-style-type: none"> 1. Covers regulatory re-openers (extended warranty) 2. Optionally can cover risk factors such as transportation of hazardous wastes, disposal sites, disposal facilities, cleanup costs, business interruption 3. Contractor is named insured and AF should be an additional insured
Contractors Pollution Liability (CPL)	Might be a discriminator between contractors	<ol style="list-style-type: none"> 1. Covers contamination and damage caused by the contractor's operations. Can be site specific but usually part of contractor's practice policy 2. Contractor is named as insured and AF may be named as an additional insured

EI Type	Considerations	Policy Notes
Environmental Protection Program (EPP)	Would have to be evaluated on a project basis with an insurance expert assisting the government team	<ol style="list-style-type: none"> 1. Flexible program combining insurance with trust fund that utilizes discounting funding techniques such as net present value analysis. 2. Covers known existing liabilities, new liabilities, cost overruns, and project oversight/expense management 3. Sometimes called "finite risk"

Development of the acquisition strategy should include an insurance advisor (possibly from Contracting, JA, or contracted advisory firm) to integrate the solicitation language and optimize the insurance value to the Air Force.

In addition, AFCEE requires that technical and schedule progress reports be provided to the AFCEE on the same schedule they are provided to the insurance carriers. Furthermore, a Certificate of Insurance will be furnished to the contracting officer on an annual basis evidencing the insurance coverage is still in effect.

Note: AFCEE plans to add the above provisions in any future ordering vehicles issued that may be used for performance based contracts.

5. Making Project Decisions

Tasks for Implementing PBC:

- a. Evaluate project drivers such as property reuse since project decisions should be made within the context of the overall mission
- b. Evaluate funding strategies linked to project cost estimates and budget projections
- c. Evaluate acquisition award approaches and decide between competitive RFPs or Fair Opportunity determinations
- d. Structure the PBC – Incentives and Options
- e. Evaluate incidental design requirements.

AFCEE's Position Statements:

Project Drivers - Property Reuse

AFCEE's position regarding PBC is that base development and/or reuse planning should drive environmental programs in order to optimize land use for Air Force active mission and/or property disposal. [Note: the application of PBC is not limited to environmental cleanup and property reuse.]

Funding Strategies

AFCEE's position regarding PBC is that milestones should be aligned with the known, available budget. AFCEE understands that there are challenges,

including fiscal realities that often provide limited dollars for execution, which make it difficult to take full advantage of PBC. Insufficient up-front funding or an unpredictable funding stream could make it difficult to achieve desired milestone delivery schedules and the desired speed of achieving performance-based objectives. While there is legal authority that can approve incremental funding of environmental remediation and base level service support contracts, its use requires approval from appropriate authorities.

Although these challenges cannot be removed completely, AFCEE's approach is to:

1. Align milestones with budget and period of performance and write the contract accordingly
2. Use contract options as a methodology to accomplish project goals within the funding profile
3. Work with the customer in advance to program out-year funding to enable finish buy-out of the project.

Acquisition Award Decisions

The Project Team must make project-specific decisions on whether to execute a PBC order/contract using competed RFPs based on established consideration factors or the established Fair Opportunity process to select a Contractor.

AFCEE prefers competitive PBC orders when:

1. Projects have more than one viable technical approach
2. The acquisition schedule allows reasonable time for proposal development and review
3. Competition is likely to reduce cost, foster more creative solutions, or reduce the overall schedule to achieve the end-state objective.

There are times when the Fair Opportunity process may be necessary to meet project-specific requirements.

Structure the PBC - Incentives and Options

By their basic structure, PBCs encourage contractors to achieve objectives by linking payments to established objectives.

AFCEE would consider the use of contract incentives to encourage their contractors to achieve more desirable results for the Air Force when applicable.

For example, use of contract incentives may be appropriate to secure:

1. Achievement of an interim or final contract objective earlier than anticipated

2. Achievement of a more stringent closure such as a residential standard in lieu of an industrial closure.

In each case, the Air Force must identify the objective(s) of the basic contract and then evaluate whether there is a tangible value to achieving a higher standard and/or faster performance than the basic scope. For instance, there may be real value to closing a site early to allow another Air Force contractor to mobilize for a MILCON construction project. An established incentive payment above the basic contract price may serve as a catalyst to achieve that goal. To utilize an incentive, however, funds must be allocated, and a contingent liability must be created, for the entire amount of the incentive.

Pre-priced options can also be utilized in a manner similar to an incentive without requiring funds prior to the exercise of the option. A pre-priced option can be written much like an incentive, with an Air Force decision to accept or reject the cost proposal. Therefore, funds do not have to be made available until the Air Force decides to exercise that option. This can be extremely useful to both the AFCEE and its clients.

The AFCEE CO and COR, as well as AFCEE PBC experts, can provide project level assistance.

Design Requirements

Many of the environmental projects that are completed via a PBC require the contractor to achieve an end-state such as the achievement of a physical site closure (e.g., TCE contamination reduced below MCL). It is AFCEE's position that for these PBCs, AFCEE is contracting for that end-state and not a remedial design. Therefore, to achieve that end-state, the contractor may need to plan out the project requirements, chart a path to achieve the objective, and develop an incidental design. Full blown A-E designs with 30%, 60%, 90%, and 100% submittals with sealed drawings typically are not required. The Project Team should evaluate the project-specific data and objectives and discuss the design requirements. To complete a full design and then construct to achieve the milestone under one contract, the contractor would have to comply with FAR Subpart 36.209.

6. Developing the Draft Statement of Objectives
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Tasks for Implementing PBC:

- a. Define the scope reflecting end-state objectives, project goals, contract approach, and listing of site(s)
- b. Develop a SOO that includes background on the site; general requirements; interim performance objectives, performance standards, acceptance criteria, payment, and milestone dates; the period of performance; incentives and options

- c. Ensure the solicitation (typically the RFP letter) also includes a list of points of contact and the evaluation criteria
- d. If using an ordering vehicle, the Project Team must conform to the evaluation criteria established in the basic contract.

AFCEE's Position Statements:

Metrics and End-States

AFCEE's position regarding PBC is that the mission drives the metrics and the end-state. The contract end-state should link to the site end-state and "buy-out" either the end-state or a defined site metric. Furthermore, the end-states are linked to payment/incentives, and they can be defined by the Government and/or proposed by the contractor. Objectives should be determined through a systematic process: first consider mission/resource use, and then consider stage of investigation, contaminants of concern, and site type.

Regulatory vs. Physical Closure

AFCEE's position regarding PBC is that the contractor has the responsibility for physical closure, while the Air Force has the responsibility for regulatory closure. AFCEE sees a clear distinction here: when the PBC contractor reaches the cleanup objective (meeting the end-state performance metric), they have achieved the physical closure required for contract completion and full payment. However, once the contractor has reached physical closure, the Air Force typically is responsible for securing official approval from the regulators to achieve regulatory closure. There may be exceptions to this position, for instance, when an AFCEE customer specifically requests regulatory closure as the contract end-state. In that instance, the AFCEE will ensure that the end-state is reasonable and achievable prior to issuing the PBC.

SOO versus PWS

AFCEE utilizes SOOs or performance-based State of Work (SOWs) for its environmental PBCs. The preferred approach is to utilize concise SOOs that include sufficient detail to outline the objectives, performance metrics, and other critical project/contract requirements. AFCEE typically does not utilize PWSs for PBCs because they are associated with PBSA.

7.	Making Site Visit and Issuing the RFP
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Tasks for Implementing PBC:

- a. Conduct a pre-solicitation conference or a site visit
- b. Conduct a Q&A cycle on the draft RFP with prospective offerors
- c. Finalize the SOO and issue RFP.

AFCEE's Position Statement:

The Air Force has a wealth of data on its sites, and its position is to share relevant information with potential offerors so they understand how sites are characterized and can make the best risk-based decision for their proposals. In addition, a site visit can be an invaluable forum for sharing ideas, obtaining contractor feedback, clarifying the contract approach, and engaging the technical project managers and regulators in site-specific discussions. The site visits should include the right government staff and sufficient time to see the site(s) and entertain contractor questions. The draft RFP should be sent to the contractors prior to the site visit or pre-solicitation conference. However, site visits can be very expensive, and in cases where the scope is clear and the available data are substantial, the Project Team may decide to forgo a site visit.

8. Evaluating Proposals and Awarding the PBC

Tasks for Implementing PBC:

- a. Evaluate PBC proposals based on previously established criteria
- b. Award and implement the PBC.

AFCEE's Position Statement:

AFCEE's position regarding PBC is that AFCEE prefers competed orders/procurements with best value awards.

Competed PBCs with lowest price awards work best for clearly defined requirements, but they can involve greater risk to the government and contractor. Another option is to utilize a Fair Opportunity selection process to identify a PBC contractor. This approach may be preferable to a competed PBC if an aggressive acquisition schedule must be met.

If a competed best value PBC is the chosen acquisition approach for an order, the key to best value awards is to communicate objectives and relative ranking of various criteria (including approach risk to government, schedule, and cost/price). The Air Force needs to forecast future program opportunities, decide evaluation criteria early, and communicate evaluation criteria clearly. This will result in better proposals, better competition, and a more realistic price. Another key for the proposal evaluation is to have a diverse evaluation panel with multiple skill sets driven by the project specification. The following is an example of sample best value evaluation criteria:

Criteria	Ranking	Description
Cost/Price	Equal to Schedule	Lower cost is better, but doesn't imply lowest priced award
--Payment Schedule		Appropriate cost loading, balanced, and affordable
Schedule	Equal to Cost	Faster is better

Criteria	Ranking	Description
--BRAC Land Transfer		Achieve OPS Early
Risk to Government of Approach	Most Important	
--Technical Approach		Confidence in achieving project objective
--Experience		Relevant experience
--Past Performance		Quality of performance on previous jobs
--Performance Guarantee		Risk mitigation strategy (e.g., insurance)

If using an ordering vehicle, the Project Team must conform to the evaluation criteria established in the basic contract.

9. Implementing and Overseeing the PBC

Tasks for Implementing PBC:

- a. Once a PBC is awarded, the contractor must remain in close communication with the Air Force to keep them informed on the progress of the work
- b. The Air Force must confirm compliance with the terms of the contract via targeted deliverable reviews
- c. The Air Force must confirm that its interests are protected
- d. The Air Force must approve payments when objectives are reached.

AFCEE's Position Statement:

AFCEE will be the contractor's point of contact for resolving issues with regulators. Under a PBC, the contractor assumes increased contract performance risk and also has a larger amount of flexibility in implementing solutions to achieve the required objective(s). The contractor must keep the Air Force informed throughout the contract life-cycle. The Air Force ties payment to established interim and final contract objectives and must confirm that those objectives are met before making payment.

RCRA versus CERCLA

It is important that the Air Force Project Team understands whether a base falls under RCRA or CERCLA and the corresponding regulatory standards for the base and project. In general the Air Force is subject to tighter regulatory control under RCRA, but has independent legal authority and responsibility under CERCLA. The Air Force enjoys two key advantages under CERCLA:

1. Protection from lawsuits
2. Exemption from obtaining on-site permits.

As a quick overview:

RCRA – Under 42 U.S.C.:

1. DoD must comply with Federal, State, interstate, and local requirements and
2. States have the authority to issue and enforce permits for the storage, treatment, or disposal of hazardous wastes.

Historically, the regulators have utilized standards and permits as the primary tools to manage DoD RCRA bases. For example, on a RCRA base, the regulatory agency establishes standards which typically determine the Air Force's end-state objective for a site.

CERCLA - The Department of Defense (DoD) is considered the "Lead Agency" under CERCLA. 40 CFR § 300.5 defines Lead Agency as the agency that plans and implements response actions under the NCP. In the case of a release of a hazardous substance, pollutant, or contaminant on a DoD facility, DoD will be the lead agency.

Air Force Oversight

Under a traditional contracting approach, the Air Force reviews, comments on, and approves documents for release to regulators. Those reviews can include a range of comments regarding technical issues, regulatory issues, editorial issues, opinions, and technical approach.

Under a PBC, the Air Force retains liability under RCRA/CERCLA for the site(s). Therefore, the Air Force should still conduct technical reviews and provide comments on documents and approve them for release to the regulators. However, those comments should be restricted to regulatory, factual, and legal issues and should not conflict with the terms and conditions of the PBC by directing the contractor on approach and matters of opinion. For instance, if a PBC allows a contractor broad flexibility in implementing a remedy at a site, the Air Force should approve reasonable proposed alternatives versus dictating that a particular remedy be implemented.

A final consideration is that PBCs have been implemented to avoid multiple review cycles; therefore the Air Force should be clear in the SOO and site visit/Q&As how involved the Air Force will be in the the day-to-day details of the project and in the review of deliverables/reports.

Reviewing Cost Reimbursement versus Fixed-Price PBCs

Fixed-price PBCs place maximum risk on the contractor, full responsibility for costs on the contractor, and minimum administrative burden upon the contracting parties (e.g., Air Force). Cost-reimbursement type contracts are suitable when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use fixed-price contracts. Therefore, under a cost-reimbursement type PBC, the Air Force has much greater surveillance

requirements to provide reasonable assurance that efficient methods and effective cost-controls are used. If the Project Team decides to utilize a cost reimbursement type PBC vs. a fixed-price PBC, then:

1. The surveillance plan must be more stringent
2. The scope and intensity of the technical reviews must be greater.
3. The attention of the review must expand to include those factors that could impact cost.

AFCEE Contract Portfolio

The AFCEE has enormous contracting capacity for a full range of projects and types of work to include A&AS, Architect and Engineering Services, Environmental Remediation, and vertical construction. (For additional details on specific AFCEE contract vehicles, visit <http://www.afcee.brooks.af.mil/pkv/contracts.asp> There are many factors that must be evaluated when choosing a contract vehicle including contract capacity, contract scope, ordering period, period of performance, task order contract options, requirement for incentives, and the competitive environment.

An overview of the current, relevant AFCEE contracts and some of the contract characteristics follows.

Contract	Pricing Arrangements	Description of Scope	Ordering Period end date	Notes
4PAE	FFP FPI T&M	A&E	Jun 08	29 awards; subject to Brooks Act
DB+03	FFP	Vertical construction, MFH	Dec 08	
ECOS	FFP CPFF T&M	Construction & repair, vertical & environmental	Mar 09	7 small Businesses
WERC	CPIF FPI FFP CPFF CPAF	Primarily environmental but includes construction	Dec 08	27 awards contract includes the PBC clause

Historically, the 4PAE, ECOS, and WERC contracts have been most relevant to the Air Force ERP and have been used to execute PBCs dependent on the phase and scope of the project.

When assessing PBC tasks, the decision tree in Exhibit 8 can be used to select the appropriate AFCEE contracting vehicle. For instance, if a user wants to include an incentive fee, make certain that the contract vehicle can provide those incentive fees. It is also important to evaluate the contract type that you plan to use as you go through this decision tree. For instance, how much performance risk you can transfer to the contractor not only affects the contract vehicle but also the contract type. If you can transfer a lot of performance risk from the Air Force to the contractor, then a fixed-price PBC may be the right choice. If the performance risk is high and therefore cannot be

fully transferred to the contractor, then a cost-reimbursement type PBC might be a better choice.

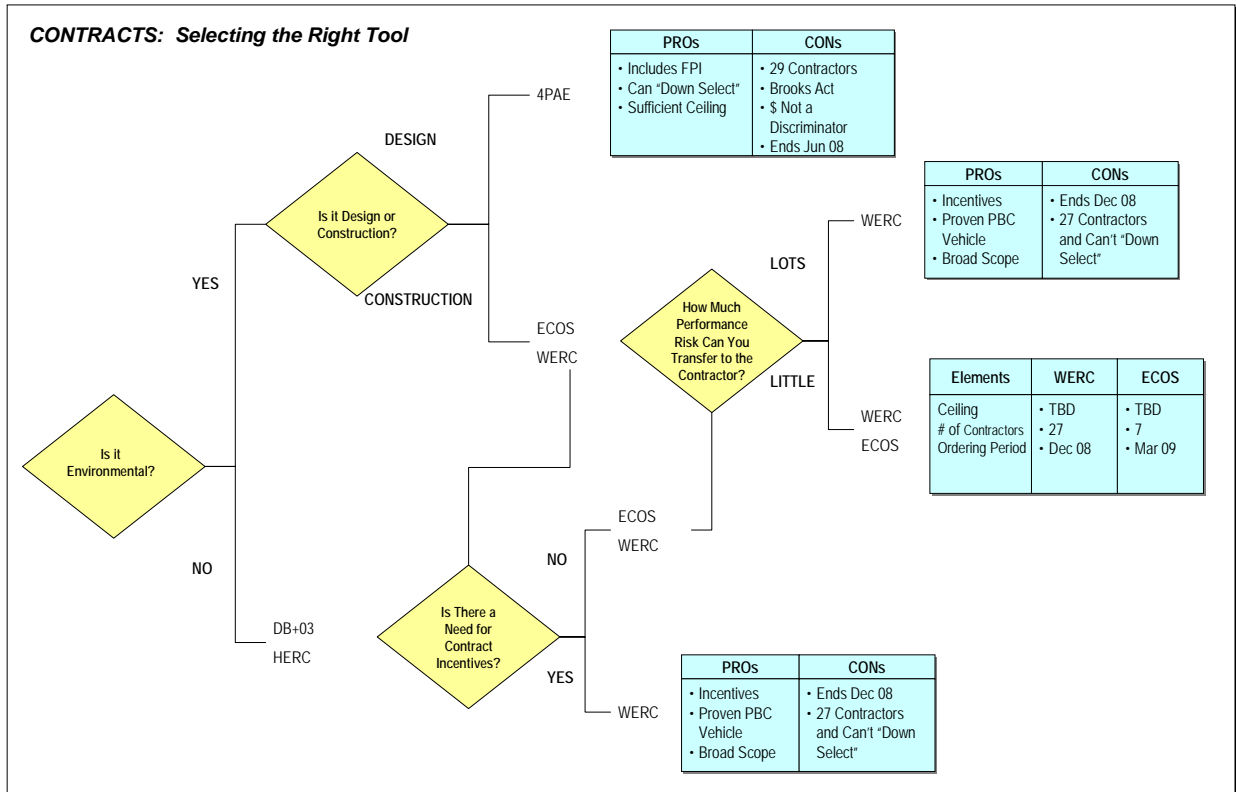


Exhibit 8
Selecting the Right AFCEE Contract Option

Conclusion

This CONOPs is intended to provide a high-level approach for the implementation of PBC at AFCEE. It is to be used in conjunction with the PBC Guidance provided by Air Staff and supplements that policy with AFCEE's position and execution approaches.

Continuous Improvement

AFCEE will revise and enhance this CONOPs based on lessons learned from its application of PBC. Approaches or positions in the document may evolve over time to reflect current best practices and Air Force requirements.

Comments on this CONOPs should be directed to AFCEE/OD.

Appendixes

Appendix A - Air Force Cleanup Program Performance-Based Management Policy

Appendix B - Sample SOO

Appendix C - Sample PBC Execution Schedule

Appendix D - Sample Site Visit Checklist

Appendix E - Air Staff Guidance (When Finalized)

Appendix F - External PBC Links

Appendix G - Terms and Acronyms

Appendix H - Project Examples

APPENDIX A
AIR FORCE CLEANUP PROGRAM
PERFORMANCE-BASED MANAGEMENT POLICY

APPENDIX B

SAMPLE STATEMENT OF OBJECTIVES

APPENDIX C

SAMPLE PBC EXECUTION SCHEDULE

APPENDIX D

SAMPLE SITE VISIT CHECKLIST

APPENDIX E

AIR STAFF GUIDANCE (WHEN FINALIZED)

APPENDIX F
EXTERNAL PBC LINKS

APPENDIX G
TERMS AND ACRONYMS

APPENDIX H
PROJECT EXAMPLES