

## 42.1406

shall (1) notify the carrier of the discrepancy by noting the exception on the carrier's delivery receipt and (2) furnish all available data to the CAO or appropriate agency office, which shall promptly transmit the data to the contractor.

[48 FR 42370, Sept. 19, 1983, as amended at 59 FR 11383, Mar. 10, 1994]

### 42.1406 Report of shipment.

#### 42.1406-1 Advance notice.

Military (and as required, civilian agency) storage and distribution points, depots, and other receiving activities require advance notice of shipments en route from contractors' plants. Generally, this notification is required only for classified material; sensitive, controlled, and certain other protected material; explosives, and some other hazardous materials; selected shipments requiring movement control; or minimum carload or truckload shipments. It facilitates arrangements for transportation control, labor, space, and use of materials handling equipment at destination. Also, timely receipt of notices by the consignee transportation office precludes the incurring of demurrage and vehicle detention charges.

[48 FR 42370, Sept. 19, 1983, as amended at 54 FR 48989, Nov. 28, 1989]

#### 42.1406-2 Contract clause.

The contracting officer shall insert the clause at 52.242-12, Report of Shipment (REPSHIP), in solicitations and contracts when advance notice of shipment is required for safety or security reasons, or where carload or truckload shipments will be made to DoD installations or, as required, to civilian agency facilities.

[54 FR 48989, Nov. 28, 1989]

## Subpart 42.15—Contractor Performance Information

SOURCE: 60 FR 16719, Mar. 31, 1995, unless otherwise noted.

### 42.1500 Scope of subpart.

This subpart provides policies and establishes responsibilities for recording and maintaining contractor perform-

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ance information. This subpart does not apply to procedures used by agencies in determining fees under award or incentive fee contracts. However, the fee amount paid to contractors should be reflective of the contractor's performance and the past performance evaluation should closely parallel the fee determinations.

[60 FR 16719, Mar. 31, 1995, as amended at 65 FR 36014, June 6, 2000]

### 42.1501 General.

Past performance information is relevant information, for future source selection purposes, regarding a contractor's actions under previously awarded contracts. It includes, for example, the contractor's record of conforming to contract requirements and to standards of good workmanship; the contractor's record of forecasting and controlling costs; the contractor's adherence to contract schedules, including the administrative aspects of performance; the contractor's history of reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the contractor's business-like concern for the interest of the customer.

### 42.1502 Policy.

(a) Except as provided in paragraph (b) of this section, agencies shall prepare an evaluation of contractor performance for each contract in excess of \$1,000,000 (regardless of the date of contract award) and for each contract in excess of \$100,000 beginning not later than January 1, 1998 (regardless of the date of contract award), at the time the work under the contract is completed. In addition, interim evaluations should be prepared as specified by the agencies to provide current information for source selection purposes, for contracts with a period of performance, including options, exceeding one year. This evaluation is generally for the entity, division, or unit that performed the contract. The content and format of performance evaluations shall be established in accordance with agency procedures and should be tailored to the size, content, and complexity of the contractual requirements.

(b) Agencies shall not evaluate performance for contracts awarded under

## Federal Acquisition Regulation

## 42.1701

48 CFR part 8, subparts 8.6 and 8.7. Agencies shall evaluate construction contractor performance and architect/engineer contractor performance in accordance with 48 CFR 36.201 and 36.604, respectively.

[60 FR 16719, Mar. 31, 1995 as amended at 62 FR 51258, Sept. 30, 1997]

### 42.1503 Procedures.

(a) Agency procedures for the past performance evaluation system shall generally provide for input to the evaluations from the technical office, contracting office and, where appropriate, end users of the product or service.

(b) Agency evaluations of contractor performance prepared under this subpart 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. Agencies shall provide for review at a level above the contracting officer to consider disagreements between the parties regarding the evaluation. The ultimate conclusion on the performance evaluation is a decision of the contracting agency. Copies of the evaluation, contractor response, and review comments, if any, shall be retained as part of the evaluation. These evaluations may be used to support future award decisions, and should therefore be marked "Source Selection Information". The completed evaluation shall not be released to other than Government personnel and the contractor whose performance is being evaluated during the period the information may be used to provide source selection information. Disclosure of such information could cause harm both to the commercial interest of the Government and to the competitive position of the contractor being evaluated as well as impede the efficiency of Government operations. Evaluations used in determining award or incentive fee payments may also be used to satisfy the requirements of this subpart. A copy of the annual or final past performance evaluation shall be provided to the contractor as soon as it is finalized.

(c) Departments and agencies shall share past performance information with other departments and agencies

when requested to support future award decisions. The information may be provided through interview and/or by sending the evaluation and comment documents to the requesting source selection official.

(d) Any past performance information systems, including automated systems, used for maintaining contractor performance information and/or evaluations should include appropriate management and technical controls to ensure that only authorized personnel have access to the data.

(e) The past performance information shall not be retained to provide source selection information for longer than three years after completion of contract performance.

60 FR 16719, Sept. 30, 1997, as amended at 62 FR 51258, Sept. 30, 1997]

## Subpart 42.16—Small Business Contract Administration

### 42.1601 General.

The contracting officer shall make every reasonable effort to respond in writing within 30 days to any written request to the contracting officer from a small business concern with respect to a contract administration matter. In the event the contracting officer cannot respond to the request within the 30-day period, the contracting officer shall, within the period, transmit to the contractor a written notification of the specific date the contracting officer expects to respond. This provision shall not apply to a request for a contracting officer decision under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

[60 FR 48230, Sept. 18, 1995]

## Subpart 42.17—Forward Pricing Rate Agreements

SOURCE: 62 FR 51258, Sept. 30, 1997, unless otherwise noted.

### 42.1701 Procedures.

(a) Negotiation of forward pricing rate agreements (FPRA's) may be requested by the contracting officer or the contractor or initiated by the administrative contracting officer (ACO).