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**COMMERCE ACQUISITION MANUAL
1342.15**

DEPARTMENT OF COMMERCE
CONTRACTOR PERFORMANCE INFORMATION

COMMERCE ACQUISITION MANUAL 1342.15

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CONTRACTOR PERFORMANCE INFORMATION

SECTION 1 – Overview

1.1 Background

Federal Acquisition Regulation (FAR) Subparts 15.3 and 42.15 require that contractor performance information be considered prior to award of contracts, task orders and delivery orders and be published in a centralized database during and following the contract/order period of performance.

In addition, FAR Subparts 9.1 and 9.4 require review and reporting of contractor criminal or related activity and suspension or debarment through the Federal Awardee Performance and Integrity Information System (FAPIS) and the Excluded Parties List System (EPLS), respectively, to provide further protection for federal government interests and missions.

The Federal database for contractor performance information is the Past Performance Information Retrieval System (PPIRS). The Department of Commerce (DOC) has established an agreement with the Office of the Under Secretary of Defense for use of the Contractor Performance Assessment Reporting System (CPARS) feeder system to review and publish contractor performance information in PPIRS. The procedures for these processes are contained herein.

1.2 Purpose

The purpose of this policy is to set forth the requirements for effective use, reporting and control of contractor performance information.

1.3 Applicability

This policy is applicable to all existing and future DOC contracts, task orders, and delivery orders above the simplified acquisition threshold as defined in FAR Subpart 2.101, including construction contracts for \$550,000 or more and architect/engineering services contracts in excess of \$30,000. For all applicable contracts/orders with an end date between July 1, 2009 and December 28, 2009, final performance reporting requirements as defined in Section 3.1.2 are retroactively required. This policy is not applicable to contracts/orders awarded under FAR Subpart 8.7.

1.4 Policy

The Department of Commerce policy requires compliance with all pre-award past performance assessment review and consideration, as well as past performance and determination of non-responsibility reporting, in PPIRS, FAPIS and EPLS. Further, it is the Department of Commerce policy that access to the CPARS, PPIRS, FAPIS and EPLS databases for functions contained herein is limited to federal employees.

1.5 Roles and Responsibilities

1.5.1 Senior Procurement Executive (SPE)

The Senior Procurement Executive is responsible for establishment of policy and procedures for: consideration of past performance information prior to contract award; and collecting, reporting, controlling and validating contractor

performance information within the DOC. The SPE is further responsible for identification of the DOC CPARS Point of Contact.

1.5.2 Senior Bureau Procurement Official (BPO)

The Senior Bureau Procurement Official is responsible for implementation of the requirements of this policy within their operating unit including establishing processes to ensure review of past performance data prior to awards of contracts and orders in PPIRS, FAPIIS and EPLS; timely and accurate submission of past performance information to PPIRS, FAPIIS and EPLS; and full compliance with this policy. The BPO is also responsible for identification and appointment of a CPARS point of contact for the operating unit.

1.5.3 Head of Contracting Office (HCO)

The Head of Contracting Office is responsible for ensuring that contracting officers within their office comply with the requirements of this policy as implemented by the BPO. The HCO is further responsible for adjudication of contractor's comments or rebuttal statements in response to past performance evaluation(s), as necessary.

1.5.4 Contracting Officer (CO)

The contracting officer is responsible for consideration of past performance information prior to contract award as required in FAR Subparts 9.1, 9.4, 15.3 and 42.15, including inclusion of past performance as an evaluation factor, obtaining past performance information from references and PPIRS, FAPIIS and EPLS as well as other databases; full documentation of any past performance rating; and application of required clauses in solicitations and contracts. As part of contract administration, the contracting officer is responsible for electronic submission of interim and final performance evaluations to PPIRS, submission of determinations of non-responsibility in FAPIIS and suspensions, debarments or other ineligibility in EPLS.

1.5.5 Risk Management Division (RMD)

The Risk Management Division is responsible for conducting annual compliance assessments; and for evaluating and validating the quality and timeliness of contractor performance reporting.

1.5.6 Contracting Officer Representative (COR)

The contracting officer representative (or other program official, as appropriate) is responsible for providing contractor performance assessments and information as required by the contracting officer.

1.5.7 DOC CPARS Point of Contact

The DOC CPARS Point of Contact (POC) within the Commerce Acquisition Systems Division is responsible for administrative oversight of the CPARS process including system administration for CPARS and monitoring effective implementation of the CPARS process. The DOC CPARS POC is responsible for ensuring compliance with the terms and conditions of the Memorandum of Understanding between DOC and the Office of the Under Secretary of Defense.

1.5.8 Operating Unit CPARS Point of Contact

The operating unit CPARS POC is responsible for assignment of appropriate access for review and submission of past performance information, in coordination with the DOC CPARS POC; training and administrative support to internal CPARS users; and support for internal oversight and compliance processes. The operating unit CPARS POC is further responsible for ensuring that only federal employees have access to CPARS. The roles and responsibilities for the operating unit CPARS POC are equivalent to those of the Focal Point as described in CPARS guidance published by the Department of Defense.

END OF SECTION 1

SECTION 2 – Pre-Award Requirements

2.1 Assessment of Contractor Performance Information

An offeror's past performance may be a likely indicator of future performance. The use of past performance information as an evaluation factor can be highly effective in identifying an offeror's possible performance risk. For this reason contracting and program officials must consider the review of past performance in the evaluation and award of contracts, as appropriate to the size, complexity and market conditions for the requirement.

In negotiated competitive procurements, past performance shall be evaluated unless the contracting officer documents the reason why past performance would not be an appropriate evaluation factor as required in FAR Subpart 15.304. When evaluated, past performance shall be designated in a solicitation as a distinct evaluation factor or subfactor. The solicitation shall clearly state the specific requirements for proposal submission and identify the method to be used for the evaluation of past performance as well as potential sources of past performance information that may be considered. FAR Subpart 15.305(a) describes how past performance shall be evaluated, including use of past performance information as an evaluation factor based on the currency and relevance of the information; sources of the information; the context of the data; and assessing general trends in the contractor's performance.

2.2 Past Performance Sources

2.2.1 Mandatory Sources

In accordance with FAR Subparts 9.1 and 9.4, as part of the responsibility determination, contracting officers shall review records in FAPIIS and EPLS that are associated with offerors prior to award. FAR Subparts 9.105 and 9.4 outline the adjudication process for non-favorable information and ineligibility as well as the process for small businesses subject to a Certificate of Competency from the Small Business Administration.

2.2.2 Other Sources

As appropriate and relevant to the procurement requirement, past performance shall be evaluated based on contract performance from the following sources:

- a. Department of Commerce;
- b. other federal government agencies;
- c. state, local or foreign governments;
- d. commercial companies.

Past performance may also be obtained regarding predecessor companies, proposed key personnel, and subcontractors, as appropriate. If an offeror has previously been awarded a contract from the Department of Commerce that included requirements relevant to the current procurement, past performance information regarding that contract must be obtained and evaluated.

2.3 Methods for Obtaining Past Performance Information

For a particular procurement, the contracting officer or designee shall determine the appropriate methods to obtain relevant past performance information.

Methods of obtaining past performance information include:

- a. information in PPIRS, FAPIIS and EPLS;
- b. information within Department of Commerce;
- c. responses to questionnaires from references identified by offerors in their proposals or otherwise;
- d. other government assessments or report cards;
- e. published commercial evaluations; and
- f. awards or other recognition provided by customers to the offeror.

Contracting officers shall use past performance information in PPIRS for contracts/orders completed within the prior three years. The exceptions to this requirement are construction and architect-engineering services contracts for which contracting officers shall use past performance information in PPIRS for contracts/orders completed within the last six years.

Contracting officers shall make reasonable efforts to obtain past performance information for all offerors submitting acceptable proposals prior to the completion of proposal evaluations. If sufficient information is not obtained from one source, for instance, reference questionnaires, then another source of information should be used. Contracting officers shall ascertain whether relevant and timely past performance information is available in PPIRS prior to all awards above the simplified acquisition threshold and consider germane information.

2.3.1 Use of Past Performance Questionnaires

In the usual case, the most relevant and meaningful sources of past performance information are responses to questionnaires from references and information in PPIRS. If a questionnaire is being used, refer to Appendix A for information regarding procedures for use of the questionnaire and areas of performance to be evaluated, as appropriate to the procurement.

2.4 Responsibility Determination

2.4.1 Pre-award Review and Determination

In accordance with FAR Subpart 9.104-6, for all awards in excess of the simplified acquisition threshold, the contracting officer shall consider all the information in FAPIIS and other past performance information when making a responsibility determination. Further, the contracting officer shall document the contract file to indicate how information in FAPIIS was considered in reaching the responsibility determination.

2.4.2 Nonresponsibility Determination Reporting

The contracting officer is responsible for documenting a determination of nonresponsibility in FAPIIS within three working days if:

- a. the contract or order is valued at more than the simplified acquisition threshold;
- b. the determination of nonresponsibility is based on a lack of satisfactory performance record or satisfactory record of integrity and business ethics; and the Small Business Administration does not issue a Certificate of Competency.

END OF SECTION 2

SECTION 3 – Post-Award Reporting Of Contractor Performance

3.1 Post-award Reporting Procedures

FAR Subpart 42.15 requires the submission in PPIRS of contractor performance information on all contracts/orders in excess of the simplified acquisition threshold, with the exception of architect-engineer and construction contracts/orders which have different thresholds. For all contracts and orders, subcontractors performing twenty-five (25) percent or more of the requirements of a contract or order shall be included in past performance documentation and evaluation.

For construction contracts, past performance evaluations shall be prepared for each contract of \$550,000 or more and for each contract terminated for default regardless of contract value. Past performance evaluations for construction contracts below \$550,000 may be prepared if deemed appropriate by the contracting officer.

For architect/engineering services contracts, past performance evaluations shall be prepared for each contract of \$30,000 or more and for each contract that is terminated for default regardless of contract value. Past performance evaluations for architect-engineer services contracts for less than \$30,000 may be prepared if deemed appropriate by the contracting officer.

Conducting periodic performance assessments during the administration of a contract not only provides a way to track contractor performance, but also encourages excellence in performance. Preparation of past performance assessments should be a collaborative effort with appropriate input obtained from the entire federal acquisition team. Access to CPARS is limited to federal employees only throughout all CPARS processes including past performance assessment development, review and reporting.

Prior to submission of past performance reports, the contractor shall be provided an opportunity to comment on the evaluation. Evaluations of contractor performance shall be provided to the contractor as soon as practicable after completion of the evaluation. Contractors shall be given a minimum of 30 days to submit comments, rebutting statements, or additional information. Disagreements between the parties regarding the evaluation shall be adjudicated by the HCO; the ultimate conclusion rests with the operating unit.

FAR Subpart 42.15 requires final reporting, and interim reporting where appropriate, for contracts/orders over the simplified acquisition threshold. Special considerations for reporting requirements are found in Section 3.3. The content of the evaluation can be tailored to the size, content and complexity of the contractual requirements. Generally, the reports should provide for adequate information in order to determine the appropriate rating as described in Section 3.2 and address:

- a. the contractor's record of conforming to contract requirements and to standards of good workmanship;
- b. the contractor's record of forecasting and controlling costs;

- c. the contractor's adherence to contract schedules, including the administrative aspects of performance;
- d. the contractor's history of reasonable and cooperative behavior and commitment to customer satisfaction;
- e. the contractor's record of integrity and business ethics;
- f. the contractor's business-like concern for the interest of the customer; and
- g. the contractor's performance against and efforts to achieve the goals identified in the small business subcontracting plan, if applicable.

3.1.1 Interim Reporting

In addition to the final evaluation, at least one interim evaluation shall be submitted by the contracting officer on all contracts with a period of performance exceeding one year. For all multi-year contracts, interim reports must be submitted once per year at a minimum. The contracting officer in collaboration with the COR and other program officials, as appropriate, shall determine the appropriate time to prepare interim evaluations on a particular contract. The interim reports may be submitted, for example, at the completion of a particular phase of the contract; once during each 12-month period to coincide with annual funding or the exercise of an option; or more or less frequently, when a particular event or circumstance dictates changes to the record. In any event, the evaluations shall be conducted at sufficient intervals to be useful to source selection officials seeking current performance information about a contractor.

3.1.2 Final Reporting

A final performance evaluation shall be prepared and submitted to PPIRS by the contracting officer on each contract/order at the time of completion of work. The final performance evaluation must be prepared as soon as practicable after completion of the contract but not later than 30 days after the contract completion date. The factors listed above shall be considered in preparation of the final report. In addition, the questionnaire found in Appendix A can be used as a guide for internal assessments for reporting purposes.

3.2 Rating Categories

In order to accurately and fairly document overall past performance for a contractor, and subcontractor where appropriate, it is essential that the rating assigned be fully supported by the past performance narrative. Past performance shall be evaluated in accordance with the following ratings and associated color codes prescribed in CPARS:

- a. Exceptional (Dark Blue)
Performance meets contractual requirements and exceeds many to the government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with few *minor* problems for which corrective actions taken by the contractor were highly effective.
- b. Very Good (Purple)
Performance meets contractual requirements and exceeds some to the government's benefit. The contractual performance of the element or

sub-element being assessed was accomplished with some *minor* problems for which corrective actions taken by the contractor were effective.

- c. Satisfactory (Green)
Performance meets contractual requirements. The contractual performance of the element or sub-element contains some *minor* problems for which corrective actions taken by the contractor appear or were satisfactory.
- d. Marginal (Yellow)
Performance does not meet some contractual requirements. The contractual performance of the element or sub-element being assessed reflects a serious problem for which the contractor has not yet identified corrective actions. The contractor's proposed actions appear only marginally effective or were not fully implemented.
- e. Unsatisfactory (Red)
Performance does not meet most contractual requirements and recovery is not likely in a timely manner. The contractual performance of the element or sub-element contains serious problem(s) for which the contractor's corrective actions appear or were ineffective.

3.3 Special Considerations

3.3.1 DOC Indefinite Delivery/Indefinite Quantity Contracts

The contracting officer shall publish performance evaluations for any order placed against a DOC task order or delivery order contract which is in excess of the simplified acquisition threshold. These evaluations need not address assessments of contractor performance against goals identified in small business subcontracting plans but may do so if the contracting officer deems it appropriate.

3.3.2 GWAC/MAC Orders

The contracting officer shall publish performance evaluations for any order placed against a Federal Supply Schedule contract or under a task order contract or delivery order contract awarded by another agency (e.g., GWAC or MAC). These evaluations shall not address assessments of contractor performance against goals identified in small business subcontracting plans.

3.3.3 Award Fee Contracts/Orders

This policy does not apply to procedures for determining fees under award or incentive fee contracts. However, the amount paid to contractors should be reflective of the contractor's performance and the past performance evaluation should closely parallel the fee determinations.

3.3.4 Non-competitive Cost-Reimbursement Contracts/Orders

It is of particular importance that the performance of contracts awarded on a non-competitive basis and with more limited cost control be reviewed and published on a regular basis. Contracting officers shall ensure compliance of performance reporting requirements for non-competitive cost-reimbursement contracts including non-competitive time-and-material and labor-hour contracts.

3.4 Documentation of Past Performance Evaluations

A copy of all evaluations, contractor responses and related documentation shall be retained in the official contract file.

END OF SECTION 3

SECTION 4 – Contractor Performance Information Management

4.1 Past Performance Information Retrieval System (PIRS)

PIRS is the federal-wide system for storage and review of past performance information for federal contractors. DOC has established an agreement that enables contracting officers and other source selection officials to access past performance information as part of the source selection process as well as document contractor performance during and following the contract/order period of performance. PIRS general guidance can be found at

http://www.acq.osd.mil/dpap/Docs/PPI_Guide_2003_final.pdf.

4.1.1 PIRS Report Card (PIRS-RC)

Past Performance Information Retrieval System - Report Cards (PIRS-RC) provides past delivery and quality performance information on contracts/orders during the source selection process.

PIRS-RC also provides access to the data repository for contract performance information and shall be used by contracting officers or others designated the appropriate access to report on contract performance. The user manual for PIRS-RC can be found at http://www.ppirs.gov/ppirsfiles/pdf/PIRS-RC%20User's%20Manual_3-26-2008.pdf.

4.1.2 PIRS Statistical Reporting (PIRS-SR)

Past Performance Information Retrieval System Statistical Reporting (PIRS-SR) captures and reports on past delivery and quality performance information on contracts under the simplified acquisition threshold. PIRS-SR contains DoD-specific data gathered for supplies/products including quality metrics and is not accessible to civilian agencies for submission of performance information. However, access to PIRS-SR for review purposes can be coordinated through the CPOC and DOC CPOC. The PIRS-SR Software User's Manual can be found at: http://www.ppirs.gov/ppirsfiles/pdf/PIRS-RC%20User's%20Manual_3-26-2008.pdf.

4.2 Federal Awardee Performance and Integrity Information System (FAPIIS)

FAPIIS is a database accessible through CPARS used to further document contractor performance by providing contracting officers with additional information prior to making a responsibility determination regarding a contractor's self-reported criminal convictions, civil liability and adverse administrative actions. [Contractor reporting is managed and accessed through the Central Contractor Registry (CCR) and is not addressed in this policy.] FAPIIS will also provide access to information contained in the Excluded Parties List System (EPLS).

4.3 Contractor Performance Assessment Reporting System (CPARS)

CPARS is the feeder system used by DOC for access to PIRS-RC and PIRS-SR. CPARS is used to document contractor performance on systems and non-systems contracts including services, information technology, operations support, systems, ship repair and overhaul.

Within the CPARS feeder system, additional sub-feeder-systems are available for documenting contractor performance for architect-engineer contracts – Architect-Engineer Contract Administration Support Systems (ACASS) and contractor performance on construction contracts – Construction Contractor Appraisal Support System (CCASS).

Access to CPARS is managed hierarchically within DOC. The DOC CPARS POC is responsible for overall management of CPARS access and for providing identification of the Operating Unit CPARS POC to the DoD CPARS Administrator. The Operating Unit CPARS POC is responsible for ensuring access is appropriately granted and limited to those contracting and program officials who have a need either for source selection or to submit contractor performance data. Specific information regarding access, use and on-line training for CPARS can be found at <https://www.cpars.csd.disa.mil>.

4.4 Excluded Parties List System (EPLS)

The Excluded Parties List System is a web-based system operated by the General Services Administration to record information on all contractors debarred, suspended, proposed for debarment, declared ineligible or excluded, or disqualified under the nonprocurement common rule as prescribed in FAR Subpart 9.4.

4.5 Control of Access to Contractor Performance Data

Inappropriate use of past performance information can result in harm both to the government and the competitive position of the contractor being evaluated. Therefore, access to past performance information through CPARS must be limited to those federal employees who have a legitimate need. Appropriate management and technical controls must be instituted to ensure that only appropriate personnel have access to the information, primarily those involved in source selection.

Evaluations submitted through CPARS to PPIRS may be used to support future award decisions and, as such, must be marked “Source Selection Information”.

Frequently Asked Questions regarding the appropriate access to and management of information contained in PPIRS can be found at <http://www.ppirs.gov/ppirsfiles/faqs.htm>.

4.6 Oversight of Contractor Performance Information

In order to ensure compliance with the requirements of the FAR and the policies contained herein, the Office of Acquisition Management, Risk Management Division, will conduct annual reviews to confirm the accurate, complete and timely information submitted to PPIRS. These annual reviews will commence in January 2010.

**END OF SECTION 4
END OF CAM 1342.15**

APPENDIX A – PAST PERFORMANCE DATA COLLECTION

A primary source of past performance information to be used in the proposal evaluation process is information obtained directly from recent customers of offerors. Contracting officers can obtain customer past performance information through a written questionnaire or telephone interview with references.

1.0 Reference Information

Solicitations shall request information from offerors regarding current and prior contracts to enable contracting officers to determine the relevance of these contracts to the solicitation requirements and to provide contact information for individuals who can provide past performance information. Offerors should provide the following information regarding these contracts:

- Contractor's name and address
- Contract number
- Date of award
- Type of contract
- Description of contract requirements and location of work (e.g., types of tasks, product, service)
- Description of the complexity of the work
- Contract dollar value
- Contract completion date (including extensions)
- Type and extent of subcontracting
- Contact information for person who will provide past performance information, including name, title, telephone/fax number and email address.

2.0 Past Performance Information

As appropriate to the solicitation requirements and type of contract to be awarded, obtain information regarding the following areas:

1. Ask what role the reference played (e.g., contracting officer's representative, contract specialist, administrative contracting officer, etc.) in contract administration and for how long.
2. Did the contractor perform all contract requirements?
3. Did the contractor perform in accord with the contract's delivery schedule?
4. If all contract requirements were not performed or if performance was late, request that the reference discuss these issues.
5. If the award amount or delivery schedule changed, find out why.
6. If a problem surfaced, ask what the Government and contractor did to fix it.
7. Ask for a description of the types of personnel (skill and expertise) the contractor used and the overall quality of the contractor's team. Did the company appear to use personnel with the appropriate skills and expertise?

8. Ask how the contractor performed, considering technical performance or quality of the product or service, schedule, cost control (if applicable), business relations, and management. Was the contractor proactive or reactive in responding to problem areas?
9. Ask whether the contractor was cooperative in resolving issues.
10. Ask whether there were any particularly significant risks involved in performance of the effort.
11. Ask if the contractor appeared to apply sufficient resources (personnel and facilities) to the effort.
12. If the contractor used subcontractors, ask: What was the relationship between the prime and subcontractors? How well did the prime manage the subcontractors? Did the subcontractors perform the bulk of the effort or just add depth on particular technical areas? Why were the subcontractors chosen to work on specific technical areas, what were those areas, and why were they accomplished by the subcontractors rather than the prime?
13. Ask if the contractor has established a small business subcontracting plan and is in compliance with FAR Subparts 15.3 and 19.7 and has met or exceeded the goals established under the plan.
14. If a problem is uncovered that the reference is unfamiliar with, ask for another individual who might have the information.
15. Ask if this contractor has performed other past efforts with the reference's agency.
16. Ask about the contractor's strong points or what the reference liked best.
17. Ask about the contractor's weak points or what the reference liked least.
18. Inquire whether the reference has any reservations about recommending a future contract award to this contractor.
19. Inquire whether the reference knows of anyone else who might have past performance information on the contractor.