

BEST PRACTICES
for
COLLECTING AND USING
CURRENT AND PAST
PERFORMANCE
INFORMATION

Office of Federal Procurement Policy

Office of Management and Budget

Executive Office of the President

MAY 2000

TABLE OF CONTENTS

FOREWORD

CHAPTER 1. INTRODUCTION	1
Statutory and Regulatory Basis	1
Working with Contractors	2
Recording Current Contract Performance Information	3

Using Past Performance as a Source Selection Factor	4
Concerns Expressed by Contracting Officers	5
Orders under Multiple Award Contracts	6
and Multiple Award Schedule Contracts	
Simplified Acquisitions	7
CHAPTER 2. EVALUATING AND RECORDING CURRENT	8
PERFORMANCE	
Contractor Performance Systems	8
Automated Systems	8
Contractor Performance Report Forms	8
Who Assesses Contractor Performance	9
Frequency of Assessments	9
Assessment Areas	10
End User Feedback	11
Performance Ratings	11
Subcontractors, and Teaming, and Joint Venture Partners	12
Contractor Response and Agency Review	12
Release of Contractor Assessment	13
Planning for Good Contractor Performance	14
CHAPTER 3. USING CURRENT AND PAST PERFORMANCE	16

AS A SOURCE SELECTION FACTOR

Planning for Using Past Performance Information	17
Drafting Sections L and M of the Solicitation	18
Section L, Instructions to Offerors	18
Section M, Evaluation Criteria	20
Evaluating Past Performance	21
Conducting Discussions	25
APPENDIX I•• SAMPLE CONTRACTOR PERFORMANCE REPORT	26
AND INSTRUCTIONS	
APPENDIX II—DOD PERFORMANCE ASSESSMENT ELEMENTS	30
FOR LARGE SYSTEMS	
APPENDIX III--PERFORMANCE RATING GUIDELINES	32
APPENDIX IV--SAMPLE QUESTIONS AND IDEAS FOR TELEPHONE	35
INTERVIEWS AND QUESTIONNAIRES	
APPENDIX V--AUTOMATED PAST PERFORMANCE	36
INFORMATION SYSTEMS	

FOREWORD

Since the passage of the Federal Acquisition Streamlining Act of 1994, all Federal Departments and Agencies have initiated procedures to record contractor performance on in•process contracts and to use

past contractor performance information in source selection. We have learned from the experience of agencies and contractors that recording contractor current performance information periodically during contract performance and discussing the results with contractors is a powerful motivator for contractors to maintain high quality performance or improve inadequate performance before the next reporting cycle. Current performance assessment is a basic “best practice” for good contract administration, and is one of the most important tools available for ensuring good contractor performance.

Current performance assessments when completed become past performance information for use in future source selections. Completion of these assessments improves the amount and quality of performance information available to source selection teams. The use of past performance as a major evaluation factor in the contract award process is instrumental in making “best value” selections. It enables agencies to better predict the quality of, and customer satisfaction with, future work.

The techniques and practices used to implement the current and past performance initiatives that are discussed in this document are not mandatory regulatory guidance. They should be viewed as useful examples of techniques for recording and using contractor performance to better assess contracts and to enhance the source selection process.

I wish to thank the agency procurement and program officials and representatives from the private sector who shared their experiences. I am particularly thankful for the participation of those working level acquisition officials who prove every day that these “best practices” actually work to improve contractor performance. In addition, special thanks go to the interagency team that developed the initial recommendations for this edition: Joseph Beausoleil • U.S. Agency for International Development; John Corso • Department of Veterans Affairs; Linda Davis • Defense Logistics Agency; Marilyn Goldstein • Department of Education; Helen Hurcombe • Social Security Administration; and Richard Leotta • Department of Energy. Melissa Rider • Defense Acquisition Regulation Directorate, was instrumental in preparing this edition.

Copies of this guidebook are available on line at www.omb.eop.gov For hard copies or if you have questions, comments or suggestions contact David Muzio, phone 202•395•6805, fax 202•395•5105, email dmuzio@omb.eop.gov or Yvette Garner, phone 202-395-7187, email ygarner@omb.eop.gov.

Deidre A. Lee

Administrator

Office of Federal Procurement Policy

CHAPTER 1

INTRODUCTION

The Federal Government is in a continuous process to reinvent itself, with a goal of becoming a government that works better and costs less. The Government is the largest acquisition organization in the world with expenditures of about \$200 Billion a year for commercial goods and services. This is one third of the Federal discretionary budget of about \$600 Billion. How well the Government's acquisition teams administer in-process contracts and discuss with contractors their current performance, determines to a great extent how well agencies can achieve their missions and provide value to the taxpayers. By increasing attention to contractor performance on in-process contracts and ensuring past performance data is readily available for source selection teams, agencies are reaping two benefits: (1) better current performance because of the active dialog between the contractor and the government; and (2) better ability to select high quality contractors for new contracts, because contractors know the assessments will be used in future award decisions.

Statutory and Regulatory Basis

The 1994 Federal Acquisition Streamlining Act (FASA), signaled a "sea change" in Federal acquisition. FASA was signed into law by the President on October 13, 1994 (P.L. 103-355). In FASA, Congress acknowledged that it is appropriate and relevant for the Government to consider a contractor's past performance in evaluating whether that contractor should receive future work. Section 1091 of FASA states:

Past contract performance of an offeror is one of the relevant factors that a contracting official of an executive agency should consider in awarding a contract.

It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be awarded by that official.

FASA requires the Administrator of the Office of Federal Procurement Policy (OFPP) to "establish policies and procedures that encourage the consideration of the offerors' past performance in the selection of contractors." Specifically, it requires that the Administrator establish:

Standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies.

Policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other

methods, as necessary.

Policies for ensuring that offerors are afforded an opportunity to submit relevant information on past contract performance, including performance under contracts entered into by the executive agency concerned, by other agencies, State and local governments, and by commercial customers, and that such information is considered.

The period for which past performance information may be maintained.

FASA also states that an offeror for which there is no information on past contract performance or with respect to which information on past contract performance is not available, may not be evaluated favorably or unfavorably on the factor of past contract performance.

These policies and procedures are contained in the Federal Acquisition Regulation (FAR) Parts 9, 12, 13, 15, 36 and 42. FAR PART 36 provides specific procedures, dollar thresholds, and forms for evaluation of A&E and construction contracts; however, Contracting Officers are still encouraged to evaluate past performance on these contracts if they exceed \$100,000. This ABest Practices@ adds further background and assistance in implementing the FAR provisions.

Working With Contractors

In meetings with OFPP, contractors of all sizes and many industry associations have emphasized the power of past performance as a tool for motivating contractors to make their best efforts. However, they have raised concerns that many assessments are not being done, or are being done inconsistently. Contractors seek an above-board, timely evaluation process. They want frank discussions early in the process so they have an opportunity to improve performance, if necessary, before final assessments are given. They want to be advised of any negative comments being entered into official reports and given ample opportunity for a rebuttal. They fear inflated assessments as much as poor assessments because inflated assessments help poor contractors and hurt good contractors. This document addresses inflated assessments in Chapter 2, "Performance Ratings," where the rating scale for full contract compliance has been adjusted from 4 to 3 to reduce rating creep.

Communication is critical. Commercial companies have come to recognize that two-way communication is vital to a productive relationship with their suppliers. On-going open discussion with the contractor about the Government's requirements and how the contractor can best meet them, can greatly improve the quality of deliverables under Government contracts. The better the contractor performance evaluation, the more competitive the contractor will be for future work. We go into further detail on this process in Chapter 2.

Recording Current Contract Performance Information

The key to the long-term success of this important initiative is for each agency to assess and maintain a

record of contractors' performance on procurement actions exceeding \$100,000^[1]. Each agency is encouraged to adopt a current performance information system that will systematically record contractor performance in the following areas:

Quality of performance - as defined in contract standards;

Cost performance - how close to cost estimates;

Schedule performance - timeliness of completion of interim and final milestones.

Business relations - history of professional behavior and overall business-like concern for the interests of the customer, including timely completion of all administrative requirements and customer satisfaction.

FAR Subpart 42.15, *Contractor Performance Information* aims to ensure a clear and concise record of a contractor's performance on every contract, task order or other contractual document exceeding \$100,000, based on a discussion with the contractor about recent performance. These assessment records are to be readily available for use on source selections anywhere in the Government. The record can be maintained in the contract file, in a separate manual file, or, preferably an automated database. Agencies should make the performance assessment process a seamless part of the normal contract administration process. Systems in place that meet or exceed FAR Part 42 requirements do not need to be changed. Reports prepared by award fee boards, from earned value management system reports, or other similar contract administration records, may be used as the past performance record. Separate reports are not required. The additional work needed to make these reports formal performance reports is to include contractor discussion and comments on the evaluation, and file it for source selection use.

A few tips: Keep the record simple. Focus on information that answers the following question: *AWould I do business with this contractor again?@* Augment any numerical or adjectival scores with supporting rationale. This allows other Contracting Officers to understand the rationale for the overall rating. Remember that other Contracting Officers may need to consider a contractor's rebuttal and they need to know the story behind your scores. We go into further detail on contractor performance evaluations in Chapter 2.

We expect that the Government-wide contract performance assessment process will evolve to where assessments are consistently performed on time on all appropriate contractual instruments electronically. When this happens, solicitations will need only to ask offerors to provide a list of past Government contracts that they have performed that were similar to the potential contract. The source selection teams will be able to electronically access the various agency contractor information systems and download the required information. This streamlined process of obtaining Government references will provide much, if not all, of the information necessary to evaluate the offeror=s past performance. Source selection boards will not need to conduct extensive interviews with the contract administration team, or conduct other investigations to verify an offeror's past performance. Because contractors will have been offered the opportunity to comment on the ratings as they were prepared, further comment in the proposal or

during discussions, if held, will be streamlined.

However, until all agencies adopt an automated system connected to other Federal Government systems, the Contracting Officer and evaluation team will still need to occasionally use questionnaires and conduct interviews to obtain necessary information. Because contractors may submit references from state and local governments and private sector contracts, the use of questionnaires and telephone calls to gather information will always be necessary, but on a limited scale compared to today.

Using Past Performance as a Source Selection Factor

Commercial firms rely on information about a contractor's current and past performance as a major criterion for selecting a high quality supplier. It is not surprising that use of performance information as an evaluation factor was identified by Congress as a method for Federal acquisition streamlining. Too often in the past, the Government relied heavily upon detailed technical and management proposals and contractor experience to compare the relative strengths and weaknesses of offers. This practice often allowed offerors that could write outstanding proposals, but had less than stellar performance, to "win" contracts. Even when other competing offerors had significantly better performance records and, therefore, offered a higher probability of meeting the requirements of the contract. Emphasizing past performance in source selection, helps ensure that the Government will contract with firms likely to meet performance expectations.

OFPP encourages agencies to make contractors' performance records an essential consideration in the award of all negotiated acquisitions. When the Government demands high quality service as a requirement for future business opportunities similar to the private sector, competition will produce higher quality service by contractors. We go into further detail on the source selection process in Chapter 3.

Concerns Expressed by Contracting Officers

- 1) *Past performance and quality certifications are not perfect predictors.*

Nothing is a perfect predictor. However, many Contracting Officers successfully use past performance information and quality certifications as source selection factors and have found that the resulting contractor performance is of a higher quality than in the past. Also, most large private sector purchasers consider past performance. Whenever relevant, Contracting Officers should use these sources of information to buy best expected value.

2) *Past performance and quality certifications do not always apply.*

No predictors are universally useful, but they should be used in the majority of cases where they do apply. For example, on purchases made once a generation, past performance history does not provide the same probability of predictability of future performance as it would on repetitive purchases. When it does not make sense to include past performance information, Contracting Officers may waive it (FAR 15.304(c)(3)(iii)).

3) *Past performance is not always a discriminator in source selections.*

Achieving a state where all potential contractors offer the same risk free, high quality service, and only cost plays in the source selection decision, is the ultimate goal. That is not likely anytime soon. If we did not assess and record contractor performance during the contract and then use that information in source selections, we would lose a significant motivator for contractors to perform all contracts at a high level. Past performance information improves your chances that all the technical and cost information provided is a reliable predictor of future performance. Those who receives offers only from firms with exceptional past performance, such that it not a discriminator, are fortunate.

4) *Giving a contractor a poor evaluation can lead to legal action against the Government raters.*

Problems with poor performance can lead to frustrations for both the contractor and Government. Early identification of concerns and open lines of communication (e.g., including the preparation of interim reports) can lead to constructive dialogue that can help to improve performance on the instant contract and avoid adversarial feelings that might otherwise develop if potential misunderstandings are ignored until late into contract performance.

While straightforward dialogue should lessen the likelihood of legal action against a government rater, suits may occasionally arise. If agency officials are acting within the scope of their employment (e.g., preparing an unbiased assessment in accordance with FAR Part 42.15), the Federal Torts Claims Act will protect such officials from personal liability for common law torts. In those instances, if an agency official were sued, upon certification by the Attorney General, the official would be dismissed from the lawsuit and the United States would be substituted as the defendant.

If a claim is filed by the contractor on the past performance ratings, the contract file and assessment record should be updated. This information should be provided to source selection teams along with the other contractor performance records. The offeror should also include in the proposal a discussion on claims filed. The source selection team should evaluate the data provided and use appropriately.

Orders under Multiple Award Contracts and Multiple Award Schedule Contracts

Multiple award task and delivery order contracts (MACs) and the multiple award schedules (MAS) have become increasingly popular procurement vehicles for satisfying agency needs. Both vehicles enable

agencies to apply competitive pressures efficiently in placing orders after considering a small number of capable contractors, thus allowing customers to take advantage of advances in technology and changes in agency priorities in an opportune manner. Ensuring meaningful consideration of contractor performance prior to placement of an order under either of these vehicles is just as important -- and can be just as effective in making a best value decision -- as consideration of past performance in the award of the underlying vehicle itself. FAR 8.404(b) (addressing order placement under MAS) and FAR 16.505 (covering order placement under MACs) both address the consideration of past performance at the order level.

The basic practices discussed in this document, relating both to the evaluation of contractor performance and its consideration in source selection, are applicable to the administration and placement of orders under MACs and MAS contracts. However, it is reasonable to assume with respect to orders -- as would be assumed for any contractual actions -- that these techniques will be tailored to the nature and complexity of the work being performed. The key is to ensure that the ultimate approach taken results in effective consideration of the four fundamental elements of past performance: (1) quality of performance, (2) cost performance, (3) schedule performance, and (4) business relations.

Given that there may be numerous assessments under one contract, the source selection evaluator should use a trend analysis to determine the risks of successful performance on future task orders and multiple award contracts.

Agencies have successfully applied general concepts and best practices described in this document to the placement and administration of orders. With respect to MACs, for instance, agencies are, among other things:

- Using past performance as an initial screen to determine which awardees will receive further consideration for a task or delivery order.
- Conducting interim evaluations and conducting customer satisfaction surveys.
- Holding meetings with contractors experiencing performance and quality problems.
- Collecting past performance information in a database for use in the issuance of future orders.

The division of responsibilities between agencies using MACs (customers), and agencies issuing them (servicers) may vary. However, it is important that each party have a clear understanding of its role in assessing and recording contractors performance -- especially when the customer and servicer are from different agencies. This includes use of MAS contracts as well. As a general matter, the customer agency maintains current and past performance records on their particular contractors for future task or delivery order awards, as well as, provides feedback to the servicing agency. The servicing agency

should use this information from users for purposes of future source selections on MACs and MAS.

Simplified Acquisitions

This guide focuses on purchases above the simplified acquisition threshold (SAT). However, Contracting Officers may consider past performance in purchases under the SAT, including purchases conducted electronically (see FAR 13.106-1(a)(2)). Contracting Officers may use whatever information is available to the buying office about an offeror's past performance or is available in the agency or other available database when making an award decision. The Contracting Officer need not prepare a formal evaluation plan, conduct discussions, or score offers. However, the Contracting Officer should give the contractor an opportunity to discuss any negative performance. Simplified documentation procedures can be used to support the final action taken. For example, a note can be inserted in the file stating instances of late deliveries or poor quality on prior awards. Upon request by the unsuccessful offeror, the Contracting Officer should explain the award rationale. The procuring activity should ideally establish a simple, but consistent, system for applying past performance in simplified acquisitions that rewards contractors that provide timely, high quality products and services.

CHAPTER 2

EVALUATING AND RECORDING CURRENT PERFORMANCE

Contractor Performance Systems

The key to an efficient and effective Government-wide contractor performance system is the establishment, by each agency to the maximum extent practicable, of an automated mechanism to record and disseminate this information. Agency systems need to be easy to use and part of normal contract administration duties of the program office and the Contracting Officer. The performance evaluations should flow directly from agency contract administration procedures. Where Performance-Based Service Contracts are used, the Quality Assurance Surveillance Plan should include the formal performance evaluation as an element of the plan. Agencies using Earned Value Management Systems to monitor contract performance may use the information directly from the system reports as the basis for the performance evaluation. Agencies may also use award fee determinations as the basis for the evaluations. In all cases, performance evaluations must be consistent with the results of these determinations. Ideally, agency systems should have the capability to connect to other Government systems. Agencies that do not have automated systems should retain their information in a manual system where the data can be readily available to source selection teams. The initial recording of the information may be done by the program manager or Contracting Officer according to agency procedures, but should reflect the acquisition team's assessment of the contractor's performance. The final report that will be used for dissemination to source selection boards and provided to the contractor should be signed by the Contracting Officer.

Automated Systems

FASA espouses a preference for automated systems. Currently, the National Institutes of Health (NIH) has a comprehensive automated system that is available to all agencies for a minimal fee. At the time this document was published there were 14 organizations that were subscribers to the NIH system. The Department of Defense (DOD) also has a number of automated systems. Points of contact for the DOD and NIH systems can be found in Appendix V. Where agencies have systems in use that meet the requirements of FAR 42.15, they may be continued at the discretion of the agencies. Over time, we expect most Federal agency systems to be able to interface with each other to provide Contracting Officers an easy, quick way to access contractor performance information. Agency systems will need to migrate toward a uniform Government-wide format for recording contractor performance information to make this possible. Agencies should investigate other systems periodically to determine the feasibility and cost effectiveness of joining together to create a uniform system.

Contractor Performance Report Forms

A sample Contractor Performance Report form is provided in Appendix I. This form is not the only way to comply with FAR Subpart 42.15, Contractor Performance Information. Agencies may use another format if it would permit more cost-effective evaluation of contractor performance. The DOD has developed a more comprehensive format for recording information on major system acquisitions. (See Appendix II.) The content and format of performance evaluations may be established in accordance with agency procedures and should be tailored to the size, and complexity of the contractual requirements. However, all rating systems should track four basic assessment elements -- **cost, schedule, technical performance** (quality of product or service) and **business relations including customer satisfaction**, and use five basic ratings: **exceptional (5), very good (4), satisfactory (3), marginal (2), and unsatisfactory (1)** as discussed below. This enhances interagency sharing of past performance information.

Construction and architect-engineer (A&E) contract assessment elements and ratings are established under FAR Part 36. However, some agencies, (DOD and NIH) have developed formats other than the forms 1420 and 1421 prescribed in Part 36. Agency forms may be used if they record the same or more information as the FAR forms. The U.S. Army Corps of Engineers operates two automated centralized databases to collect performance information on construction and A&E contracts. These databases are open to all agencies, if the agency adopt the DOD forms. The NIH automated system also contains an A&E/construction module acceptable for use.

For classified contracts, the same past performance policy and guidance are applicable. Recording information on these type contracts needs to address “how well” the contractor performed, and not on “what” the contractor did.

Who Assesses Contractor Performance

The Contracting Officer and program office (e.g., Contracting Officer's Technical Representative (COTR), the Contracting Officer's Representative (COR) and Quality Assurance Evaluator (QAE) or whatever term is used by the agency for the technical person monitoring the contract, are jointly responsible for assessing contractor performance. The person responsible for preparing the initial assessment must consider inputs from the program manager, end user, the Contracting Officer, and other parties affected by the item or service.

Frequency of Assessments

A final assessment must be prepared for contract actions (i.e., contracts, task & delivery orders) exceeding \$100,000 upon completion of the contract or order. In addition, interim assessments should be prepared as specified by the agencies to provide current information for discussion purposes and for source selection purposes. We strongly emphasize interim assessments as part of good contract management. If the performance period exceeds 18 months, then the Contracting Officer should conduct interim assessments at least every 12 months.

Interim assessments provide essential feedback to contractors on their performance. They provide Contracting Officers an opportunity to give contractors performing well a pat on the back and encouragement to keep up the good work. Interim assessments give contractors experiencing problems the opportunity to correct problems before they jeopardize contract completion. They also provide current performance information on comparable contracts to source selection teams. Most Agency's contract administration practices dictate that interim assessments be prepared at least every twelve months for contracts. However, it is recommended they be prepared and discussed with contractors at least every six months, sometimes more often depending on contractor performance problems. An honest discussion of the contractor's performance is important. Contractors know past performance assessments directly affect their ability to compete for future contracts and will normally take actions necessary to improve their rating. The contractor should always know how the agency rates its performance -- no surprises! Likewise, during your discussions, you should ask the contractor if there are areas that the Government could improve its performance, such as in partnerships, contributions to achieving mission success, etc. The key to the process is communication!

Assessment Areas

The sample Contractor Performance Report form sets out four assessment areas to rate the contractor's performance - **Quality, Timeliness, Cost Control, and Business Relations**.

For three of the areas - **Quality, Timeliness and Cost Control**, the ratings should reflect how well (how close) the contractor complied with the specific contract performance requirements for each area. The ratings should be concise, but provide supporting rationale that address questions about the performance that would be asked by a source selection team. Here are a few examples of appropriate rationale:

The software met all contract performance requirements for ease of use and output. The speed and accuracy of the financial system package exceeded expectations.

The contractor met all contract milestones for system development and field installation. Some internal contractor management milestones were missed, but timely identification of problems and corrective actions kept the program on schedule.

The contractor's cost management was excellent and resulted in a 2 percent under-run from target cost. The contractor submitted a value engineering change proposal that resulted in a price decrease of 10 percent.

The fourth assessment area, **Business Relations**, assesses the working relationship between the contractor and contract administration team, and some of the other requirements of the contract not directly related to cost, schedule and performance such as:

- user satisfaction
- subcontract management including achievement of small/small disadvantaged and women-owned business participation goals, and incentive fees earned on exceeding subcontracting goals
- integration and coordination of all activity needed to execute the contract, change proposal submissions, and the contractor's history of professional behavior with all parties.

End User Feedback

When assessing feedback from end-users, remember that they may be unfamiliar with the contract requirements. Remind end-users that their feedback should relate directly to the cost, schedule, and technical performance requirements explicitly expressed in the contract and an assessment of the business relations. The Contracting officer should evaluate the end user comments to determine if the contractor reasonably tried to meet their demands within the contract requirements. Only rate the contractor on work that is within the contract requirements. If end-users are dissatisfied with the work as specified in the contract requirements, an assessment of the work requirements may need to be undertaken.

Performance Ratings

Each rating area may be assigned one of five ratings as listed below. The ratings given by the government should reflect how well the contractor met the cost, schedule and performance requirements of the contract and the business relationship. (See Appendix III for rating summaries.) Contractors are not expected to be perfect in their execution to reach contract requirements. A critical aspect of the

assessment rating system described below is the second sentence of each rating that recognizes the contractor=s resourcefulness in overcoming challenges that arise in the context of contract performance. The government is looking for overall results, not problem free management of the contract. If references are using a different scale that does not easily correlate to the source selection team=s rating scale, then the source selection team must make a correlation between the two scales. If necessary, contact the reference for more information on definitions used for its rating scale.

Exceptional (5). Performance meets contract requirements and significantly exceeds contract requirements to the Government=s benefit. For example, the contractor implemented innovative or business process reengineering techniques, which resulted in added value to the Government. 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.

Very Good (4). 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.

Satisfactory (3). Performance meets contractual requirements. The contractual performance of the element or sub-element contains some minor problems for which proposed corrective actions taken by the contractor appear satisfactory, or completed corrective actions were satisfactory.

Marginal (2). 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 submitted minimal corrective actions, if any. The contractor=s proposed actions appear only marginally effective or were not fully implemented.

Unsatisfactory (1). Performance does not meet contractual requirements and recovery is not likely in a timely or cost effective 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.

Subcontractors, Teaming, and Joint Venture Partners

It is important to maintain a record, on the contractor performance report form, of the major subcontractors and any team or joint venture partners on the contract. This is a listing of the firms participating, the work they are responsible for (if segregable for team or joint venture partners), and the key personnel. As the Government only has privity of contract with the prime contractor, subcontractors teams and joint venture partners should not be given a separate rating. Comments on the performance of these firms will be reflected in the ratings for the prime. Listing these firms allows them to cite the contract for past performance purposes in proposals for future work either as prime contractors or as subcontractors or other partners. Source selection teams may review the assessment to determine the ratings given for the work for which these firms were responsible. Because the past performance rating given by the source selection team would not have been discussed with these firms, Contracting Officers

must ensure the contractor has an opportunity to comment on the rating before including it in the source selection process. This process will reduce the number of firms that do not have a relevant past performance history in the source selection.

Contractor Response and Agency Review

While the ultimate conclusion on the performance assessment is a decision of the contracting agency, the FAR provides for contractor comment. Upon completion of the initial assessment by the program and contracting office, the assessment should be signed by the program office person most familiar with the contractor's performance and initialed by the Contracting Officer. The Contracting Officer should sign the final assessments. As soon as practicable after the form is signed, and ordinarily within a day, it should be sent to the contractor for comments. The required turnaround time for contractor response may not be less than thirty days (see FAR 42.1503(b)), but in most cases, 30 days should be a sufficient response time. Contracting Officers may extend the response period as warranted. If the contractor fails to provide a response by the established deadline, the Contracting Officer should call the contractor and initiate discussions on the performance

and request a written reply. If all attempts fail, then the Government's comments can stand alone.

If the contractor submits a rebuttal for any or all of the ratings and an agreement on the ratings cannot be reached by the contractor, the Contracting Officer and lead assessor, the contractor may seek review at least one level above the Contracting Officer, as prescribed by the agency (see FAR 42.1503(b)). In the event the contractor and Contracting Officer do not agree on the performance rating(s), the Contracting Officer and lead assessor should make every effort to discuss with the contractor the details of the performance assessment and the contractor's response. In these cases, such effort should require a face-to-face meeting between the parties. The contractor's statement and agency review must be attached to the performance report and must be provided to source selection officials requesting a reference check.

When the Government has completed its review of the contractor's comments, but in no case later than the insertion of the assessment into an automated PPI System or other agency system, the Contracting Officer must send a copy of the completed assessment to the contractor.

The completed assessments, including any contractor response or rebuttal, and agency reviews above the Contracting Officer, should be filed in the contract file, in a separate file, or automated database where they can be readily accessible by contracting office personnel. Automated databases should be accessible by source selection teams in other agencies through use of a secure system. Interim assessments should be retained for the duration of the contract and included with the final assessment in the file. The interim assessment allows source selection teams to analyze performance trends during the contract.

Assessments may not be retained to provide source selection information for longer than three years after completion of contract performance^[2]. The assessment storage system used should provide individual contractor access to only that contractor's assessments.

Release of Contractor Assessment

Since contractor assessments may be used to support future award decisions, FAR 42.1503(b) require that they be marked "Source Selection Information." FAR 42.1503(b) further states that the completed evaluation "shall not be released to other than Government personnel needing the information for source selection purposes and the contractor whose performance is being evaluated during the period the information may be used to provide source selection information." The rationale for handling information in this manner is stated in the FAR itself: disclosure could (i) cause harm to the commercial interest of the Government, (ii) cause harm to the competitive position of the contractor being evaluated, and (iii) impede the efficiency of government operations^[3].

Planning For Good Contractor Performance

The Government acquisition team (program office, contracting, and end user) must work closely with the contractor to obtain our goal of satisfying the customer in terms of cost, quality, and timeliness of the delivered product or service.

The Contracting Officer should communicate often with the contractor, starting with a good post award conference. This part of the process ensures that everyone has the same vision of successful performance. Members of the Government acquisition team (Procuring Contracting Officer (PCO), Administrative Contracting Officer (ACO), program manager, Contracting Officer Technical Representative (COTR), Contracting Officer's Representative (COR), Quality Assurance Evaluator (QAE), legal, and contractor counterparts) should get together in one room. All should read the contract and clearly establish the Government's expectations. Everyone should understand how past performance information will be recorded. The Government acquisition team should agree on how often the Lead Evaluator/Contracting Officer and the contractor will discuss contract performance.

Status meetings should be planned at least quarterly on large contracts. The focus should be on the contractor's performance against cost, schedule, and performance goals. The team should discuss the contractor's performance deficiencies, corrective actions, areas where the contractor is meeting Government expectations, and any Government deficiencies. This process applies to smaller contracts as well, adjusting the meeting frequency to match the relative complexity of the contract requirement. Contracting Officers are also encouraged to have an open door policy that allows contractors to voluntarily discuss performance problems as they arise. These meetings should be a complete discussion on the contractor's performance, both good and bad, and the Government's compliance with contract requirements.

The Naval Undersea Warfare Center has seen the effects of this Best Practice in the reactions of contractor and government employees in administration of current contracts. The greatest benefit is the improvement in communication both between the Government and the contractor and within the Government. Contractor managers are initiating discussion of performance expectations and achievements with Government personnel. Officials of the smaller and medium sized companies in industries with intense competition are especially concerned about Past Performance rating information which will affect future contract awards. Often they do not consider a "Satisfactory" rating acceptable and expect their contract managers to achieve "Very Good" or "Exceptional" ratings. A secondary benefit is the improvement of internal Government communication as contract specialists and technical/program managers discuss problems and successes in contract administration in the effort to establish appropriate annual Past Performance ratings.

Remember--the goal is excellent contract performance that provides products or services at the best value for the taxpayer's dollar! This goal can't be achieved unless the acquisition team does some homework:

- Track and document contract performance closely
- Read and understand the contractor's cost, schedule and performance reporting data
- Know how well the contractor is meeting its other contract requirements such as socio-economic goals
- Know if the Government contributed to performance problems
- Actively work to eliminate Government roadblocks to excellent performance
- Document the discussions (They need not go in the "formal" past performance information system, but the contracting officer must be able to track the steps the contractor and the Government take to improve contract performance).
- Recognize successful efforts to improve performance

CHAPTER 3

USING CURRENT AND PAST PERFORMANCE AS A SOURCE SELECTION FACTOR

The Government has always considered a contractor's performance record during the acquisition process. However, agencies traditionally have considered it as an aspect of contractor responsibility. A

prospective contractor must have a satisfactory performance record in order to do business with the Government (see FAR 9.104•1(c)). This helps ensure that taxpayer dollars are not wasted on contracts with nonresponsible contractors. Past performance can and should be used to do more than just help the Government decide whether a contractor is capable of performing. The Government must also compare the past track records of competing offerors to help identify which one offers the best relative value in order to get the best deal for the taxpayer. Using past performance as an evaluation factor to rank an otherwise responsible contractor for award of a contract is not, therefore, part of the responsibility determination. Evaluation factor rankings are not subject to the Small Business Administration's Certificate of Competency (COC) ratings.

It is important to distinguish **comparative** past performance evaluations used in the tradeoff process from **pass/fail** performance evaluations.

Pre-award surveys and pass/fail evaluations in the low price technically acceptable process help you determine whether an offeror is responsible. Responsibility is a broad concept that addresses whether an offeror has the **capability** to perform a particular contract based upon an analysis of many areas including financial resources, operational controls, technical skills, quality assurances, compliance with Government laws, and past performance. These surveys and evaluations provide a "yes/no," "pass/fail," or "go/no-go" answer to the questions, "**Can** the offeror do the work?" to help you determine whether the offeror is responsible.

Referral to the SBA may be necessary if a small business is eliminated from the competitive range solely on the basis of past performance. SBA referral is not required as long as the use of past performance information requires a **comparative** assessment with other evaluation factors and not as a pass or fail decision. The comparative assessment of past performance information is **separate** from a responsibility determination required by the FAR.

On the other hand, a comparative past performance evaluation conducted using the tradeoff process seeks to identify the **degree of risk** associated with each competing offeror. In short, the valuation describes the degree of confidence the Government has in the offeror's likelihood of success.

Emphasis in this chapter is placed on using current and past performance information primarily available from Government-wide and Agency-wide databases, to help expedite and streamline the evaluation process. If such information is not readily available from these databases, then seek to gather it from other government entities and private sector sources. In using past performance as a source selection factor, there are primarily three key points which should be conveyed in the solicitation (Sections L and M), and are discussed in more detail later in this chapter:

- (1) Contractors should list in the proposal 5 to 10 specific contracts (not more than 3 years old) and a list of contact names and addresses for each of the references requested in the solicitation;
- (2) Contractors should be encouraged to discuss any negative performance issues and corrective actions

taken; and

(3) Government must include the method of evaluating the information and its relevancy, and the relative rank or applicable weight assigned to current and past performance.

Planning For Using Past Performance Information

The Government must evaluate past performance in all competitively negotiated acquisitions expected to exceed \$100,000 [see FAR 15.304(c)(3) (ii)], unless otherwise documented by the Contracting Officer why past performance is not an appropriate evaluation factor pursuant to FAR 15.304(c)(3) (iii).

Past performance evaluations become distinct discriminators when a best value award is made. Tradeoffs among cost or price, and non•cost factors and subfactors permit the Government to accept other than the lowest•priced, technically acceptable offer. In accordance with FAR 15.304(c)(1) & (2), price or cost, and quality shall be addressed in every source selection. Quality may be evaluated through past performance. The Contracting Officer has the full flexibility to award on these two factors alone when determined appropriate and consistent with the FAR.

The acquisition team should take advantage of synergy between past performance and other critical evaluation factors. For example, the management plan could be replaced by a past performance evaluation that focuses on management effectiveness. This will help streamline the source selection process by selecting only a few critical evaluation factors; focusing on offerors' ability to carry through as promised; emphasizing experience and past performance; and eliminating the need for a proliferation of management and quality plans where the past performance evaluations will suffice.

The acquisition team should determine the relative rank or weight to place on past performance during the acquisition planning phase, and the type or kind of past performance that could be considered similar or relevant to the pending procurement. It could use market research or the source selection team's previous experience on similar acquisitions to determine whether the evaluation of past performance should be a critical factor in the procurement (i.e., a high ranking or heavily weighted factor). For instance, the source selection team may know that all contractors under the most recent (5 to 10) contracts for similar requirements had excellent performance or market research may reveal that prospective offerors have very similar records of successful past performance. There may be procurements where past performance is not a meaningful discriminator among prospective offerors, and therefore, should be a relatively less important source selection factor in those cases.

Agency officials may assign any weight or relative importance to past performance compared to any other evaluation factor, and have broad discretion regarding the source and type of past performance

information to be included in the evaluation. However, it is recommended that the weight assigned to past performance be at least 25 percent of the total evaluation; or, equal to the other non-cost evaluation factors to ensure significant consideration is given to past performance. A very low weighting (5-10%) may reduce the overall perception of how important good contract performance is as an element of the source selection process.

It is good to involve industry early to help identify and resolve concerns regarding the approach to assessing past performance information (see FAR 15.201) before releasing the final solicitation. Early communications could consist of meetings with prospective offerors via presolicitation conferences or sending out requests for information, draft solicitations, or advertising in trade publications. These are all useful market research tools for obtaining preliminary information from industry, or familiarizing the source selection team with the nuances of a particular business or industry, that will ultimately help the team develop an evaluation plan and Sections L and M of the solicitation.

Drafting Sections L and M of the Solicitation

The key to successful use of past performance – and with any other evaluation factor – in the source selection process is the establishment of a clear relationship between the statement of work (SOW), Section L (instructions to offerors) and Section M (evaluation criteria). The factors chosen for evaluation must track back to the requirements in the SOW. They should be reasonable, logical, and coherent.

Accordingly, Section L and Section M should be clear with respect to what past performance information the Government will evaluate and how it will be ranked or weighted. Past performance information that is not important to the current acquisition should not be included.

Section L, Instructions to Offerors

Consider the following when developing proposal submission requirements. See FAR 15.305(a)(2):

1. Tailor the requirements to reflect the complexity of the procurement, and the relative importance of past performance and any of its subfactors to that procurement.
2. Ask offerors for a list of references for on-going contracts or contracts completed not more than 3 years ago that demonstrates performance relevant to the solicitation performance requirements. Keep the number of references requested to as few as possible to give an accurate reflection of past performance. We recommend 5 to 10 references as the norm, with more than 15 to be a seldom occurrence. FAR 42.1503(e) states that past performance information shall not be retained to provide source selection information for longer than 3 years after completion of the contract. For contracts where there are lots of actions and many contractors provide the products or services, a shorter period may be appropriate. It is best to request the most recent references, many times this would mean limiting references to 1 or 2 years back.

3. Limit the contractor's ability to "cherry pick" only the best references. All relevant contracts performed during the identified period, or the last "X" relevant contracts performed by the entity within the identified period should be sought. The goal is to get a true picture of the contractor's overall, recent performance record.
4. Provide potential offerors the opportunity to provide information on problems encountered on the identified contracts. Limit this section to the discussion of problems and corrective actions taken. It is not necessary or efficient to burden the process by asking that the contractor prepare a description of its past performance history. The references will inform the source selection team of the contractor experience and performance.
5. Inform potential offerors that past performance information on work for State and local governments, private sector clients, and subcontracts that is similar to the Government requirement will be evaluated equally with similar Federal contracts. This will help ensure that firms new to the Federal process are given a fair opportunity to compete.
6. Remind potential offerors that they may submit information on key personnel, major subcontractors, work performed as part of a team or joint venture, and other previous reincarnation of its current organization. This will allow most firms without prime contract history to provide past performance information. This will reduce the cases of neutral past performance ratings.
7. Past performance information is proprietary source selection information. Therefore, Section L should explain that the Government will only discuss past performance information directly with the prospective prime or sub-contractor that is being reviewed. If there is a problem with the proposed subcontractor's past performance, the prime can be notified of a problem, but no details, may be discussed without the subcontractor's permission.
8. Rely on existing documentation from Federal systems or other systems to the maximum possible extent. This will expedite and streamline the source evaluation process significantly. If adequate documentation is not readily available (Government evaluations not completed, State and Local governments and private sector references), then a brief survey with follow up calls, or phone interviews should be used to verify past performance. It is strongly recommended that the survey be no longer than 1-2 pages and prior contact be made with the cognizant officials before sending out the survey. Experience shows that long surveys are not returned timely (if returned at all), which slows down the evaluation process. If a survey is to be used include a copy in the solicitation. You could use the same format in Appendix 1 for the survey.
9. It is important to ask for at least two references on each non-Federal reference. In addition to ensuring that all aspects of the contractor's performance will be discussed, it also ensures that anonymity of the references can be maintained. There is considerable concern that there will be a tendency for inflated rating from references if the name of the person providing the rating is revealed to the offeror.

10. Section L should include a statement that the Government may use past performance information obtained from other than the sources identified by the offeror and that the information obtained will be used for both the responsibility determination and the best value decision.
11. Where large, multi-function firms are likely to submit a proposal, ask for references only on work done by the segment of the firm (division, group, unit), not the firm in general.
12. If the source selection team expects a large volume of proposals, the solicitation may request early submission of the past performance volume with the rest of the proposal to follow at a later date. This practice allows more time to conduct a thorough review of the past performance information.
13. Do not ask the offeror to obtain replies from listed references and submit them to the Contracting Officer by a certain date. Obtaining the past performance information from the listed references is a Government source Selection Team's responsibility, not an offeror's responsibility.

Section M, Evaluation Criteria

Section M of the solicitation contains the evaluation factors and subfactors, and their relative importance (with weights if appropriate). This section is very important to offerors, and should be clear and consistent with the instructions provided in Section L. The Government should describe the approach for evaluating past performance in this section, including offerors with no relevant performance history. Consider the following when drafting the past performance evaluation factor:

1. Use Past Performance as A Distinct Factor

The past performance factor should be distinct and identifiable in order to reduce the chances of its impact being lost within other factors and to ease the evaluation process. However, if integrating past performance with other non-cost/price factors provides a more meaningful picture, each agency should use its own discretion. The key is to not dilute the importance or impact of past performance when determining the best value contractor.

2. Choose Past Performance Subfactors Wisely

Tailor the subfactors to match the requirement and to capture the key performance criteria in the statement of work. Carefully consider whether subfactors add value to the overall assessment, warrant the additional time to evaluate and enhance the discrimination among the competing proposals.

- a. Quality of Product or Service – The offeror will be evaluated on compliance with previous

contract requirements, accuracy of reports, and technical excellence to include Quality awards/certificates.

- b. **Timeliness of Performance** – The offeror will be evaluated on meeting milestones, reliability, responsiveness to technical direction, deliverables completed on-time, adherence to contract schedules including contract administration.
- c. **Cost Control** – The offeror will be evaluated on the ability to perform within or below budget, use of cost efficiencies, relationship of negotiated costs to actuals, submission of reasonably priced change proposals, and providing current, accurate, and complete billing timely.
- d. **Business Relations** – The offeror will be evaluated on the ability to provide effective management, meet subcontractor and SDB goals, cooperative and proactive behavior with the technical representative(s) and Contracting Officer, flexibility, responsiveness to inquires, problem resolution and customer satisfaction. The offeror will be evaluated on satisfaction of the technical monitors with the overall performance, and final product and services. Evaluation of past performance will be based on consideration of all relevant facts and circumstances. It will include a determination of the offeror's commitment to customer satisfaction and will include conclusions of informed judgment. However, the basis for the conclusions of judgment should be substantially documented.

3. Subcontractor, and Teaming, and Joint Venture Partner's Past Performance

For the purpose of evaluation of past performance information, offerors shall be defined as business arrangements and relationships such as joint ventures, teaming partners, and major subcontractors. Each firm in the business arrangement will be evaluated on its performance under existing and prior contracts for similar products or services.

Evaluating Past Performance

The source selection team should validate the prospective offeror's past contract information as part of the overall evaluation process and then assign a performance risk rating. The final past performance rating may be reflected in a color, a number, adjective rating, or some other means, depending on the agency policy for indicating the relative ranking of the offerors. Performance risk assessments should consider the number and severity of problems, the demonstrated effectiveness of corrective actions taken (not just planned or promised), and the overall work record. Instances of good or poor performance should be noted and related to the solicitation requirement. If problems were identified on a prior contract, the role the Government may have played in that result should be taken into account. The evaluation team should look for indications of excellent or exceptional performance in the areas most critical to the requirement.

The source selection team first evaluates how well a prospective offeror performed, and then rates the relevancy of that performance. Generally, the final evaluated rating is used along with other rated evaluation factors in a comparative assessment to determine which offeror is the most highly rated and most likely to be awarded the contract. An effective evaluation of past performance allows the Contracting Officer to focus on contractors with sound performance records that are among the most highly rated.

A significant achievement, problem, or lack of relevant data in any aspect of the requirement can become an important consideration in the source selection process. A negative finding may result in an overall high performance risk rating, depending upon the

significance placed on that aspect of the requirement by the source selection team. Relate the ratings to the solicitation requirements and provide rationale that identifies the strength or weakness. Determine if the Government may have contributed to a weakness, and, if so, to what extent.

A past performance rating is not a precise mechanical process, therefore, a supporting rationale for the final rating needs to be included in the contract file. The documentation need not be voluminous. The assessment should include rationale for the conclusions reached. As long as that rationale is reasonable, i.e., based on analysis, verification, or corroboration of the past performance information, and is evaluated against the evaluation factors stated in the solicitation, it will withstand scrutiny by the courts.

The source selection team should commit reasonable efforts to obtain information from all references. Failure of timely responses from Federal agencies should be pursued to a level necessary to obtain a response. The source selection team should be cautious not to downgrade or penalize offerors for the judicious use of the contract claims process.

For large complex contracts, it may be best for an agency to establish a separate past performance evaluation team, especially if the agency anticipates receiving a large number of proposals. Include contracting and program office representatives on the team. Maximum effectiveness occurs when the evaluator's background matches that of the reference. This allows the Government to obtain a more complete picture of the offeror's performance.

Upon completion of the reference check, the source selection team should review trends to determine the risks of successful performance on the contract. When checking private-sector references, the source selection team should consider the potential of any conflict of interests between the offeror and the reference.

Naval Facilities Engineering Command's Southwest Division in San Diego used past performance information as an important part of its procurement for a two-phase design-build contract to obtain a fixed price, total effort in design, engineering and construction of a 10,240 square foot youth Center at

Point Mugu, California. As part of the Phase I Past Performance criteria, contractors were evaluated through the use of surveys, on adherence to schedule commitment to customer satisfaction, change order history, and commitment to safety. This evaluation resulted in the selection of three firms to submit design/construction proposals for Phase II of the acquisition process. Performance is still in process; however, interim assessment of the contractor selected indicate that the quality of design was very good, there were very few changes except those desired by the customer, and the completion date is on target.

Consider the following while evaluating proposals:

1. Rely on existing evaluations to the maximum extent possible

Utilize National Institutes of Health (NIH), DOD, or other agency wide databases to abstract pertinent information in conducting the past performance review. Information on agency wide databases and points of contacts may be found in Appendix V. If, information is not available via the databases, use brief surveys or phone interviews with the cognizant Contracting Officers to gather the required information. Sample questions and ideas for telephone interviews and questionnaires can be found in Appendix IV.

2. Recency and Relevancy

Past performance information must be relevant and recent regarding an offeror's actions under previously awarded contracts. Similar or relevant past performance efforts could be defined by the size, scope, complexity, and contract type.

Each prospective offeror has the responsibility to provide references that are relevant to the new work and must explain the relevance of its past performance information submitted, particularly when it may not be easily apparent. For instance, in the case of a newly formed business entity or in contractor teaming arrangements where the company is relying mostly on the past performance and experience of its key personnel, partners on the team, or on a major subcontractor(s), the proposal must clearly explain "whose" past performance, and "how" that past performance is relevant to the procurement.

Giving prospective offerors opportunities to submit non-similar past contract performance information, although it may not be given much weight or may be rated a higher risk will, in the long run, enhance the integrity and fairness of Government acquisitions, and increase the competitive base.

3. Lack of Past Performance

Given the number of mergers and acquisitions in today's American business environment, potential offerors may not have existed under their current name for very long. This creates an interesting wrinkle in the source selection process. Agencies must recognize this dynamic world marketplace and accommodate new prospective offerors by being more flexible in their procurement rules and practices.

The past performance of the offeror's resources is a good indicator of future performance for new companies entering the marketplace that lack relevant experience, or mergers of previously established companies. If the key management personnel, subcontractors, or other resources, have experience on contracts similar to the pending requirement for another contractor; state and local government contracts; private contracts; or was a major subcontractor; then the source selection team can perform the appropriate evaluation and risk assessment. This reduces the chance of needing to "neither reward nor penalize" an offeror with no other relevant past performance information.

If the contractor is truly a new entity and none of the company principals ever performed relevant work for others, the company is considered to have no past performance. Special rules apply in this situation. Section 1091(b)(2) of FASA states that "in the case of an offeror with respect to which there is no information on past contract performance or with respect to which information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance." This requirement is implemented at FAR Part 15.305(a)(2)(iv): "In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance." We expect this will happen very rarely.

There are various methods that may be used to evaluate a competitive offeror with no past performance history and it is at the discretion of the agency to determine the most appropriate method on a case-by-case basis. Remember that the evaluation method selected must be clearly stated in the solicitation.

4. Evaluating Subcontractors, and Teaming, and Joint Venture Partners

Treat subcontractor, and teaming, and joint venture partners past performance information the same as any prime contractor past performance information. Past performance information cannot be disclosed to anyone other than Government personnel with a "need-to-know" without the firm's consent. The Government must obtain the consent of the separate entities before disclosing its past performance information to the prime during discussions. The consent may be provided as part of the prime's proposal. This approach lets the Government discuss any negative or unfavorable past performance information on a proposed firm with the prime offeror and greatly facilitates the conduct of meaningful discussions. It also gives the prime contractors an opportunity to mitigate the impact to their evaluated standing by enabling them to find out more about the other firm's past performance problems, or to even replace the proposed firm with another firm having a better past performance.

REMINDER: You can only evaluate what you told the contractor you would evaluate. Therefore, be very clear in the solicitation!!

Superintendent of Shipbuilding (SUPSHIP) Portsmouth saved \$10.9 million during the first two years of administration of its first Best Value Source Selection for an Indefinite Quantity contract to obtain Chemical Holding Transfer (CHT) Systems services over past sole source or separate contracts for similar services. The criteria for source selection were Past Performance and Technical Capability

considered to be equal importance and both combined as more important than price. Since the Navy CPARS was not extensively operational at that time, they required contractors to list similar contracts and then interviewed the listed Points of Contact. Wide advertisement resulted in more proposals than they were previously aware of and expanded price competition. The eventual awardee was a contractor who had been performing similar services in cleaning drinking water for municipalities but had never before considered Navy ships as potential clients. This contract was so successful for the Navy that its use is being extended to the U.S. Coast Guard.

Conducting Discussions

The offeror must be provided an opportunity to address adverse past performance information obtained from references on which the offeror has not had a previous opportunity to comment, if that information makes a difference in the Government's decision to include the offeror in or exclude the offeror from the competitive range. Any past performance deficiency or significant weakness must be discussed with offerors within the competitive range during discussions. This allows the offeror a fair opportunity to rebut any negative information that may not be due solely to the poor performance of the contractor, or that may not have been adequately resolved since the date of the information provided. For example, budget and funding reductions may not always equate to a corresponding reduction in scope of work, and the contractor's performance may be negatively impacted. There may be times when excessive Government-driven requirement changes and last minute changes may also negatively impact the contractor's performance.

Section M must describe where in the evaluation process past performance will be used to rank offerors. Some agencies evaluate past performance on all offerors and rank them to determine the competitive range. Others consider past performance only on the firms in the competitive range when the mission suitability is paramount. If this is the case, then Section L should clearly state the Government's intent.

In the interest of fairness, also consider allowing offerors to rebut all negative past performance information or clarify relevance of past performance information even when discussions are not anticipated. This type of exchange is a clarification (see FAR 15.306(a)). The Government may still award without discussion following clarifications.

APPENDIX I

SAMPLE CONTRACTOR PERFORMANCE REPORT

10. Would you select the firm again? Yes ____ No ____

Is/Was the contractor committed to customer satisfaction? Yes ____ No ____

11. Assessing Officers Name/Org.
ID

Signature:

Phone/Fax Number:

Signature

Date Sent to Contractor:

CO's Initials:

12. Contractor's Review. Were comments, rebuttals, or additional information provided?

No Yes. Please attach comments.

13. Returned by (type name):

Signature

Phone/Fax/Internet Address

Date

14. Agency Review. Were contractor comments reviewed at a level above the Contracting Officer?

No Yes. Please attach comments. Number of pages

15. Final Ratings. Re-assess the Block 7 ratings based on contractor comments and agency review.

Validate or revise as appropriate.

Quality	Cost Control	Timeliness	Business Relation

Mean Score (Add the ratings above and divide by the number of areas rated)

0.00

16. CO's Name

Signature

Phone/Fax/Internet Address	Date
----------------------------	------

Release of Information: This Contractor Performance Report may be used to support future award decisions, and will be treated as source selection information in accordance with FAR 3.104-4(k)(1)(x) and 42.1503(b). The completed report shall not be released to other than Government personnel and the contractor whose performance is being evaluated during the period the information is being used to provide source selection information.

APPENDIX I (Continued)

SAMPLE CONTRACTOR PERFORMANCE REPORT INSTRUCTIONS

Block 1: Contractor Name and Address. Identify the specific division being evaluated if there is more than one.

Block 2: Contract number/task order number being evaluated.

Block 3: Contract value, including options.

Block 4: Contract award date and (anticipated) contract completion date.

Block 5: Type of Contract: Check all that apply.

Block 6: Provide a brief description of the work being done under the contract and identify the key performance indicators.

Block 7: Indicate rating in far right column. In the comment area, provide rationale for the rating. Indicate the contract requirements that were exceeded or were not met by the contractor and by how much.

Block 8: Identify major Subcontractors, and Team Partners, and their work responsibilities. List the key personnel employed during the rating period that played a major role in the performance rating. Do not list key personnel not employed long enough to affect performance. In some cases, more than one individual may have served in a key position. List persons that had an affect on the ratings.

Block 9: Identify prime contractor key personnel. See Block 8 above for instructions.

Block 10: Explain why you would or would not select the contractor for this contract again.

Block 11: Provide information indicated.

Blocks 12-13: The contractor may provide comments but must sign block 13 to indicate it has reviewed the rating.

Block 14: If the contractor and Contracting Officer are unable to agree on a final rating, the contractor may seek review at a level above the Contracting Officer, as required. Provide information indicated.

Block 15: Adjust the ratings assigned in block 7, if appropriate, based on any comments, rebuttals, or additional information provided by the contractor and, if necessary, by agency review. Calculate a mean score.

Block 16: The Contracting Officer's signature indicates concurrence with the initial and final ratings.

APPENDIX II

DOD PERFORMANCE ASSESSMENT ELEMENTS FOR LARGE SYSTEMS ACQUISITIONS

For Large System Acquisition, DOD uses an expanded set of review elements as follows:

TECHNICAL (QUALITY OF PRODUCT). This element is comprised of an overall rating and six sub-elements. Activity critical to successfully complying with contract requirements must be assessed within one or more of these sub-elements. The overall rating at the element level is the Program Manager's integrated assessment as to what most accurately depicts the contractor's technical performance or progress toward meeting requirements. It is not a predetermined roll-up of the sub-elements assessments.

Product Performance – Assess the achieved product performance relative to performance parameters required by the contract.

Systems Engineering – Assess the contractor's effort to transform operational needs and requirements into an integrated system design solution.

Software Engineering – Assess the contractor's success in meeting contract requirements for software development, modification, or maintenance. Results from Software Capability Evaluations (SCEs) (using the Software Engineering Institute (SEI's) Capability Maturity Model (CMM) as a means of measurement), Software Development Capability Evaluations (SDCEs), or similar software assessments may be used a source of information to support this evaluation.

Logistic Support/Sustainment – Assess the success of the contractor’s performance in accomplishing logistics planning.

Product Assurance – Assess how successfully the contractor meets program quality objectives, e.g., producibility, reliability, maintainability, inspectability, testability, and system safety, and controls the overall manufacturing process.

Other Technical Performance – Assess all the other technical activity critical to successful contract performance. Identify any additional assessment aspects that are unique to the contract or that cannot be captured in another sub-element.

SCHEDULE – Assess the timeliness of the contractor against the completion of the contract, task orders, milestones, delivery schedules, administrative requirements, etc.

COST CONTROL – Assess the contractor’s effectiveness in forecasting, managing, and controlling contract cost. For fixed price contracts this assesses whether contractor met original cost estimated or needed to negotiate cost changes to meet program requirements.

MANAGEMENT – This element is comprised of an overall rating and three sub-elements. Activity critical to successfully executing the contract must be assessed within one or more of these sub-elements. This overall rating at the element level is the Program Manager’s integrated assessment as to what most accurately depicts the contractor’s performance in managing the contracted effort. It is not a predetermined roll-up of the sub-element assessments.

Management Responsiveness – Assess the timeliness, completeness and quality of problem identification, corrective action plans, proposal submittals (especially responses to change orders, engineering change proposals, or other undefinitized contract actions), the contractor’s history of reasonable and cooperative behavior, effective business relations, and customer satisfaction.

Subcontract Management – Assess the contractor’s success with timely award and management of subcontracts, including whether the contractor met small/small disadvantaged and women-owned business participation goals.

Program Management and Other Management – Assess the extent to which the contractor discharges its responsibility for integration and coordination of all activity needed to execute the contract; identifies and applies resources required to meet schedule requirements; assigns responsibility for tasks/actions required by contract; communicates appropriate information to affected program elements in a timely manner. Assess the contractor’s risk management practices, especially the ability to identify risks and formulate and implement risk mitigation plans. If applicable, identify and assess any other areas that are unique to the contract, or that cannot be captured elsewhere under the Management element.

APPENDIX III

PERFORMANCE RATING GUIDELINES

These are suggested guidelines for assigning ratings on a contractor's compliance with the contract performance, cost, and schedule goals as specified in the Statement of Work. The guidelines for Business Relations are meant to be separate ratings for the areas mentioned. All the areas do not need to fit the rating to give the rating for the category. Ensure that this assessment is consistent with any other Agency assessments (i.e., award fee assessments).

Technical Performance (Quality of Product/Service)

Exceptional

- Met all performance requirements / Exceeded 20 % or more
- Minor problems / Highly effective corrective actions / Improved performance/quality results

Very Good

- Met all performance requirements / Exceeded 5% or more
- Minor problems / Effective corrective actions

Satisfactory

- Met all performance requirements
- Minor problems / Satisfactory corrective actions

Marginal

- Some performance requirements not met

- Performance reflects serious problem / Ineffective corrective actions

Unsatisfactory

- Most performance requirements are not met
- Recovery not likely

Cost Control

Exceptional

- Significant reductions while meeting all contract requirements
- Use of value engineering or other innovative management techniques
- Quickly resolved cost issues / Effective corrective actions facilitated cost reductions

Very Good

- Reduction in overall cost/price while meeting all contract requirements
- Use of value engineering or other innovative management techniques
- Quickly resolved cost/price issues / Effective corrective actions to facilitate overall cost/price reductions

Satisfactory

- Met overall cost/price estimates while meeting all contract requirements

Marginal

- Do not meet cost/price estimates
- Inadequate corrective action plans / No innovative techniques to bring overall expenditures within

limits

Unsatisfactory

- Significant cost overruns
- Not likely to recovery cost control

Schedule (Timeliness)

Exceptional

- Significantly exceeded delivery requirements (All on-time with many early deliveries to the Government's benefit)
- Quickly resolved delivery issues / Highly effective corrective actions

Very Good

- On-Time deliveries / Some early deliveries to the Government's benefit
- Quickly resolved delivery issues / Effective corrective actions

Satisfactory

- On-time deliveries
- Minor problems / Did not effect delivery schedule

Marginal

- Some late deliveries
- No corrective actions

Unsatisfactory

- Many late deliveries
- Negative cost impact / Loss of capability for Government
- Ineffective corrective actions / Not likely to recover

Business Relations

Exceptional

- Highly professional / Responsive / Proactive
- Significantly exceeded expectations
- High user satisfaction
- Significantly exceeded SB/SDB subcontractor goals
- Minor changes implemented without cost impact / Limited change proposals / Timely definitization of change proposals

Very Good

- Professional / Responsive
- Exceeded expectations
- User satisfaction
- Exceeded subcontractor goals
- Limited change proposals / Timely definitization of change proposals

Satisfactory

- Professional / Reasonably responsive

- Met expectations
- Adequate user satisfaction
- Met subcontractor goals
- Reasonable change proposals / Reasonable definitization cycle

Marginal

- Less Professionalism and Responsiveness
- Low user satisfaction / No attempts to improve relations
- Unsuccessful in meeting subcontractor goals
- Unnecessary change proposals / Untimely definitization of change proposals

Unsatisfactory

- Delinquent responses / Lack of cooperative spirit
- Unsatisfied user / Unable to improve relations
- Significantly under subcontractor goals
- Excessive unnecessary change proposals to correct poor management
- Significantly untimely definitization of change proposals

APPENDIX IV

SAMPLE QUESTIONS AND IDEAS FOR TELEPHONE INTERVIEWS

AND QUESTIONNAIRES

- Confirm the following data from the offeror's proposal:
- Contract number

- Contractor's name and address
- Type of contract
- Complexity of work
- Description and location of work (e.g., types of tasks, products, services)
- Contract dollar value
- Date of award
- Contract completion date (including extensions)
- Type and Extent of Subcontracting
- Verify any past performance data to which you may have access
- If the award amount or delivery schedule changed, find out why.
- Ask what role the reference played (e.g., COR, contract specialist, ACO, etc.) and for how long.
- If a problem surfaced ask what the Government and contractor did to fix it.
- 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?
- Ask how the contractor performed considering technical performance or quality of the product or service; schedule; cost control (if applicable); business relations; and management.
- Ask whether the contractor was cooperative in resolving issues.
- Inquire whether there were any particularly significant risks involved in performance of the effort.
- Ask if the company appeared to apply sufficient resources (personnel and facilities) to the effort.
- If the company 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?

- If a problem is uncovered that the reference is unfamiliar with, ask for another individual who might have the information.
- Ask if this firm has performed other past efforts with the reference's agency.
- Ask about the company's strong points or what the reference liked best.
- Inquire whether the reference has any reservations about recommending a future contract award to this company.
- Inquire whether the reference knows of anyone else who might have past performance information on the offeror.

APPENDIX V

AUTOMATED PAST PERFORMANCE INFORMATION SYSTEMS

Agency	System Nomenclature	Point of Contact	Phone Number
NIH	Contractor Performance System	Ms. Jo Ann Wingard	301-496-1783
Army	Past Performance Information Management System (PPIMS)	Barbara Mather/functional	703-681-9158
		Terry Thacker/technical	540-731-3459
	Architect-Engineer Contract Administration Support System (ACASS)	Donna Smigel	202-761-0336
	Construction Contractor Appraisal Support System (CCASS)	Marilyn Nedell	503-808-4590

Navy	Product Data Reporting and Evaluation Program (PDREP)	John Deforge	603-431-9460 x450
		Paul Couture	603-431-9460 x480
	Department of the Navy Contractor Performance Assessment Reporting System (CPARS)	Wendell Smith	603-431-9460 x451
		Paul Couture	603-431-9460 x480
Air Force	CPARS	Ms. Lois Todd	937-257-4657 or DSN 787-4657
		Roger Hanson	937-257-6057 or DSN 787-6057
Defense Logistics Agency	Automated Best Value System (ABVS)	Melody Readrdon	703-767-1362
Defense Information Systems Agency (DISA)	Contractor Past Performance Evaluation Toolkit	Mary Jenkins	703-681-/ DSN 761
		Nathan Maenie	703-681-1673 / DSN 761

[1] Although agencies are not required to evaluate performance for contracts awarded under Subpart 8.6, Acquisition from Federal Prison Industries, Inc., and Subpart 8.7, Acquisition from Nonprofit Agencies from Employing People Who Blind or Severely Disabled (See FAR 42.1502(b)), Contracting Officers are still encouraged to be cognizant of contractors' performance, and record and discuss that performance as a matter of good contract administration practices.

[2] "After contract completion" means the date (month) when work is complete (all contract line items have been delivered), not at contract closeout. For contracts with warranties, the performance period is not complete until the end of the warranty period.

[3] Questions regarding the release of contractor evaluations under the Freedom of Information Act may be referred to the Office of Information and Privacy, U.S. Department of Justice (202) 514-3642.

[Accessibility 05/18/01 OGP-CIO](#)